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PEACE SUPPORT OPERATIONS, PARLIAMENTS AND LEGISLATION

Edited by Alexander Nikitin

Introductions by
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Book is devoted to the legal aspects of peacekeeping and presents to the reader several new documents regulating peace support activities in the CIS. Articles by experts from the CIS, Western, Central Europe and the USA, as well as from international organizatons analyze issues of theory and practice of international intervention into conflicts with the use of armed force, including operations in the former Yugoslavia, Afghanistan, Iraq, region of CIS. Special attention is devoted to the role of parliaments in decision-making on peace support operations.

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INTRODUCTION

International Cooperation in Peacekeeping: role of DCAF

Philipp H. Fluri,
DCAF Deputy Director

Co-operation with parliaments and parliamentary staffers and the strengthening of parliamentary competence in the emerging democracies of Central and Eastern Europe is one of the most important and noble tasks the Geneva Centre for the Democratic Control of Armed Forces (DCAF) has assumed. [1]

The cooperation with the Commonwealth of Independent States (CIS) Parliamentary Assembly, in collaboration with the Moscow-based Center for Political and International Studies directed by Dr. Alexander I. Nikitin, has been among the most successful and promising programmes so far. Not only has the CIS IPA accepted a Model Law «On Parliamentary Oversight of the State Military Organization»,[2] but further cooperation has lead to the draft Law «On Peace-Keeping Operations» which may soon be endorsed as a Model Law for all CIS member countries.

This volume features presentations from the November 2003

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[1] Among the most successful cooperation programmes are DCAF's projects in Ukraine, Georgia, Serbia-Montenegro and Bosnia-Hercegovina. The DCAF Handbook on Parliamentary Oversight of the Security Sector (created in cooperation with the Inter-Parliamentary Union) is being published in twenty-three different languages and is a standard work on good practices in Parliamentary Oversight.

[2] «Commonwealth of Independent States (CIS) Model Law On Parliamentary Oversight of the State Military Organisation», DCAF Documents, No. 1, March 2002, available in English at
http://www.dcaf.ch/publications/DCAF_Documents/DCAF.DOC1.1.pdf
and in Russian at
http://www.dcaf.ch/publications/DCAF_Documents/DCAF.DOC1.1(R).pdf.

St. Petersburg Conference on «Peacekeeping in the CIS». The three-day conference, co-organised with the CIS Parliamentary Assembly Defence Committee and CPIS and funded by DCAF, was held at the historic Tavrichesky Palace. Exchanges on parliamentary involvement and oversight of peacekeeping were rounded off with discussions on security sector governance and civil society involvement in security sector reform. Especially welcome was the stimulating participation of representatives of the CIS Staff for Coordination of Military Cooperation.

The volume is the latest publication in the «Military and Society» series started with the CPIS in Moscow during 2002. The series explains concepts of security sector governance to parliamentarians, commanding officers from the armed and other security sector forces, defence and security experts. Earlier publications dealt with the Model Law on the Parliamentary Oversight of the State Military Organisation (Moscow 2002) and Legislation on Military-Civil Relations (Moscow 2003).

DCAF seeks to continue its cooperation with parliamentarians and experts from the CIS in various fora. DCAF research and documentation activities in 2004 will look into comparative aspects of peace-keeping and the role of civilians in Defence Ministries in the CIS.

Geneva,
March 2004

International Dialogue on Peace Support Operations

Alexander Nikitin,
Director, Center for Political and International Studies

This book features the dialogue on international peacekeeping operations, involving politicians, parliamentarians, military and academics from more than a dozen countries, as well as international organizations. Tense debates on the international operations in the former Yugoslavia, some of the CIS regions, Afghanistan, Iraq, etc., make the discussion on the international interference in the conflict resolution, and on the legal status of the international peacekeeping, even more necessary.

More than 80 counties have been delegating their troops and other personnel for international peacekeeping operations during the period of the United Nations existence. More than 900 thousand of military and civilian specialists have participated in these types of operations up to date. More than 40 states have agreements with the UN on sending their military contingents to the ongoing and future peacekeeping operations. The annual spending on international peacekeeping operations, at their maximum in 1993, amounted 4 billion US dollars, and the personnel sent counted 80 thousand people. By the end of 1990s the spending was reduced to 1 billon US dollars, and the personnel deployed in the zones of conflicts was reduced to 12–15 thousand people.

However, in 2000 more than 65 thousand people participated in the operations in the former Yugoslavia only, not to say about other peacekeeping operations. In the current decade, more than 12 000 of the Russian troops take part in the peacekeeping operations in Bosnia, Herzegovina, and the Union Republic of Yugoslavia under the UN aegis, as well as in the CIS operations in Abkhazia/Georgia and Tajikistan, and in accordance with the inter-government agreements in South Ossetia/Georgia and Moldova/Transdnestria.

The history of international peacekeeping is the part of the political history of the end of XX – beginning of the XXI centuries. Peacekeeping operations per se are not mentioned in the UN Charter. Originally, the UN Security Council was to authorize enforcement measures, including use of force, against states, which committed acts of aggression, violated and/or threatened to violate peace. In 1946–1949 the UN discussed the possibility of creating of the UN military force, with the UN Military Headquarters and the political control exercised by the Security Council.

But the practice of the UN conflict resolution moved in other direction. First, the institute of military observers was introduced, to be sent to the conflict and/or potential conflict zones, on behalf of the international community. The first military observers' missions were sent to Palestine and to the conflict zone between India and Pakistan, in 1948 and 1949 respectively.

Later these type of the UN missions were sent to Lebanon and Yemen (1963), Afghanistan and Pakistan (1988–1990), Angola (since 1991), Iran and Iraq (1988–1991), Iraq and Kuwait (since 1991), Georgia, Haiti (since 1993), Tajikistan (since 1994).

Second, in absence of the UN Military Staff Committee, which did not function because of the contradictions between the West and the USSR during the Cold War, the UN military operations, others than stipulated by the Chapter VII of the UN Charter, were being practiced.

Since 1948, as suggested by the UN Secretary General, the UN General Assembly considered the creation of the UN police force, to exercise control over ceasefire in the conflict zones, and over law and public order, as well as electoral monitoring.

The UN force, to exercise a peace support operation per se (at that time called the UN Special Military Force), were for the first time sent to the Middle East during the Suez crisis in 1956. The UN Secretary General Dag Hammarschold defined this force as paramilitary peaceful force, authorized to use arms only for self-defense, and with the functions, different from that of the military force for enforcement actions, as stipulated by the Chapter VII of the UN Charter.

In 1965 the UN General Assembly introduced the Special Committee on peace support operations, made of representatives of 33 Member States. In 1973 the Committee agreed to delegate UN Security Council the exclusive responsibilities to decide on key issues related to peace support operations.

In the 1980s and especially in the 1990s, the UN peacekeeping activities were re-vitalized. The defunct Military Staff Committee was replaced by the Department of peacekeeping operations within the Office of the Secretary General, as a new body of the peacekeeping operations control with wide functions.

In the recent 20 years, we experience the shift from "passive" to "active" peacekeeping, and the widening of functions of both military and civilian personnel involved in the peace support operations. The military forces have started to use arms not only for the self-defense purposes, but also to protect civilian population in the conflict zones, to provide for security of the humanitarian relief operations, in the course of the combat actions in the conflict zones, and also, as the Secretary General puts it, "to exert pressure on the sides of the conflicts, to achieve national reconciliation faster, then they were originally ready to agree upon".

To conclude, during the first 50 years of the UN existence, the political struggle between the UN Member States resulted in the agreed conceptual and organizational scheme of peace support operations, which substantially differs from the written UN Charter. The missions of observers and mediators, as stipulated by Chapter VI of the Charter, as well as enforcement actions, as stipulated by Chapter VII of the Charter, are still being undertaken, although less frequently. On the other side, military and paramilitary actions to separate parties at war, to exercise control over ceasefire and over the buffer conflict zones, and to exercise police control in the post-conflict period, although not stipulated by the UN Charter (and since Dag Hammarschold's times often being referred to as "non-existent" "Six and the Half Chapter provisions"), are being practiced more and more often.

Although the UN peacekeeping efforts are still important and successful, the UN failed to become a universal subject of international peacekeeping, to be timely and effectively used by the

global community for the purposes of urgent interference in the conflict resolution. In practice, the UN acts as not always necessary and nearly always not sufficient subject of the peacekeeping process. The UN has become selective in terms of the scale, scope and functions of the interference in the conflict resolution.

In the meanwhile, the role and intensity of the conflicts on national and sub-national level have increased sufficiently, which move the UN towards the gradual change of the principles and rules of international interference, and towards the division of functions of the states and regional organizations and arrangements in the course of the conflict resolution.

Chapter VIII of the UN Charter, as well as other rules and principles of the International Law stipulate the possibility and the necessity of the use of regional bodies and agreements for the purposes of the conflict resolution, and to secure regional peace and stability.

In terms of Chapter VIII of the UN Charter, regional organizations and arrangements include continental inter-states arrangements, such as the Organization of American States (OAS), the Organization of African Unity (OAU), the Organization on Security and Co-operation in Europe (OSCE), etc. The Commonwealth of Independent States (CIS) was conditionally recognized by the UN as regional organization/arrangement in 1994. The Organization of the Collective Security Treaty, which involves Russia, Armenia, Belarus, Kyrgyzstan, Kazakhstan, and Tajikistan, was awarded the status of the UN regional organization recently in 2003. The EU has also started to conduct its own peace support operations in the former Yugoslavia and in Congo.

In the first decade of the XXI century, the UN, NATO, the EU, the CIS, the Organization of the Collective Security Treaty, etc. have been creating new instruments of crisis management and use of force in the conflict resolution. Following the Prague summit of 2002, NATO shapes its Response force. The EU has also created its own Rapid Deployment force by 2004. The CIS Organization of the Collective Security Treaty has set up the rapid reaction force for the Central Asian region of collective security. The NATO/Russia Council works on the concept of joint peacekeeping operations.

In this new political situation, the research on the legal status of peacekeeping (to which this book is primarily devoted) becomes even more necessary.

First of all, this book contains the new Model Law "On the Participation of a CIS Member State in Peacekeeping Operations", approved by the CIS Inter-Parliamentary Assembly just recently. The Law was drafted for two years by the Center of Political and International Studies (CPIS), in co-operation with the CIS Headquarters of Coordination of Military Cooperation, and other organizations. Being supported by the Center for Democratic Control of the Armed Forces (DCAF) in Geneva, experts and authors of this book made a legal expertise of the Model Law at the special joint session with the CIS Inter-Parliamentary Assembly Committee on Defense and Security (St. Petersburg, autumn 2003). This joint effort for the first time enabled to work out the agreed legal framework of peace support operations, reflecting the unique experience of the peacekeeping actions by Russia and the CIS, in full compliance with the UN peacekeeping principles and criteria.

The first chapter of the book contains documents, reflecting the new trends in the development of the legal basis of the peacekeeping. Besides the CIS Model Law, which is from now on being used by the national parliaments of the CIS Member States as a model of legislating on international peacekeeping, this chapter includes the first publication of the Law on peace support operations, adopted by the Ukraine. The list of Model Laws in the sphere of defense and security, adopted by the CIS, demonstrates the progress achieved in this area.

At present, The Organization of the Collective Security Treaty becomes a new subject of peacekeeping in the region. However, its new principles and guidelines are less known to experts and public in the USA and Western Europe. The editors also added to the list of documents the Carter of the Organization of the Collective Security Treaty, which substantially differs from the CIS Carter, enabling effective co-operation by the Member States in the sphere of defense, security and peace support operations.

The chronology of the creation of the Collective Security Treaty Organization's (CSTO) working bodies, and of adoption of

its basic documents, shows that the new serious and responsible subject of international security and peacekeeping is emerging at the territory of the New Independent States.

However, the CIS/CSTO peacekeeping efforts are not being fully recognized by the West, in terms of compliance with the UN peacekeeping criteria, while certain actions by the EU and NATO Member States, and by the US-led coalitions, especially in the former Yugoslavia and Iraq, are being criticized by politicians and experts from the New Independent States. The articles of the second chapter of the book "Modern Theory and Practice of Peacekeeping" display the multilateral dialogue of experts, representing different countries, on theory and practice of peacekeeping, exercised by various political subjects. This chapter also contains the review of the basic principles of the UN peacekeeping; the analysis of the legal aspects of the US operations in the conflict zones; the description of the new mechanism of NATO's quick reaction force; facts and estimations related to the Russian and the CIS operations in Tajikistan, Georgia, and Moldova; comparison of the peace support and counter-terrorism operations, etc.

The final chapter of the book is devoted to the problems of the parliamentary oversight of the peacekeeping, and to the role of parliaments in international peacekeeping. Parliamentarians and experts, directly involved in the work of the Inter-Parliamentary Union, NATO Parliamentary Assembly, WEU Parliamentary Assembly, The CIS Parliamentary Assembly, etc., contributed to this chapter. We believe that the role of parliaments and parliamentary associations in the conflict resolution and in decision-making on peace support operations should further increase.

Russian and Western politicians, military and experts, NATO and the CIS countries, have to overcome their disagreement, and to mutually recognize their respective peace support actions. They have to develop viable solutions related to the use of force in the conflict resolution, and to be able to perceive the conflict situations from the other viewpoint.

We, therefore, hope that this book will help to cope with such a difficult task.

Part I
DOCUMENTS. DEVELOPMENT OF THE LEGAL FOUNDATIONS FOR PEACE SUPPORT OPERATIONS

Model Law «On Participation (of a CIS Member State) In Peace Support Operations»[1]

The Model Law (henceforth to be referred to as «the Law») defines the grounds for, the form and order of participation (of a CIS Member State) in peace support operations conducted in order to prevent, settle and resolve local and regional conflicts. The Law is advisory and shall provide a basis for legislative action by the CIS Member States on the organization of and participation in peace support operations.

The Law interprets participation in peace support operations as an element of *peace support* defined as a complex set of measures taken to prevent, resolve, settle and overcome the consequences of local and regional conflicts and conducted by the international community, regional organizations, groups of states or individual states, governmental bodies and non-governmental organizations.

The provisions of the Law shall not impair the unalienable right (of the CIS Member State) to individual or collective self-defense with the purpose of repelling a military attack in accordance with Article 51 of the UN Charter, as well as the right to engage in military cooperation with other states and international organizations in order to ensure international and regional security.

The CIS Member State shall determine on its own and independently the purposefulness, scope and degree of its participation in peace support operations.

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[1] The draft of the Model law has been created at the initiative of the Center for Political and International Studies by a group of experts headed by Dr. A. Nikitin and including Dr. A. Volevodz, Chief of Juridical Service of the CIS Staff for the Coordination of Military Cooperation (CIS Staff) Maj.-General V.Bulygin, Chief of the CIS Staff Peace Support Directorate Maj.-General A.Tretyakov, Dr.Yu.Fedorov, Dr. V.Petrovsky.

Chapter I. GENERAL PROVISIONS

Article 1. Legislation on Participation in Peace Support Operations

1. Participation (of a CIS Member State) in peace support operations shall be governed by the Constitution (of the CIS Member State), this Law, other regulatory legal acts, and international treaties and agreements (of the CIS Member State).

2. Generally recognized principles and norms of international law and international treaties (of the CIS Member State) shall be an integral part of the legislation (of the CIS Member State) regulating participation in peace support operations. In case an international treaty (of the CIS Member State) stipulates other rules than those envisaged by the Law, the rules of the international treaty shall prevail.

3. Participation (of the CIS Member State) in peace support operations or participation as part of collective peace support operations shall not contradict the decisions made by the UN Security Council to maintain or restore international peace and security and to eliminate threats to peace, breaches of peace or any acts of aggression, either in accordance with the UN Charter or with international and regional agreements, whose authority has been recognized by the UN in accordance with Chapter VIII of the UN Charter.

Article 2. Territorial Application of the Legislation on Peace Support Operations

The provisions of the Law shall apply for the participation in peace support operations aimed at resolving local and regional conflicts within the territory (of the CIS Member State), regardless of whether this given state is taking part in the operation or not, and also in the instance (of the CIS Member State) taking part in peace support operations beyond its own borders.

Article 3. Basic Terms and Concepts Used in the Law

Unless specified otherwise, the basic terms and concepts used in the Law shall be interpreted as follows:

— **Peace Support Operations** — systematized and organized actions of states and international institutions, including the participation of the armed forces and military and civilian personnel,

aimed at intervention in local and regional conflicts for the purpose of their termination and resolution, conducted in accordance with the UN Charter and decisions of regional organizations, either within the framework of regional organizations or agreements, or on the basis of bilateral and/or multilateral treaties; peace support operations shall comprise of peacekeeping operations, (coercive) peace enforcement and post-conflict peace-building operations.

— **Peacekeeping Operations** — conducted on the basis of the provisions set out in Chapter VI of the UN Charter upon the consent of the conflicting parties and, in the case of armed inter-State conflict, upon the consent of the legitimate political leadership of the state on whose territory the conflict occurs; they shall be conducted under a mandate of the UN and/or regional organizations, or within the framework of regional organizations and agreements (of the CIS Member State), or on the basis of bilateral and multilateral international treaties (of the CIS Member State) with the state on whose territory the conflict occurs. As a rule, peacekeeping operations shall be carried out in the presence of an agreement on ceasefires or cessation of hostilities between conflicting parties involving the supporting and enforcement of the peace or the prevention of resumed conflict.

— **Peace Enforcement Operations** — peace support operations conducted on the basis of the provisions set out in Chapter VII of the UN Charter, as a rule, with elements of enforcement action, including the prevention of aggression or actions threatening international peace and security committed by a state, or conducted without the consent of the conflicting parties or legitimate authorities of the state on whose territory the conflict occurs, causing the international community to intervene; they shall be conducted exclusively on the basis of a UN Security Council Resolution and cannot be conducted independently by regional organizations, coalitions of states or individual states without the authorization of the UN Security Council.

— **Post-Conflict Peace-Building** — peace support operations, carried out in accordance with decisions made by the UN Security Council, or decisions made by regional organizations or within in the framework of regional organizations or agreements, or on the basis of bilateral or multilateral treaties and directed at the implementation of complex and coordinated actions for the restoration of the infra-

structure necessary for peace in the region of the former conflict, including the provision of humanitarian and economic aid, the preparation and holding of elections and referenda, the reconstruction of the political and administrative systems necessary for self-governing, demilitarization and rehabilitation of former fighters.

— **UN Peace Support Operations** — peace support operations and/or peace enforcement operations conducted on the basis of the UN Security Council Resolution either by multilateral contingents under UN control and guidance, or by coalition forces of the states subject to the authorization of the UN for conducting the operation.

— **Peace Support Operations of Regional Organizations** — peace support operations conducted upon the decision of an international regional organization whose terms of reference are recognized by the UN under the provisions set out in Chapter VIII of the UN Charter.

— **CIS Peace Support Operations** — peace support operations conducted upon the decision of the CIS Council of the Heads of States, in accordance with the CIS Charter, by the armed forces, military and civilian personnel of one or several CIS Member States in the territory of the Commonwealth .

— **Local Peace Support Operations** — peace support operations conducted in the absence of a mandate from the UN, CIS or any other regional organization on the basis of bilateral and/or multilateral international treaties and agreements (of the CIS Member State) with other CIS Member States.

Chapter II. ARRANGEMENTS AND CONDUCT OF PEACE SUPPORT OPERATIONS

Article 4. Participation (of the CIS Member State) in Activities on Prevention or Termination of Conflicts

1. (The CIS Member State) shall refrain from any direct or indirect interference in the internal affairs of the states on whose territories a local or regional conflict is brewing or has emerged unless otherwise stipulated by the international treaties (of the CIS Member State) with these states .

2. (The CIS Member State) shall refrain from the use of force or threats to use force thereof in relations with all states and, first

and foremost, with the CIS Member States. In case of territorial or other disputes and conflicts with other CIS Member States (the CIS Member State) shall use primarily peaceful means of settlement and mediation at the disposal of the Commonwealth of Independent States.

3. In case of an international or non-international conflict with the participation (of the CIS Member State) or its citizens, requiring international participation, mediation or intervention for its termination and settlement, (the CIS Member State) shall notify immediately the UN, OSCE and CIS and shall accept assistance and/or mediation from these institutions if they are ready to render such assistance and mediation .

4. In case of an appeal to other states or international organizations for assistance in conducting peace support operations within its own territory (the CIS Member State) shall immediately notify the CIS Council of Heads of States and shall take exhaustive measures so that the conduct of such operations should not inflict any damage to any other member of the Commonwealth of Independent States.

Article 5. International Legal Grounds and Prerequisites For Participation in Peace Support Operations

1. The armed forces and military and civilian personnel (of the CIS Member State) can be deployed beyond its territory for participation in preventing and settling local and regional conflicts in the following cases :

— for participation in UN peace support operations conducted in accordance with the provisions set out in Chapters VI and VII of the UN Charter — upon a UN Security Council Resolution and under the UN mandate and, in the event of using the armed forces assigned to the UN Security Council, under special agreement with the UN Security Council ;

— for participation in peace support operations of regional organizations conducted in accordance with the provisions set out in Chapter VI of the UN Charter and without coercive actions — upon a legitimate decision by the regional organizations or within the framework of regional organizations or agreements (of the CIS Member State) whose terms of reference are recognized as complying with the appropriate provisions set out in Chapter VIII of the

UN Charter, as well as upon the consent of the state on whose territory the conflict occurs to the international intervention and assistance in the termination and settlement thereof;

- for participation in peace support operations of the Commonwealth of Independent States conducted in accordance with the provisions set out in Chapter VI of the UN Charter — upon the decision of the CIS Council of Heads of States taken in accordance with the Commonwealth of Independent States' Charter as well as upon the consent of the state on whose territory the conflict occurs to the international intervention and assistance in the termination and settlement thereof;
- for participation in local peace support operations conducted in accordance with the provisions set out in Chapter VI of the UN Charter — under bilateral or multilateral international treaties with the state on whose territory the conflict occurs, as well as upon the consent of the state to the intervention and assistance (of the CIS Member State) in the termination and settlement thereof.

2. In cases where there is an absence or inadequate level of legal compliance with the conditions listed above the deployment of the armed forces and military and civilian personnel beyond the territory (of the CIS Member State) for participation in peace support operations shall not be allowed.

Article 6. Forms of Participation in Peace Support Operations

1. Participation of the armed forces and military and civilian personnel (of the CIS Member State) in peace support operations shall include the supervision and control over the compliance with the ceasefire agreements and agreements on the cessation of hostilities, preventive action, disengagement of conflicting parties, disarmament and disassembly of fighting factions, mediation and assistance in arranging the negotiations, dealing with the consequences of the conflict, performing the necessary engineering and other work, assistance in solving problems with refugees, medical and humanitarian aid, formation of civilian police and other bodies to ensure the security of the population and respect for human rights, as well as the implementation of international enforcement actions in accordance with the UN Charter.

2. (The CIS Member State) may participate in peace support actions without contributing its armed forces and military and civilian personnel, by way of providing food, medicines, other humanitarian aid, means of communication, vehicles and other types of material and technical resources.

Article 7. Participants in Peace Support Operations

1. The composition of military personnel, deployed (by the CIS Member State), for participation in peace support operations, shall include individual military servicemen and/or military formations taken from the armed forces (of the CIS Member State) (military units will be equipped with the necessary weaponry, military hardware and the means to implement a supply and support network) units and sub-units as well as armed personnel of the law-enforcement and internal affairs agencies, the emergency services and other state services and systems which have within their structure armed personnel.

2. The composition of civilian personnel, deployed (by the CIS Member State) for participation in peace support operations may include civilians with or without diplomatic status, including, either individual representatives, groups, or entire structural units of legislative, executive or juridical branches of power.

3. The military personnel, including units of the Armed Forces, agencies for internal affairs, law enforcement and the emergency services (of the CIS Member State) and other militarized organizations, participating in peace support operations shall be recruited on a voluntary basis from regular military personnel. These military personnel shall go through a special preliminary training.

4. Civilian personnel (of the CIS Member State) shall be recruited on a voluntary basis for participation in peace support operations. Civilian personnel must undergo special preliminary training before joining a peace support operation.

5. The social security of participants in peace support operations and their families' is guaranteed in accordance with the legislation (of the CIS Member State). (The CIS Member States) can determine the levels of state benefits for participants in an ongoing peace support operation and for members of their families and also determine their length of service. In the event that inter-

national treaties and agreements, to which (the CIS Member State) has signed, stipulate a higher level of state benefit for participants of the international peace support operation than that stipulated by the nation's legislation, the excess will be met in accordance with the international treaty and agreement.

Article 8. Decision-Making For the Deployment and Withdrawal of Military Personnel Participating in Peace Support Operations

1. The decision to deploy military units of the Armed Forces (of a CIS Member State) beyond the territory (of the CIS Member State) for participation in a peace support operation shall be made by the Parliament (of the CIS Member State) based upon a proposal by the President (of the CIS Member State) and shall be the legal basis for the use of the Armed Forces and any other armed units(of the CIS Member State) in a peace support operation beyond the territory of the state on a case-by-case basis.

2. The proposal ordering military units for participation in peace support operations made by the President (of the CIS Member State) to the Parliament (of the CIS Member State) shall include information relating to the area of action for the designated armed units, their tasks, numbers, types and composition of armaments, chain of command, duration of their stay and procedure for prolonging it, replacement procedure and the terms of withdrawal, as well as additional guarantees and compensation for the servicemen and their families as set out in the federal laws. The decision of the Parliament (of a CIS Member State) on the use of the Armed Forces and any other military formations (of the CIS Member State) in a peace support operation beyond its territory in each specific case may be taken only subject to the conditions of Article 5 of the Law.

3. Individual servicemen (not entering as part of a military unit, referred to in points 1 and 2 of this article) may be ordered beyond the territory (of a CIS Member State) for participation in peace support operations upon the decision of the President (of the CIS Member State) which shall determine the area of action for the servicemen, their tasks, subordination, duration of their stay and procedure for replacement as well as additional guaran-

tees and compensation for the servicemen and their families as stipulated by the law in force as and when required. The President (of the CIS Member State) shall notify the Parliament (of the CIS Member State) within one week about the decision taken. The Parliament reserves the right to recall such servicemen as stipulated in point 4 of this article.

4. If, due to changes in the international military and political situation, further participation of the servicemen (of a CIS Member State) in the peace support operation is no longer tenable, the decision for the withdrawal of armed units and/or individual servicemen and military units shall be made by the Parliament (of the CIS Member State) based upon a proposal by the President (of the CIS Member State) or by the Parliament on its own initiative, and Parliament will immediately notify the President (of the CIS Member State) of such an initiative and its legal basis.

Article 9. Decision-Making For the Deployment and Withdrawal Of Civilian Personnel For Participation in Peace Support Operations

1. The decision to deploy voluntary civilian personnel beyond the territory (of a CIS Member State) for participation in a peace support operation shall be made by the Government (of the CIS Member State) with notification within one week of the President and the Parliament (of the CIS Member State).

2. The Government (of the CIS Member State) shall also make decisions on providing food, medical and other humanitarian aid, means of communication and other material and technical resources, transportation means and their teams for delivering humanitarian aid and material and technical resources within the framework of the peace support operation.

3. The Government (of the CIS Member State) shall define the area of activities for the civilian personnel, its tasks, duration of stay and rotation procedures as well as additional guarantees and compensation for the designated personnel as and when necessary.

4. The Government (of the CIS Member State) shall make a decision on the withdrawal of the above civilian personnel if its further participation in the peace support operation becomes inexpe-

dient due to the changes in the international military and political situation. The President and the Parliament (of the CIS Member State) shall be notified about the decision within one week.

5. Decisions on the urgent withdrawal of civilian personnel may be made by the Parliament (of the CIS Member State) based upon a proposal by the President (of the CIS Member State) or by the Parliament on its own initiative together with the decisions on the withdrawal of servicemen as stipulated by Article 8, paragraph 4 of the Law.

Article 10. Training and Provision For Military and Civilian Personnel Deployed in Peace Support Operations

1. For the purpose of instruction, special training and participation of military personnel in peace support operations, a special military contingent shall be formed within the Armed Forces (of the CIS Member State). The order of the formation, composition and numbers of the above contingent shall be defined by the President (of the CIS Member State).

2. The Government (of the CIS Member State) shall arrange and provide for the instruction, assessment, medical examination and training of the military and civilian personnel ordered for participation in peace support operations, as well as set and provide guarantees and compensation for the above personnel including obligatory life and health insurance in accordance with the laws in force.

3. Training and equipment of the units of the Armed Forces (of the CIS Member State) designated for participation in peace support operations shall be funded from the Defense budget. The expenses for the maintenance of the military personnel during participation in peace support operations shall be stipulated in a separate Article of the budget. The expenses for training and participation in peace support operations of civilian personnel, as well as expenses for providing food, medical and other types of humanitarian aid, means of communication and other material and technical resources, shall be stipulated in the budget by a separate line in the Article on the appropriations for international activities or by a separate item in the budgets of the appropriate ministries and departments. Spending of additional funds for the purposes listed above shall be possible only upon the adoption of an appropriate law.

4. The Government (of the CIS Member State) shall submit to the Parliament (of the CIS Member State) an estimate of the expenses required for providing military and civilian personnel for participation in peace support operations, and shall elaborate on and bring before the Parliament (of the CIS Member State) the draft laws on the appropriation of additional funds for these purposes, indicating how it shall be funded, as well as addressing issues related to the reimbursement by the UN, regional organizations and individual states of the expenses (of the CIS Member State) for participation in peace support operations, and issues relating to the payment of state benefits to members of peace support operations and their families.

Article 11. Status of the Military and Civilian Personnel Deployed (by a CIS Member State) For Participation in Peace Support Operations

1. The legal status of the military and civilian personnel provided (by a CIS Member State) for participation in peace support operations shall be defined by the Law, a mandate for conducting the operation, and an agreement concluded by the governments of the contributing and receiving states on the status of the participants in the operation unless otherwise stipulated by the international treaties (of the CIS Member State).

2. The military and civilian personnel participating in the peace support operation shall respect the sovereignty and legislation of the state, on whose territory the operation is conducted; shall refrain from any actions incompatible with the goals of the operation; shall neither interfere in the internal affairs of the receiving state, nor participate in political activities and conflicts on its territory beyond the framework of the mandate for the peace support operation, as well as taking all necessary precautionary measures in order to avoid civilian casualties and damage to the environmental and industrial infrastructure and historical and cultural sites.

3. The military units and personnel provided by the CIS Member State for participation in the peace support operation (as well as the civilian personnel serving in military units) shall be subordinated to the Peace Support Operation Command consisting of representatives of the states participating in the operation or to

any other Command staff created for guiding the operation on the decision of the UN, an international regional organization or under an intergovernmental agreement. The personnel shall become subordinated to the Operation Command from the time of crossing the border of the state (states) on whose territory the peace support operation is conducted.

4. The civilian personnel provided (by the CIS Member State) for participation in the peace support operation (not serving in military units) shall be subordinated to a superior civil body (or higher political representative for the settlement of the conflict, appointed by the UN, an international regional organization or under an intergovernmental agreement. These regulations do not extend to citizens (of a CIS Member State) who are operating within the peace support zone in the capacity of an employee or representative of non-governmental organizations. This applies whether the organization in question is national or international.

5. The servicemen comprising the military personnel shall wear military uniforms and insignia of the Armed Forces (of the CIS Member State). If necessary, special insignia may be adopted on the decision of the Peace Support Operation Command.

6. The vehicles, armaments and military equipment shall have distinctive emblems of the Armed Forces (of the CIS Member State). If necessary, special distinctive marks for vehicles, armaments and military equipment shall be established by a decision taken by the Peace Support Operation Command.

7. No-entry zones or security zones shall be established by the command staff of a military unit on agreement with the Peace Support Operation Command.

8. Jurisdiction and legal assistance with respect to the stay of military and civilian personnel (of the CIS Member State) on the territory of a foreign state during the peace support operation shall be governed by a separate agreement to be concluded between the troop-contributing and troop-receiving states. In the absence of such an agreement the issues shall be addressed on the basis of the following principles:

— (the CIS Member State) shall prosecute, in accordance with its national legislation, persons serving in its military and civilian units

who are suspected of having committed crimes in the area of the peace support operation;

— (the CIS Member State) shall be guided by its national legislation and international treaties in arresting, detaining and performing other procedural actions, as well as in rendering legal assistance;

— representatives of appropriate courts, prosecution offices and security services (of the CIS Member State) may be deployed among the military personnel in order to carry out law enforcement activities.

Article 12. *Functions of Military and Civilian Personnel* Participating in Peace Support Operations

1. The military and civilian personnel participating in peace support operations shall, as a rule, only be used for:

— disengaging warring parties;

— stabilizing the situation and establishing security in the area of the conflict, including taking preventive actions;

— protecting and guarding strategically important sites and facilities including any facilities and buildings containing hazardous items and forces, as well as industrial infrastructure and lines of communication within the area of the conflict;

— providing mediation and assistance to the conflicting parties in elaborating agreements on political settlement, as well as for exchanging prisoners-of-war, return of refugees and displaced persons to their places of residence and assistance in solving their problems;

— control and supervision over the compliance by the conflicting parties with the agreements on ceasefire, reduction of the strength and presence of the armed forces in the area, withdrawal of armed formations of the conflicting parties from the specified areas and their demobilization;

— controlling a specific territory including the disengagement zones;

— establishing checkpoints and observation posts and conducting patrols on foot, by motor vehicle and in the air.

— monitoring the situation in the conflict zone and performing functions to ensure the security of the population and observance of their human rights;

— maintaining interaction and communication with the conflicting parties;

— protecting and ensuring the security of international representatives acting as mediators or observers in the course of the conflict;
— in certain cases, the direct implementation of administrative (management, judicial, etc.) functions in the region of the conflict and also the preparation and holding of elections, referenda and solving other post-conflict problems in order to restore peace.
— fulfilling other functions stipulated in the mandate for the peace support operation.

2. Military units shall be entitled to take measures to ensure self-defense, their own protection and security in accordance with the procedures in force in the Armed Forces (of the CIS Member State) and with due regard for the orders and instructions of the Peace Support Operation Command.

3. In case of the involvement of military and civilian personnel (of the CIS Member State) in a peace enforcement operation (with elements of coercive action), upon the decision of the UN Security Council, the functions of the personnel (in addition to those listed in point 1 of the this Article) may include combat action and use of arms in accordance with the mandate for the peace enforcement operation and orders from the Operation Command.

4. Within the limits of the designated areas of deployment, the military personnel may engage in training exercises to ensure operational and combat readiness related to the accomplishment of the mission. The areas, order and time of exercises, strength of the participating military units, routes of movement, and stages of combat fire, security zones, environmental and other issues shall be agreed on between the command of the military unit and the Peace Support Command Staff.

Article 13. Use of Arms in Peace Support Operations

1. Persons comprising the military personnel are entitled to carry arms in accordance with the orders of the military unit Command. Beyond the area of deployment of military units these persons shall be allowed to carry arms only when carrying out the missions of the peace support operation.

2. While carrying out the missions envisaged by the mandate of the peace support operation, the personnel of the peace support contingent shall have the right to use arms under the following circumstances:

— in order to ensure personal safety and protection against any assault upon their life and health by way of using the inalienable right of self-defense;
— in cases of the forcible prevention of the personnel of the contingent from carrying out its duties or any attempts to disarm them;
— to repel armed attacks by illegal armed groups and factions, such as terrorists and also to facilitate their detention and disarmament;
— for carrying out the tasks of establishing and maintaining disengagement and buffer zones between warring factions and individual armed persons of the conflicting parties;
— for the protection of civilians from violent assaults on their lives and health in the peace support zone.

3. In the case of use of arms for accomplishing the missions of the peace support operation, the military personnel should strictly observe the rules of engagement.

4. While using arms all possible measures must be taken for ensuring the security of elderly persons, women, children and other civilians except in cases of their armed resistance or attacks endangering the lives of the personnel of the peace support operation and other citizens if there are no other ways to repel such an attack.

5. In the case of participation by military and civilian personnel (of the CIS Member State) in a peace enforcement operation for stopping the aggression and eliminating the threat to international peace and security (with elements of coercive action) under the decision of the UN Security Council, the military personnel may use arms in accordance with the mandate for the operation and orders of the international Operation Command.

Article 14. Observance of the Rules of International Humanitarian Law in Peace Support Operations.

1. Military and civilian personnel participating in a peace support operation must observe the rules of international humanitarian law first laid down in the Geneva Convention of 12 August 1949 and the Additional Protocols of 8 July1977; they must also strictly adhere to the norms and standards set out guaranteeing human rights and freedoms.

2. The Operation Command and the command staff of the military units must ensure in due course that all military and civil-

ian personnel familiarize themselves with the basic rules and principles of international humanitarian law, the norms and standards regarding human rights, and legal regulations regarding refugees and displaced persons.

3. The Ministry of Defense and the General Staff of the Armed Forces (of the CIS Member State) shall ensure the drafting of a written memorandum and guide containing the description of the mandate for the operation, rules of interaction with civilians in the area of conflict and rules on the use of arms. Additionally, in certain cases the familiarization of all military personnel with the peculiarities of cultural and religious values and the traditions of the people of the region, as well as specific gender and age related issues and attitudes, may be required.

4. For rendering legal assistance to the Operation Command and instructing the personnel for the purpose of preventing breaches of international humanitarian law in the course of the peace support operation, legal advisor (advisors) shall be included in the personnel.

Chapter III. DISTINCTIVE ASPECTS OF DIFFERENT TYPES OF PEACE SUPPORT OPERATIONS

Article 15. Distinctive Aspects of Participation of Military and Civilian Personnel Deployed (by a CIS Member State) for UN Peace Support Operations

1. Based upon a proposal by the President (of a CIS Member State), the Parliament (of the CIS Member State) shall adopt a resolution on the deployment of military units manned on a voluntary (contractual) basis for participation and use in the actions undertaken by the UN Security Council, including air, naval and ground forces, in accordance with Article 42 of the UN Charter, as well as for implementing the obligations (adopted by the CIS Member State) under the international treaties by way of exercising the right of individual or collective self-defense in accordance with Article 51 of the UN Charter.

2. In the case of forming, in accordance with Article 42 of the UN Charter, a UN force to take action for the maintenance of

international peace and security involving enforcement measures and use of military force, the President (of the CIS Member State), with the support of the Parliament, or the Government (of the CIS Member State) on the instruction of the President, shall conduct negotiations and sign agreements with the UN Security Council on the basis of Article 43 of the UN Charter. The agreements shall stipulate their current status and readiness, deployment, logistics and assistance including the right of passage, as well as the procedures of contributing troops for purposes of the UN Security Council.

3. In case of a UN appeal (to a CIS Member State) or if the President (of a CIS Member State), following a proposal by the Ministry of Foreign Affairs, considers it reasonable to contribute military units and military and civilian personnel to the international contingent created by the UN for conducting peace support operations in accordance with the provisions set out in Chapter VI of the UN Charter, without using enforcement measures, the Parliament (of the CIS Member State), following a proposal from the President (of the CIS Member State), shall adopt a resolution on the deployment of military units and military and civil personnel for participation in these operations. The resolution shall specify the numbers of servicemen, the duration of their stay and rotation procedures, additional guarantees and compensation for the participants in the peace support operation, and the type and composition of armaments for the military units and military and civilian personnel.

Article 16. Distinctive Aspects of Participation of Military and Civilian Personnel Deployed (by a CIS Member State) for Regional Peace Support Operations

1. Upon the decision of regional organizations, or within the framework of the regional agreements, (a CIS Member State) may participate in creating forces and means of collective security (collective peace support forces, rapid deployment forces, rapid response forces) and (or) a system of reserve agreements on the participation of military and civilian personnel in regional peace support operations.

2. Upon the decision of regional organizations or within the framework of regional agreements and as stipulated by the Law,

other laws and regulatory and legal acts, (a CIS Member State) may send to the territory of other member states of regional organizations (agreements) at their request, and as agreed, its own military and civilian personnel, as well as military units for joint participation in peace support operations for repelling an external military aggression, as well as armed units for participation in peace support operations.

3. Decisions on the immediate involvement, tasks, numbers and composition of the military and civilian personnel, as well as that of military units, designated areas, duration of stay in the territory of the receiving state, shall be made by the supreme political body of the regional organization.

4. The activities of the military and civilian personnel, as well as of the military units (of the CIS Member State) within the collective security system forces (collective peace support forces, rapid deployment forces, rapid reaction forces) when used in a peace support capacity, shall be arranged in accordance with the Law and corresponding international treaties and agreements (of the CIS Member State).

Article 17. Distinctive Aspects of Participation of Military and Civilian Personnel Deployed (by a CIS Member State) For Local Peace Support Operations

1. The armed forces, military and civilian personnel (of a CIS Member State) may be ordered to participate in peace support operations conducted on the basis of bilateral and multilateral international treaties and agreements (of the CIS Member State) with the state on whose territory the conflict occurs, subject to the consent of the latter to the intervention and assistance (on the part the CIS Member State) for terminating and settling the conflict.

2. The CIS Member State shall not allow its armed forces and military and civilian personnel stationed in the territory of another state under a bilateral or multilateral international treaty to be used in violation of the obligations stipulated by the agreement , and shall not allow the functions and the term of stay of their personnel in the territory of another state, defined by the agreement, to be exceeded.

3. In case of the conclusion of a bilateral or multilateral international agreement on providing (by the CIS Member State) armed forces, as well as military and civilian personnel for participation in peace support operations, the agreement shall be duly ratified by the relevant Parliament (of the CIS Member State) as envisaged by the Law. The funds for fulfilling the obligations under such agreements shall be allocated in accordance with Article 10, para 4 of the Law.

Chapter IV. FINAL PROVISIONS

Article 18. Organizational Aspects of Peace Support Operations With Regards to the Jurisdiction of the Parliament (of the CIS Member State)

1. The aspects of the deployment of military contingents and individual servicemen for participation in peace support operations and the withdrawal of military and civilian personnel in accordance with procedures set out in articles 8, 9 and 15 of the Law are within the jurisdiction of the Parliament (of the CIS Member State).

2. The Parliament (of the CIS Member State) is to lead parliamentary discussions and hearings on all aspects of participation (of the CIS Member State) in peace support operations, and will launch parliamentary inquiries into the organs of executive power as regards to the planning, financing and execution of peace support operations.

3. The Government (of the CIS Member State) will present an annual report to the Parliament about the participation of military and civilian personnel (of the CIS Member State) in peace support operations if such participation is required. This report shall detail the aims, the basis, the scale and form of participation (of the CIS Member State) in the operation, outlining the current status of the operation and the results attained thus far, containing information about sources and the scale and actual cost of participation in such an operation, about losses (if there are any) and also put forward recommendations regarding the continuation or cessation of participation (of the CIS Member State) in the ongoing peace operation.

List of Model Laws on Security and Military Affairs Adopted by the CIS Inter-Parliamentary Assembly

1. «On prohibition of illegal turnover of narcotics, psychotropic substances and precursors» (date of adoption of the Law — 02/11/96)
2. «On fight against organized crime» (02/11/96)
3. «On state protection of crime victims, witnesses and other persons assisting the juridical process» (06/12/97)
4. «On weapons and arms» (06/12/97)
5. «On operational-detective activity» (06/12/97)
6. «On civil defense» (15/06/98)
7. «On fight against terrorism» (08/12/98)
8. «On counter-actions against legalization («laundering») of illegally received income» (08/12/98)
9. «On state protection of judges, officers of juridical and controlling state bodies» (09/12/98)
10. «On fight against corruption» (03/04/99)
11. «On banking confidentiality» (16/10/99)
12. «On food reserves security» (16/10/99)
13. «On alternative military service» (16/10/99)
14. «On use and protection of Red Cross emblem and signals designating medical formations and sanitary transport vehicles» (16/10/99)
15. «On personal file data» (16/10/99)
16. «On the state of emergency» (13/06/00)
17. «On mobilization preparations and military mobilization» (09/12/00)
18. «On intelligence services» (19/04/01)
19. «On parliamentary oversight over the military organization of the state» (24/11/01)
20. «On police (militia)» (07/12/02)
21. «On military veterans» (07/12/02)

Correlation of the Draft Model Law «On Participation (of a CIS member-state) in Peace Support Operations» to the International Law

Dr. Michael Pugh,
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The Model Law on participation of CIS member states in peace support operations is clearly consistent with current state practice and international law. It is largely a non-binding treaty containing declarations of principle and recommendations, but also includes mechanisms and provisions for member state participation that are apparently mandatory.

The Model Law recognises the sovereignty of member state decision making. It maintains principles and norms of international law and treaties. It upholds the primacy of the United Nations. It respects the right of self-defence.

Politically, the model law also reflects a trend towards the regionalisation of peace support operations (especially in the area of enforcement), and their conduct by regional organisation, regional arrangements and other international collectivities such as the CIS and the British Commonwealth.

The United Nations has been quite flexible in its subcontracting and burden-sharing. For example, it has recognised NATO as a partner, though NATO is not a regional organization under the rubric of Article VIII of the UN Charter. It has also given a post-hoc mandate to operations which did not receive prior authorisation by the Security Council (such as the ECOWAS operation in Liberia).

Comments to Section 1 «General Provisions»

Article 1. The sovereignty of participation in peace support operations is maintained, and subsequently this is extended to

member-states determining to withdraw unilaterally from participation before an agreed conclusion to an operation [*Article 8 (4); Article 9 (4)*].

Article 3. Under Peace Enforcement operations, it might be noted that the only deployment of a UN force to prevent an aggression or spillover of conflict was UNPREDEP in Macedonia and it was deployed under Chapter VI of the UN Charter. In effect, preventive deployments are not necessarily enforcement. Also under this heading it may be an important principle to uphold that UN authorisation is required before a deployment, especially in the light of the US–UK invasion of Iraq, but there have been occasions noted above when the UN has given post-facto authorisation.

It is noteworthy that in the last three definitions where the operations by regional organisations, CIS, or sub-CIS operations are restricted to peace-keeping under Chapter VI alone, while international state practice in general accords legitimacy to enforcement by regional organisation under a UN mandate. In fact Article 5(1) of this Model Law allows for assigned forces to engage in enforcement. It also allows for participation in Collective Security Operations under Article 42 of the UN Charter.

Comments to Section 2 «Arrangements and Conduct of PSOs»

This section is a declaration of principles, in conformity with current practice and largely uncontroversial in their sentiments.

Article 5. Although widely regarded as a new «division of labour» between the UN and regional organisations, this model law specifically excludes participation beyond the territory of a CIS member-state in enforcement unless conducted by the United Nations — which it is decreasingly likely to do — or unless using forces assigned to the UN. A definition of 'assigned' might be important here, to clarify CIS member-state participation in SFOR and KFOR, for example.

Article 7. May include, though without explicitly mentioning, the provision of civilian police (an increasingly important component of peace-building operations).

Article 8. Democratic control of deployment is upheld, and seems to be mandatory, in paragraphs 1 and 2. It is clearly practical for individual servicemen to be sent by Presidential order, later notified to Parliament. However, whether there is an issue regarding the number of individuals so ordered without Parliamentary authority. Could a President send 50 individuals, 100? Is it relevant to set a ceiling?

Articles 9, 10 and 11 are worded in mandatory fashion, and aim to ensure that democratic procedures, satisfactory preparation and budgeting are undertaken by member-states, and that command, jurisdictional and legal points are taken care of.

Article 13 is more specific about the rights to use weapons. There is a need here to include in Article 13 an explicit reference to how the Rules of Engagement will be determined. Will these be determined by the CIS member-state, or the PSO Command as suggested in paragraph 6? If the latter, will the member-state be free to interpret them (as states currently do)?

Article 14. Specifies observance of the Geneva Conventions. It would be an additional value to include recognition of the status of the ICRC?

Finally, three points about the political signals conveyed by the Model Law.

It signals the importance the CIS attaches to internationally mandated peace support operations, though it recommends rather than mandates participation;

This Model law is an important document in its mandatory underpinning of democratic processes, including parliamentary decision-making and monitoring;

This CIS Model law reinforces respect for legitimacy in terms of both international law and international institutions, especially the United Nations.

Law of Ukraine «On Ukraine's Participation in Peace Support Operations»*

Includes annexes and amendments, made in accordance with the Law of Ukraine # 1106-IV dated 10.07.2003

Considering Ukraine's responsibility in maintaining international peace and stability as a UN member-state, the Ukraine has a commitment to provide assistance to the UN in activities that are performed in accordance with the UN Charter, as well as fulfilling its commitments as an OSCE member-state, to constructively cooperate in implementing OSCE comprehensive potential for conflict prevention and management.

Ukraine considers its participation in Peace Support Operations (PSOs) to be the/an important component of its foreign policy.

This Law provides legal, organizational and financial background for Ukraine's participation in PSOs, as well as outlining procedures for providing training and support for Ukrainian military and civil staff for participation in international peace and stability making and support activities.

Article 1. Terminology definition

The terminology provided in the Law has the following meanings:

Peace Support Operation (PSO) — international activities or arrangements carried out under UN Security Council Resolutions in accordance with Charters of the UN, OSCE and other organizations responsible for maintaining international peace and security, with regard to the statements of Chapter VIII of the UN Charter. In addition, the term refers to activities and

* Unofficial translation. The Law is adopted in its recent form in July 2003

arrangements carried out under the UN Security Council's (UNSC) general supervision by multinational forces established under the UNSC, with consent to:

- Prevent interstate or interior conflicts;
- Resolve, or create conditions for resolving, interstate and interior conflicts with the consent of the parties involved in the conflict or through coersive actions approved by a UNSC Resolution that can include observation and control over ceasefire Agreement implementation, disengagement, disarmament and demobilization, major and minor construction works and so on;
- Provide humanitarian assistance to the local population, who have suffered from interstate or interior conflicts;
- Perform law-enforcement (police) functions aimed at maintaining security and human rights;
- Provide assistance in post-conflict management;
- **Peacekeeping contingent** — military units equipped with appropriate armament and weapons, support and communications assets that are provided by Ukraine in order to participate in international PSOs, including military units of the Armed Forces of Ukraine, and other military formations, as a component of joint military units, that are established in cooperation with other states for participating in international PSOs (joint battalions, and so on).
- **Peacekeeping personnel** — indivisual military servicemen or employees of the Armed Forces of Ukraine, other military formations, persons from leadership and regular staff of national security authorities and other governmental bodies or civil institutions of Ukraine, that are assigned by Ukraine for participating in PSOs and are not incorporated into peacekeeping contingent staff;
- **Logistic support and services** — logistic support and services provided by Ukraine for international PSOs, including combat and special equipment, separate types of armament, communications, vehicles with crews, food stock, medical supplies and so on.

Article 2. Terms of Ukraine's participation in PSOs

Ukraine, exclusively under terms defined by the Presidential Decree; under Parliamentary approval and in accordance with the Constitution and national legislation, takes part in Peace Support Operations under the auspices of:

— United Nations (UN), Subject with regard to UN Security Council Resolutions;
— Organization for Security and Cooperation in Europe (OSCE) or other regional organizations responsible for maintaining international peace and security in accordance with the provisions of Chapter VIII of the UN Charter;
— Multinational forces that are established with UNSC consent and are operated under UNSC general supervision.

Ukraine's participation in PSOs may by realized through contributing of a peacekeeping contingent/personell, as well as logistic support and services to the appropriate authorities in charge of the operation.

Article 3. Submission of proposition on Ukraine's participation in PSOs

The Ministry of Foreign Affairs, in coordination with the Ministry of Defence of Ukraine and other executive authorities concerned, submits proposition on Ukraine's participation in international PSO to the National Security and Defence Council. The proposition should include both current information about peacekeeping contingent/personell, its missions, numeric strength, armament, military equipment, chain of command, terms of tenure and prolongation, replacement and withdrawal procedures, guarantees and benefits to servicemen and employees of the Armed Forces of Ukraine, other military formations, national security authorities, other governmental bodies and civil institutions of Ukraine, as well as members of their families; and information regarding financial costs related to Ukraine's participation in PSO.

(Part I, Article 3 is presented herewith amendments, made in accordance with the Law of Ukraine #1106-IV dated 10.07.2003).

The National Security and Defence Council of Ukraine submits to the President of Ukraine proposition on Ukraine's participation in PSO, taking into consideration the national interests and legislation of Ukraine, as well as considering the international commitments of Ukraine in accordance with the UN Charter. It

must also take into account the avaibability of financial/logistic support and security concerns regarding Ukrainion citizens that will participate in PSO as a component of peacekeeping contingent/personell.

Article 4. Decision-taking concerning Ukraine's participation in PSOs

The President of Ukraine takes the decision on whether to provide Ukrainian peacekeeping contingent/personell and logistic support for participation in international PSO. At the same time the President submits to the Parliament of Ukraine a Draft Law on the Approval of the decision to provide Ukrainian peacekeeping contingent/personell. The Draft Law includes information required by Article 3 of this Law.

The decision of the President of Ukraine to send a Ukrainian peacekeeping contingent abroad for participation in international PSOs is acknowledged by signatures of Ukrainian Prime-minister and another minister responsible for implementation of this decision and is subject to Parliamentary approval in accordance with the Constitution of Ukraine, Article 85, Para 23. The Draft Law on sending Ukrainian contingent abroad submitted by the President is subject to urgent Parliamentary consideration.

Following the decision by President, the Cabinet of Ministers take the decision on logistic support to peacekeeping contingent/personell for participation in PSO.

Article 5. Peacekeeping contingent/personell manning

Peacekeeping contingent and peacekeeping personell are manned by the citizens of Ukraine — military servicemen and employees of the Armed Forces of Ukraine, persons from the leadership and regular staff of interior forces, other military formations and governmental bodies or civil institutions of Ukraine. Participants of peacekeeping contingent/personell must have appropriate professional and psychological training.

The citizens of Ukraine are inscribed in peacekeeping contingent/personell exclusively on a voluntary basis.

Article 6. Training of citizens of Ukraine for participation in PSOs

Citizens of Ukraine included in peacekeeping contingent or recruited for participation in PSOs as peacekeeping personell should preliminarily undergo special training at appropriate training centers.

Article 7. Return or withdrawal of peacekeeping contingent/ /personell which participated in international PSOs

Peacekeeping contingent/personell provided for participation in PSOs returnes to Ukraine after PSO has been terminated. They can also be withdrawn before the termination of PSO, if their further participation in the PSO becomes unreasonable due to significant changes in the international politico-military situation or in regional conditions, or due to financial suspensions or other reasons. The President of Ukraine takes the MFA submitted/MOD approved decision on peacekeeping contingent/personell withdrawal taking into consideration international commitments of Ukraine. Decision on withdrawal of contingent can be as well initiated by the Parliament of Ukraine and submitted for approval by the President.

Article 8. Social security support to PSO participants and members of their families

Social security support to PSO participants and members of their families is to by provided in accordance with current legislation of Ukraine.

If international agreements or treaties to which Ukraine is a party provide higher guarantees and benefits to PSO participants than those provided by Ukrainian legislation, then guarantees and benefits of the appropriate international agreement/treaty should be applied.

The tenure and length of service of the citizen of Ukraine during the duty within peacekeeping contingent/personell is determined as follows: one month of service within peacekeeping con-

tingent/personell is considered equal to three months of regular service.

Article 9. Financial support of Ukraine's participation in PSOs

The financial support of Ukraine's participation in PSOs can be provided from:

— State budget with further full or partial reimbursement of costs by UN, OSCE or other regional organization convening the PSO;
— State budget exclusively;
— Exclusively UN, OSCE or other regional organizations convening the PSO.

Financial procedures and resources are defined in decision by the Parliament of Ukraine on taking part in PSO.

(Article 9 is presented here in edition of the Law of Ukraine # 1106-IV dated 10.07.2003).

Article 10. Informing of the Parliament of Ukraine on Ukraine's participation in international peacekeeping activities

The Cabinet of Ministers of Ukraine submits to the Parliament of Ukraine an annual report on Ukraine's participation in activities aimed at supporting or restoring international peace and security.

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Editors of the book express thankfulness to the Chairman of the Atlantic Council of Ukraine V.A. Grechaninov for providing the text of the Law for publication.

Charter of the Collective Security Treaty Organization*

The States Parties to the Treaty of Collective Security of 15 May 1992 (hereinafter — «the Treaty»),

Acting in strict accordance with their obligations under the Charter of the United Nations and the decisions of the United Nations Security Council, and guided by the universally recognized principles of international law,

Seeking to establish favorable and stable conditions for the full development of the States Parties to the Treaty and to ensure their security, sovereignty and territorial integrity,

Reaffirming their commitment to the purposes and principles of the Treaty and the international agreements and decisions adopted within its framework,

Determined to develop further and intensify their military and political cooperation in the interests of ensuring and strengthening national, regional and international security,

Setting themselves the objective of maintaining and nurturing a close and comprehensive alliance in the foreign policy, military and military technology fields and in the sphere of countering transnational challenges and threats to the security of States and peoples,

Guided by their intention to enhance the effectiveness of their activities within the framework of the Treaty,

Have agreed on the following:

* Adopted on October 7, 2002 by the session of the CSTO Collective Security Council in Chisinau.

Chapter I
Establishment of the Collective Security Treaty Organization

Article 1

The States Parties to the Treaty hereby establish the international regional Organization of the Treaty on Collective Security (hereinafter — «the Organization»).

Article 2

The provisions of the Treaty and of international agreements and decisions by the Council on Collective Security of the Treaty adopted in the interests of the Treaty's further development shall be binding on the member States of the Organization (hereinafter — «the member States») and on the Organization itself.

Chapter II
Purposes and principles

Article 3

The purposes of the Organization are to strengthen peace and international and regional security and stability and to ensure the collective defence of the independence, territorial integrity and sovereignty of the member States, in the attainment of which the member States shall give priority to political measures.

Article 4

In its activities the Organization shall cooperate with States which are not members of the Organization and shall maintain relations with international intergovernmental organizations which are active in the field of security. The Organization shall promote the formation of a just and democratic world order based on the universally recognized principles of international law.

Article 5

The Organization shall operate on basis of strict respect for the independence, voluntary participation and equality of rights

and obligations of the member States and non-interference in matters falling within the national jurisdiction of the member States.

Article 6

This Charter shall not affect the rights and obligations of the member States under other international agreements to which they arc party.

Chapter III
Areas of activity

Article 7

In order to attain the purposes of the Organization, the member States shall take joint measures to organize within its framework an effective collective security system, to establish coalition (regional) groupings of forces and the corresponding administrative bodies and create a military infrastructure, to train military staff and specialists for the armed forces and to furnish the latter with the necessary arms and military technology.

The member States shall adopt a decision on the stationing of groupings of forces in their territories and of military facilities of States which are not members of the Organization after holding urgent consultations (reaching agreement) with the other member States.

Article 8

The member States shall coordinate and harmonize their efforts in combating international terrorism and extremism, the illicit traffic in narcotic drugs, psychotropic substances and arms, organized transnational crime, illegal migration and other threats to the security of the member States.

The member States shall carry out activities in these areas in close cooperation with all interested States and international intergovernmental organizations, and primarily under the auspices of the United Nations.

Article 9

The member States shall agree upon and coordinate their foreign policy positions regarding international and regional security problems, using, inter alia, the consultation mechanisms and procedures of the Organization.

Article 10

The member States shall take measures to develop a treaty-legal base that will govern the functioning of the collective security system and to harmonize national legislation relating the questions of defence, military construction and security.

Chapter IV
Organs of the Organization

Article 11

The organs of the Organization shall be:

a) The Council on Collective Security (hereinafter — «the Council»);
b) The Council of Ministers for Foreign Affairs,
c) The Council of Ministers of Defence;
d) The Committee of Secretaries of the Security Council.

The permanent working organ of the Organization shall be the Secretariat of the Organization (hereinafter — «the Secretariat»).

The functions and working procedures of the organs indicated above shall be governed by the Charter and by separate Regulations adopted by the Council.

Article 12

Decisions of the Council, the Council of Ministers for Foreign Affairs, the Council of Ministers of Defence and the Committee of Secretaries of the Security Councils concerning issues other than procedural questions shall be taken by consensus.

Each member State shall have one vote. The voting procedure, including that relating to procedural questions, shall be governed by the Rules of Procedure of the organs of the Organization, as approved by the Council.

The decisions of the Council and decisions by the Council of Ministers of Foreign Affairs, the Council of Ministers of Defence and the Committee of Secretaries of the Security Councils for the implementation of Council decisions shall be binding on the member States and shall be implemented according to the procedures established by national legislation.

Article 13

The Council shall be the highest organ of the Organization.

The Council shall consider the main questions concerning the activities of the Organization, shall take decisions aimed at achieving its objectives and purposes and shall ensure coordination and joint action between member States for the achievement of those objectives.

The Council shall consist of the Heads of the member States.

The Ministers far Foreign Affairs, Ministers of Defence and Secretaries of the Security Councils of the member States, the Secretary-General of the Organization, plenipotentiary representatives of the member States to the Organization and invited persons may attend meetings of the Council,

The Council shall have the power to establish permanent or temporary working bodies and subsidiary bodies of the Organization.

The Chairman of the Council (hereinafter — «the Chairman») shall be the Head of the State in the territory of which the current session of the Council is taking place, unless the Council decides otherwise. He shall retain his rights and obligations for the period until the next regular session of the Council.

If the Chairman is unable to perform his functions, a new Chairman shall be elected for the remaining period.

During the periods between sessions of the Council, questions of the coordination of the joint activities of member States in implementing the decisions taken by the Organs of the Organization shall be taken up by the Permanent Council of the Organization (hereinafter — «The Permanent Council»).

The Permanent Council shall consist of plenipotentiary representatives (hereinafter — «Plenipotentiaries») appointed by the

member States in accordance with their domestic procedures and shall operate in accordance with the Regulations adopted by the Council.

Article 14

The Council of Ministers for Foreign Affairs shall act as the Organization's advisory and executive organ on questions of the coordination of the joint activities of the member States in the field of foreign policy.

Article 15

The Council of Ministers of Defence shall act as the Organization's advisory and executive organ on questions of the coordination of the joint activities of member States in military policy, military structures and cooperation in military technology.

Article 16

The Committee of Secretaries of the Security Councils shall act as the Organization's advisory and executive organ on questions of the coordination of the joint activities of member States in the provision of their national security.

Chapter V
Secretariat

Article 17

The Secretariat shall provide organizational, information, analytical and advisory services for the activities of the organs of the Organization.

Jointly with the Permanent Council, the Secretariat shall carry out the preparation of draft decisions and other documents of the organs of the Organization.

The Secretariat shall be composed of nationals of the member States (officials) according to a quota based on the proportion of a member State's contribution to the Organization's budget, and nationals of the member States (employees) appointed under contract on a competitive basis.

The functions, order of establishment conditions and duties of the Secretariat shall be defined by the relevant Regulations adopted by the Council.

The Secretariat shall be located in Moscow, Russian Federation. The conditions of the Secretariat's presence in the territory of the Russian Federation shall be governed by the corresponding international agreement.

Article 18

The Secretary General of' the Organization (hereinafter — «the Secretary General») shall be the highest administrative official of the Organization and shall be the head of the Secretariat.

The Secretary General shall be appointed by decision of the Council for a period of three years, on the recommendation of the Council of Ministers for Foreign Affairs, from among the nationals of the member States.

The Secretary General shall be answerable to the Council and shall participate in the meetings of the Council, the Council of Ministers for Foreign Affairs, the Council of Ministers of Defence, the Committee of Secretaries of the Security Councils and the Permanent Council.

The Secretary General shall, in accordance with Council decisions, coordinate the preparation of the relevant draft proposals and documents of the organs of the Organization and maintain working contacts with other international intergovernmental organizations and with States which are not members of the Organization.

The Secretary General shall be the depositary of this Charter, of other international agreements concluded within the framework of the Organization and of instruments that are adopted.

Chapter VI
Membership

Article 19

Membership of the Organization is open to any State which shares its purposes and principles and is prepared to undertake

the obligations set forth in this Charter and other international treaties and decisions which are in effect within the framework of the Organization.

Decisions on admission to the Organization shall be adopted by the Council.

Any member State may withdraw from the Organization. After settling its obligations within the Organization, such State shall send to the depositary of the Charter official notification of its withdrawal no later than six months before the date of withdrawal.

The procedure for admission to and withdrawal from the Organization shall be determined by the relevant provisions of the Regulations adopted by the Council.

Article 20

In the event of non-fulfillment by a member State of the provisions of this Charter, decisions of the Council or decisions of other organs of the Organization which have been adopted for implementation, the Council may suspend its participation in the work of the organs of the Organization.

In the event of persistent non-fulfillment of the above-mentioned obligations by a member State, the Council may take a decision to expel such State from the Organization.

Decisions on such matters in relation to a member State shall be taken without counting its vote.

The procedure for suspension of the participation of a member State in the work of the organs of the Organization or its expulsion from the Organization shall be determined by the Regulations adopted by the Council.

Chapter VII
Observers

Article 21

Observer status to the Organization may be granted to States which are not members of the Organization and also to international organizations on the basis of an official written application addressed to the Secretary General. Decisions on granting, sus-

pending or terminating observer status shall be taken by the Council.

The participation of observers in sessions and meetings of organs of the Organization shall be governed by the Rules of Procedure of the Organization.

Chapter VIII
Legal capacity, privileges end immunities

Article 22

The Organization shall enjoy in the territory of each member State such legal capacity as is necessary for the exercise of its functions and the fulfillment of its purposes.

The Organization may cooperate with States which are not members, maintain relations with international intergovernmental, organizations which are active in the field of security, and conclude with them international agreements for the establishment and development of such cooperation.

The Organization shall possess juridical personality.

Article 23

The privileges and immunities of the Organization shall be determined by the corresponding international treaty.

Chapter IX
Financing

Article 24

The work of the Secretariat shall be financed from the budget of the Organization.

The budget of the Organization shall consist of assessed contributions from member States approved by the Council.

The budget of the Organization may not have a deficit.

The draft budget of the Organization for each budgetary year shall be drawn up by the Secretariat in agreement with the member States in accordance with the Regulations on the procedure for the formation and implementation of the budget of the

Organization. The budget of the Organization shall be approved by the Council.

The Regulations on the procedure for the formation and implementation of the budget of the Organization shall be approved by the Council,

Each member State shall bear the expenses associated with the participation of its representatives and experts at conferences and meetings of the organs of the Organization and in other activities carried out within the Organization, and also the expenses associated with the activity of its plenipotentiaries.

Article 25

In the event that a member State fails for two years to meet its obligation to pay its dues to the budget of the Organization, the Council shall take a decision regarding suspension of the right to nominate nationals of that State for quota posts in the Organization, and also regarding termination of the right to vote in organs of the Organization until the dues are paid in full.

Chapter X
Final provisions

Article 26

This Charter is subject to ratification and shall enter into force on the date of deposit with the depositary of the last written notification of ratification by the signatory Stares.

The depositary shall notify the States which have signed this Charter of the receipt of each notification of ratification.

Article 27

With the general consent of the member States, amendments and additions may be made to this Charter, and shall be drawn up in separate protocols.

Protocols on amendments and additions to the Charter shall form an integral part thereof and shall enter into force in accordance with the provisions of article 26 of this Charter.

Reservations to the Charter are not permitted.

Any disputes regarding the interpretation or application of the provisions of this Charter shall be resolved through consultations and negotiations between the member States concerned. In the event that agreement cannot be achieved, disputes shall be referred to the Council for consideration.

Article 28

The official and working language of the Organization shall be Russian.

Article 29

This Charter shall be registered with the United Nations Secretariat in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Chisinau on 7 October 2002, in a single original in the Russian language. The single original shall be kept by the depositary, which shall send a certified copy thereof to each State which has signed this Charter.

For the Republic of Armenia	— *A. Kocharyan*
For the Republic of Belarus	— *A. Lukashenko*
For the Republic of Kazakhstan	— *N. Nazarbaev*
For the Kyrgyz Republic	— *A. Akaev*
For the Russian Federation	— *V. Putin*
For the Republic of Tajikistan	— *E. Rahmonov*

Development of the Normative-Legal Base of the Collective Security Treaty Organization

1992

May 15
(Tashkent, Council of the Heads of State)

Collective Security Treaty signed by Heads of 6 States: Republic of Armenia; Republic of Kazakhstan; Kyrgyz Republic; Russian Federation; Republic of Tajikistan, and Republic of Uzbekistan.

July 6
(Moscow, Council of the Heads of State)

Agreement on the Provisions of the Collective Security Council (CSC).

1993

September 24

Republic of Azerbaijan joined the Treaty.

December 9

Georgia joined the Treaty.

December 31

Republic of Belarus joined the Treaty.

December 24
(Ashgabat, Council of the Heads of State)

Decision on Urgent Measures to Implement the Collective Security Treaty (On Corrections and Amendments to the CSC Guidelines, and to the Protocol on Conditions, Mechanisms and Procedures of Joining the Treaty);

Protocol on Conditions, Mechanisms and Procedures of Joining the CST by States, Which Did Not Sign the Treaty;

Decision on the Approval of the CST Secretary General Candidacy.

1995

February 10
(Almaty, Council of the Heads of State)

The Collective Security Council Decision on the Collective Security Concept of the CST Member States ;

The Decision of the Collective Security Council on the Basic Guidelines of Military-Technical Co-operation by the CST Member States ;

The Decision on the Declaration by the CST Member States ;

May 26
(Minsk, Council of the Heads of State, Council of the Heads of Governments)

The Collective Security Council Decision on the Registration of the Collective Security Treaty in the United Nations;

The Collective Security Council (CSC) Decision on the CSC Procedures;

The CSC Decision on the Collective Security Concept Implementation Plan, and on Basic Guidelines of Deepening of the Military Co-operation of the CST Member States ;

November 3
(Moscow, Council of the Heads of Governments)

The Decision of the Heads of Governments of the CST Member States on Plan of Financing of the CSC and its Working Bodies Activities ;

1996

May 17
(Moscow, Collective Security Council)

The CSC Decision on Streamlining of Activities of the Organs Coordinating the CST Implementation.

1997

March 28
(Moscow)

The Guidelines on Consultations Procedures of the CST Member States

1998

March 5
(Moscow,.Council of Foreign Affairs Ministers)

The Decision of the Council of Foreign Affairs Ministers of the CST Member States on the Guidelines on Plenipotentiary Representatives of the CST Member States at the Office of the CSC Secretary General.

The Decision of the Council of Foreign Ministers of the CST Member States to Award Documents Depositary Functions to the CSC Secretariat.

1999

April 2
(Moscow, Collective Security Council)

The Protocol on the Prolongation of the CST of May 15, 1992.

Basic Implementation Plan of the Second Phase of the Collective Security System Formation (until 2001).

The Provisions of the Council of Foreign Affairs Ministers of the Collective Security Treaty Member States.

2000

May 24
(Minsk, Collective Security Council)

On the Report of the Collective Security Council Secretary General.

Memorandum on Increasing of the Efficiency of the Collective Security Treaty of May 15, 1992, and on its Adaptation to the Current Geopolitical Situation.

On the Creation of the Committee of the Secretaries of the Security Councils of the Collective Security Treaty Member States.

On the Provisions of the Council of Defense Ministers of the Collective Security Treaty Member States.

On the Provisions for Decision-Making and Implementation of the Collective Decisions to Use Force within the Collective Security System.

On the Secretary General of the Collective Security Council.

The Statement on Collective Security by the Collective Security Treaty Member States.

June 20

(Moscow, Heads of Governments)

The Agreement on Basic Principles of Military-Technical Co-operation between the CST Member States.

October 11

(Bishkek, Collective Security Council)

The Statement by the Heads of States of Republic of Armenia, Republic of Belarus; Republic of Kazakhstan; Kyrgyz Republic; Russian Federation, and Republic of Tajikistan, in Connection with the Threats to Security in the Central Asian Region.

Basic Action Plan on Formation of the Collective Security System for the Years 2001–2005.

The Agreement on the Status of Forces of the Collective S_curity System.

On the Activities Related to the Formation of the Collective Security System.

On the Implementation of the Agreement on Basic Principles of Military-Technical Co-operation between the Collective Security Treaty (of May 15, 1992) Member States.

On the Working Contacts of the Collective Security Council Secretary General with International Organizations on Security Issues.

2001

May 25

(Yerevan, Collective Security Council)

On the Report of the Collective Security Council Secretary General.

The Statement by the Heads of States of Republic of Armenia; Republic of Belarus; Republic of Kazakhstan; Kyrgyz Republic; Russian Federation and Republic of Tajikistan.

On the Collective Rapid Deployment Forces for the Central Asian Region of Collective Security.

Protocol on the Formation and Functioning of the Collective Security Forces by the Collective Security Treaty Member States.

On the Creation of the Inter-State Body of the Military Command and Control of the Collective Security System of the Collective Security Treaty Member States.

On Amendments and Corrections to the Provisions and Procedures of the Collective Security Council.

September 12

(Yerevan, Collective Security Council)

The Statement of the CST Member States in Connection with the Acts of Terrorism in the United States of America.

2002

February 5

(Collective Security Council)

The Decision on the Action Plan to Commemorate the 10th Anniversary of the Collective Security Treaty of May 15, 1992.

The Decision on the Mechanisms of Implementation of the Agreement on Basic Principles of Military-Technical Co-operation between the Collective Security System Member States.

May 14

(Moscow, Collective Security Council)

On the Analytical Report on "The 10th Anniversary of the Collective Security Treaty: Long-Term Goals and Objectives".

The Statement of the Collective Security System Heads of State on the 10th Anniversary of the Collective Security Treaty.

On the Status of the Collective Security Treaty as an International Regional Organization.

On Activities of the Rapid Deployment Forces of the Central Asian Region.

On the Measures of Further Development of Military-Technical Co-operation between the Collective Security Treaty Member States.

October 7

(Chisinau, Collective Security Council)

Collective Security Treaty Charter.

The Agreement on the Legal Status of the Collective Security Treaty.

The Decision on Putting into Force of the Charter of the Collective Security Treaty Organization, and of the Agreement on the Legal Status of the Collective Security Treaty Organization.

2003

April 28

(Dushanbe, Collective Security Council)

On the Annual Report of the CSC Secretary General

The Statement by the Heads of the CST Member States

On the Guidelines on Bodies of the Collective Security Treaty Organization

On Organizational and Financial Documents of the Collective Security Treaty Organization

On the Formation of the Joint Headquarters of the Collective Security Treaty Organization

On the Head and the First Deputy Head of the Joint Headquarters of the Collective Security Treaty Organization

On the Extension of the Sphere of Application of the Agreement on Basic Principles of Military-Technical Co-operation between the CST Member States

On Joint Training of Personnel for the Armed Forces of the Collective Security Treaty Organization Member States

The Agreement on the Unified System of Technical Protection of the Railways of the Collective Security Treaty Organization Member States

On the Logistics for the Collective Rapid Deployment Forces of the Central Asian Region of Collective Security

On Certain Measures Related to the Formation of the Collective Security Treaty Organization

On the Co-ordination of Activities of the Collective Security Treaty Organization Member States to Counter the External Drug-Trafficking Threat

On the Secretary General of the Collective Security Council (Collective Security Treaty Organization).

Part II
MODERN THEORY AND PRACTICE OF PEACE OPERATIONS

Peace Support Activities of the CIS and the Role of the Staff for the Coordination of Military Cooperation of the CIS Member States

Vladimir N. Yakovlev, Army General,
Chief of the Headquarters for the Coordination of Military Cooperation of the CIS Member States

The Commonwealth of Independent States, led by Russia, was compelled, literally from the moment of its formation, to prevent and resolve conflicts on the territory of Member States and near to their borders, thereby guaranteeing the military-political stability of their own homelands and not because of mythical the consolidation of «Russia's imperial ambitions».

The peace support activities of the CIS were dependent on the challenges of that time, threats to the collective security of the Commonwealth and the security of each individual Member State.

These threats are well-known. Above all are the "hot-spots", the establishing of the CIS out of the Soviet Union and the complicated process of creating nation-states in former-Soviet Republics, in which were revealed a high degree of aggressive extremism, as well as national and religious intolerance, for example in: Tajikistan; Abkhazia and South Ossetia, Georgia; Transdnestria, the Republic of Moldova; Nagorny Karabakh; the Republic of Azerbaijan and the North Caucasus.

To this day, they have been the bane of the people of the Commonwealth.

These threats forced the Commonwealth to urgently develop a normative-legal base for peace support activities, practically at the same time as the launching of peacekeeping operations, while simultaneously becoming proficient in the theory and practical realization of all aspects of conflict prevention and resolution, and at the same time adapting the experience of the international community to our specific circumstances.

The Staff for the Coordination of Military Cooperation is an inter-state permanently functioning organ of the Council of Ministers of Defence of the CIS Member States and intended to assist the development of all aspects of military cooperation of the Commonwealth States and the coordination of their activities in fulfilling the resolutions of the Council of Heads of State, the Council of Heads of Government and the Council of Ministers of Defence in this area.

In the last ten years the peace support activities of the Commonwealth as a whole, and of each state within the Commonwealth, have not been as well renowned as those of UN, but its achievements so far have been highly significant and tangible.

Considering the military aspects of peace support activities of the CIS States it is possible to subdivide these efforts on the following categories:

- Firstly, the combined activities of the CIS Members in the resolution of conflicts based on the decisions of the Council of Heads of States of the CIS and carried out under the operational command of the Council of Ministers of Defence and the Sraff for the Coordination of Military Cooperation. This system has already been in operation for more than 8 years in peacekeeping missions in Abkhazia, Georgia and until September 2000 in the Republic of Tajikistan;
- Secondly, peacekeeping operations are carried out on the territories of the CIS Members based on bi-, tri- or multilateral inter-state accords. Operations such as this were carried out by the Russian Federation and the Republic of Moldova with the participation of military observers from the Ukraine in the Transdnestria region;

- The participation of military contingents and military observers from Commonwealth States in operations carried out by the UN and OSCE, and also other international organizations under their aegis (in former Yugoslavia, Sierra Leone, Lebanon, Bosnia-Herzegovina and Kosovo). Military observers from the CIS States take part in UN and OSCE Missions in many regions of the world;
- Another type of peace support activities covers joint operational and combat training for peace support activities, carried out with the participation of the CIS States according to a plan put together by the Council of Ministers of Defence and the Staff for the Coordination of Military Cooperation of the CIS and also according to the NATO program "Partnership for Peace" with the aim of heightening the levels of readiness of the organs of government, troops and forces to achieve peace support objectives.

However, the most important Commonwealth activities in preventing and resolving conflicts are peace support missions on the territories of the Member States.

To this end a fundamental normative-legal base was created for peace support activities of the CIS in a sufficiently short time (1992-1996) thanks to the task-orientated and active joint participation of the top leadership, foreign policy and the military departments of the Member States and inter-state organs of the Commonwealth. It is based on the UN Charter, general principles and norms of international law, the decisions of the UN Security Council and OSCE documents.

It is possible to divide the relative documents which regulate Commonwealth peace support activities into three groups:

1. Fundamental documents defining the strategy for peace support activities in the CIS. The CIS Charter adopted in January 1993 and the Concept of Prevention and Resolution of Conflicts on the Territory of CIS Member States (1996).
   The CIS Charter defines the mechanism of mutual consultation between states in the event of a conflict starting, the order of procedures in resolving it, and also accepting how the objectives should be achieved with the participation of willing states.
   The general approaches of the Commonwealth States to peacekeeping, the resolution of conflicts and joint actions to resolve

arguments and disagreements are consolidated in above mentioned Concept

2. Documents regulating the military aspects of peace support, the training and use of collective forces in peacekeeping and groups of military observers and the guidance of their activities.

   The fundamental document in this group is the Status of Collective Peacekeeping Forces in the CIS (1996). It expands and develops on a significant amount of agreements, protocols, conditions, directions, the leadership, programs and strategy.

3. Finally, documents concerning specific peacekeeping operations on the territory of Commonwealth States. Decisions by the Council of the Heads of State about launching an operation, extending its timeframe, appointing commanders and specifications of Mandates of the Collective Peacekeeping Forces and also other documents included in the third group.

Consequently it may be noted that a significant part of the documents regulating peace support activities in the CIS were developed by the Staff for the Coordination of Military Cooperation of the CIS or with the active participation of its generals and officers.

Now let's move on from the theory to the practice of peace support activities.

Four peacekeeping operations utilizing military contingents from Commonwealth States have been carried out in the Post-Soviet territories.

In our opinion, despite sometimes negative assessments by experts, politicians and analysts, Commonwealth operations (in the Republic of Tajikistan, and Abkhazia, Georgia) and operations of CIS Member States (in South Ossetia, Georgia; Transdnestria, the Republic of Moldova) are examples of unique types peace support operations in resolving specific conflicts which have their own particular features.

All operations on CIS territories are in their own way unique. Speaking of these features, distinguishing them from the classic UN peacekeeping operations, it is worth mentioning that these traits are frequently predetermined by the specific conditions of intra-state armed conflicts and correspond fully to the

fundamental tendencies of the evolution of modern peace support.

The operation in Tajikistan was launched following an appeal from only one of the conflicting parties, the Government of the Republic, in order to guarantee the ceasefire agreement, which is not characteristic to inter-state conflicts. In this operation no demarcation line was drawn between the conflicting parties, there was no security zone and no arms limitations and control since the conflict had involved practically all territories of the country.

The presence of representatives of the conflicting sides in South Ossetia and Transdnestria as part of the peace support contingent formally contradicted to the principles of peace support.

The lack of the necessary financial and material means of the Commonwealth presupposes that the Russian Federation has to take part in the operations. Russia is obliged to take the fundamental task upon itself since at the moment no one else can.

However, at the same time, no operation has been carried out beyond the borders of the Commonwealth and none of them have been of a coercive nature; in these operations the limits of necessary use of force have not been exceeded. Their distinguishing feature is close cooperation with the structures of the UN and the OSCE, which launched parallel operations in each of the conflicts zones of the Commonwealth, or with its members coordinating the Observer Missions of the UN and OSCE .

The activities of military contingents of the CIS States in the operations mentioned above have been wholly legitimate and, without question, successful.

In order to display in more detail those catastrophes which were halted by the joint activities of the CIS States, it should be reminded that according to UN figures, as a result of the inter-Tajik confrontation alone, more than 50,000 people died and around a million became refugees and displaced persons. One may only guess how tragic the events would have been and how much more destructive for Tajikistan and the Tajik people it would have been if the conflict had not been resolved.

Peace support forces in every operation fulfilled their main objectives: the separation of the conflicting parties, preventing any

further mass bloodshed and securing the conditions for the political resolution of the conflicts and post-conflict peace-building.

These results seem indisputable.

But it does not mean that in the sphere of peace support the Commonwealth does not have any unresolved problems which decrease its effectiveness. Undoubtedly, they lay in its multi-systematic character: international laws, military-political, financial-economic of varying importance and difficulty, and perspectives of resolution. Work to overcome these problems and search for more modern methods and mechanisms of preventing and resolving conflicts in the CIS are currently underway.

Now, many aspects of peacekeeping operations on the territories of the CIS are contributing to the theory and practice of international peace support and may be of real use to the international community.

The Commonwealth of Independent States in its peace support activities has not displayed a yearning for self-isolation; it is looking to play a significant part in the UN, OSCE and other international organizations in the resolution of conflicts on the territories of the CIS, which threaten not only regional but global security.

The development of cooperation in the sphere of peace support in a Russia-NATO format and within the boundaries of the NATO "Partnership for Peace" program could mean the additional cooperation of military structures of the CIS and NATO in exchanging their experiences in the resolution of conflicts, the formation and training of multi-national peace support contingents and the carrying out of operational and combat training.

During the ten year existence of the CIS, peace support activities have played a significant role in the increasingly complicated and intricate system of relations between states in the Commonwealth.

In the opinion of the Heads of States and Heads of Governments of the Commonwealthl, in the last ten years the Staff as an active organ of the Council of Ministers of Defence of CIS Member States, has fulfilled it's functions and contributed to the resolution of a spectrum of peace support problems.

The Main Principles of Peace Support and the Role of the UN/UNOMIG in Resolving the Conflict in Abkhazia/Georgia

Heidi Tagliavini,
Head of UN Observation Mission to Georgia, Special Representative of the UN Secrettry General in Georgia

Nowadays it is almost impossible to talk about peace support without mentioning the UN. Perhaps the main difficultly lies in the fact that, in our eyes, the stability of world order since the Second World War has undergone significant changes which inevitably has had an influence on the essence, role and meaning of the UN throughout the world. However, the actual actions of the UN speak for themselves.

On the 20th May 2002, the United Nations successfully completed its transitional administration of East Timor and handed power over to the first democratically elected President of East Timor. The UN Mission to Kosovo fully implemented its mandate and handed power over to the democratically elected Skupshina in March 2002. The UN Mission to Bosnia and Herzegovina successfully implemented its mandate with regards to the reform and reorganisation of the police. In Afghanistan many plans outlined in the Bonn Agreement, reached in December 2001, were realised by the UN Assistance Mission. Since the beginning of 2002 more than 1 million refugees have already returned to their homes in Afghanistan.

Leaving aside the achievements and tragedies (for example, the atrocious act of terrorism against the UN Mission in Iraq), regardless of the difficult geopolitical situation and arguments, the UN continues to play a significant role in the international arena, as there are no alternatives to the principles on which its actions are based.

The Main Principles for Carrying Out a Peace Support Operation

There are not any detailed accounts of peace support techniques in the UN Charter; it is, instead, formulated as a practical tool for use in pragmatic diplomacy in our world, which is still beset by problems of separation, conflict and enmity. The practice of UN peace support activities was developed with the aim of securing and fulfilling the following principles.

One of the most important components of a peace support operation is its legitimacy. An operation must be based on the understanding that it is justified, reflects the will of the international community as a whole and isn't carried out for biased reasons. The legitimacy of an operation will ensure that it warrants and receives a mandate from the UN Security Council, which in accordance with the UN Charter takes responsibility for the maintenance of international peace and stability. Through the continuous and active support of an operation by the UN Security Council and its departments the necessary conditions for its successful execution are ensured.

Even though the 'Cold War' has been over for some time and a new era of cooperation among the permanent members of the UN Security Council has rapidly developed, it would be incorrect to say that in all cases they share the same views as those of the CIS Member States.

Another important point is clarity; of great significance is the intrinsic lack of contradiction in the mandate and how realistic it is, as the possibility of dual interpretation of a mandate can present insurmountable difficulties when carrying out an operation.

In the future the legitimacy of an operation will strengthen the road to the inclusion of a wide spectrum of governments as representatives of peace support missions. However, in practice this is not always easy, especially in cases when there is a significantly high risk to UN personnel in the conflict zone.

Last of all, the steady implementation of a mandate in addition to impartiality and objectiveness in the course of carrying out the operation is also in itself an important element of its legitimacy.

As opposed to peace enforcement operations, peace support operations are by their very nature non-violent. Therefore their successful implementation is impossible without the agreement of the conflicting parties and close cooperation with them. In fact, the lack of political will by the conflicting parties is usually the reason for a lack of progress in conflict resolution.

The main tendency of peace support in recent times has been the widening of cooperation by the UN with other international organisations such as the OSCE, the European Union, NATO and others. In this context one can refer favourably to the experience of cooperation between the UN Observer Mission in Georgia and the peacekeeping forces of the CIS.

The Methods of Conflict Resolution

The UN uses various methods and approaches dependent on the type of conflict. Among them are usually found the following:

— **Preventive Diplomacy** — that is to say affirmative actions in order to prevent arguments between sides, the escalation of growing arguments and their development into a conflict, and also to diffuse any potential conflicts;

— **Peace Making** — affirmative diplomatic efforts to conclude agreements between warring parties leading to peace talks as set out in Chapter VI of the UN Charter;

— **Peacekeeping** — the presence of military and civilian personnel of the UN in the area of conflict under agreement by the warring parties to oversee the implementation of agreements relating to control over the conflict, such as ceasefires and the separation of forces and also the peaceful resolution of a conflict;

— **Peace Enforcement** — this can be used only when all other efforts have failed. The right to order peace enforcement lies solely with the UN Security Council on the basis of Chapter VII of UN Charter and provides for the use of armed forces for the establishment and maintenance of international peace and security;

— **Peace-building** — is a key element in overcoming the consequences of a conflict. It uses a complex system of measures to establish trust and the strengthening of the peace between former fighters with the aim of avoiding renewed conflict.

Of course, defining these approaches as such is conditional and, in practice, various methods are usually used in conjunction with one another. Nowadays the main efforts of the UN have changed from that of a 'culture of resolution' to that of a 'culture of prevention' of conflicts and preventive diplomacy. Kofi Anan made a fundamental report by on this topic to the General Assembly and UN Security Council in June 2001.

These general principles were practically applied by the UN in Abkhaz/Georgian conflict resolution.

The Conflict in Abkhazia, Georgia: the History of the UN Involvement

The UN began efforts to resolve the conflict in Abkhazia, Georgia at the beginning of September 1992 after the warring parties signed a cooperation agreement requesting that the UN start taking peace support measures in the conflict zone. By the middle of September the UN Mission to study the situation was in place and by October a permanent UN group began work in Georgia.

In May 1993 Ambassador Edward Brunner was nominated the Special Envoy to Georgia. A month later, in June 1993, a new ceasefire agreement was signed, envisaging the disengagement of military factions under the observation of the UN.

In August 1993 an advance party of military observers set up headquarters in Sukhumi and the UN Observer Mission in Georgia (UNOMIG) in accordance with the Security Council Resolution began work guaranteeing the fulfilment of the conditions set out in the agreement and investigations into violations of the cease-fire.

However, in September 1993, renewed fighting broke out. The result was that hundreds of thousands of peaceful citizens were forced to abandon their homes and became internal displaced persons and refugees or sought refuge in other countries including the Russian Federation.

On the 14th May 1994, in Moscow, a new ceasefire and separation of forces agreement was signed, which is still in place

today and is one of the foundations for the resolution of the conflict. Included in this document was the idea of cooperation between UNOMIG and CIS peacekeeping forces, which was later reflected in UN Security Council Resolutions.

Since then the question of extending UNOMIG's mandate has been reviewed by the Security Council every six months and the status of talks is discussed every three months on the basis of a report by the Secretary-General.

UNOMIG's role and mandate in Abkhazia

UNOMIG has a double mandate: to monitor implementation of the 1994 ceasefire agreement, and to bring the two parties to the conflict to a comprehensive political settlement. UNOMIG's engagement is based on two fundamental principles: to stabilize the situation and facilitate a comprehensive settlement based on Georgian sovereignty and territorial integrity; and to facilitate the right of refugees and IDPs to a safe, secure and dignified return to their places of permanent residence.

UNOMIG's search for a comprehensive political solution is based on these two key principles, and involves close consultations with the Georgian and Abkhaz sides, and coordination with the Russian Federation and with the Group of Friends of the Secretary-General, who were brought into the process with the launch of the "Geneva Peace Process" in 1997. UNOMIG's practical working instruments within this framework are the Coordinating Council and its three Working Groups (on security matters, IDPs and refugees, and socio-economic rehabilitation), as well as regular conferences on Confidence-Building Measures (CBMs). Working Group I has met and continues to meet on a regular basis, and in 2002 new impetus was given to Working Groups II (chaired by UNHCR) and III (chaired by UNDP), whose activity had been interrupted.

The Coordinating Council itself, however, has not convened since January 2001 due to the position taken by the Abkhaz side linking its participation with other issues, in particular with the Georgian armed presence in the Upper Kodori Valley.

UNOMIG's observer mandate also includes regular patrols in the Gali and Zugdidi sectors, as well as in the Kodori Valley. UNOMIG currently consists of 114 unarmed military observers from 23 different countries that fulfill patrolling tasks. In a unique arrangement, UNOMIG cooperates closely with the CIS-PKF.

UNOMIG's mandate in Abkhazia, Georgia is governed by Chapter VI of the UN Charter, which deals with the facilitation of discussions and dialogue between the parties. It is not to force them into action or to impose conditions on them, as is covered under Chapter VII of the UN Charter. UNOMIG is limited to making recommendations to the parties, not giving them instructions, and the greatest difficulty is in creating the will on both sides for them to accept and follow our recommendations. It is important to understand that progress can only be achieved with the consent and cooperation of both parties. UNOMIG is tere to assist the parties to come to a mutually satisfactory solution.

After almost 10 years, the results achieved may not look impressive, but the UN's activities have laid a certain solid basis for a comprehensive political solution: observance 'in principle' of the ceasefire regime; the 'Boden document'; and direct contacts between the parties, including through the QPMs.

Political Process in Abkhazia

In the past, repeated criticism has been directed at the UN, among others, that ten years after the end of the war, the conflict remains unresolved politically. One must recall, however, that the UN is an organization of member states committed to supporting the territorial integrity of its members, and that it can only do as much as its Security Council members mandate it to do. Besides, as it was noted earlier, UNOMIG is governed by Chapter VI of the Charter.

From the outset, the UN Security Council has consistently stated that the ultimate political solution must include Abkhazia "within the state of Georgia". The Abkhaz leadership, however, continues to insist on its "independence" from Georgia, making it impossible to begin negotiations on future "state-legal relations between Georgia and Abkhazia".

UNOMIG's largest challenge is that its political mandate is unacceptable to one of the two conflicting parties, and has made political dialogue very difficult to progress.

As it was noted earlier, in the mechanics of the peace process, there is the support of the Group of Friends of the Secretary-General, who report comprehensively to their capitals and provide a useful channel for the UN.

The political stalemate at the end of last year led the Under-Secretary General of Peacekeeping Operations to convene a High Level meeting in Geneva in February with the Group of Friends, to UN Secretery General which resulted in new initiatives to move the peace process forward. The "Friends" agreed to recommend to the sides the establishment of three task forces — on economic matters, on the return of IDPs/refugees, and on political and security matters, to be pursued in parallel as one package. A review conference is due to take place next month to assess the progress made in each of these task forces, as well as the balance between them. The meeting also showed that the international community was interested in working towards a peaceful settlement of the Georgian-Abkhaz conflict, and the recommendations that came out of this meeting now form the framework through which the international community is assisting in resolving this conflict.

The Geneva meeting of the "Friends" was quickly followed by a bilateral meeting in Sochi between Presidents Putin and Shevardnadze, in March. The Sochi meeting gave an important impetus to the peace process, and the two sides agreed to the formation of trilateral Russian-Georgian-Abkhaz commissions that would deal with the peace process, including economic issues and IDP returns. The Sochi agreement, however, did not touch upon the political or security agendas, which remains central to any lasting peaceful political settlement of the conflict.

Further progress in the areas of confidence building and reconciliation is needed if UNOMIG's political work is to progress. UN mission continues to identify and promote initiatives in an effort to meet both itsmandate requirements and practical needs of the local population. Increased criminal activity within UNOMIG's

area of operation is a significant challenge, and has a negative impact on the refugees' return process. Despite increased efforts on both sides of the cease-fire line, a lack of law and order still remains.

In response, UNOMIG undertook a Security Assessment Mission (SAM) to the Gali-Zugdidi areas in 2002. The SAM aims to provide a safe and secure environment for returnees and those already residing in the Gali district by determining the level of professionalism and competence of local Law Enforcement Agencies (LEAs) in the Gali/Zugdidi sectors, and their organizational capacity, training and resource needs. The SAM recommendations were fully supported at the recent UN Security Council consultations in New York, and include:

- provision basic police and human rights training;
- provision of basic equipment, vehicles, communications and databases to facilitate crime pattern detection and analysis;
- establishing mechanisms for improving exchanges of information with other LEAs throughout Georgia;
- establishing in Gali a branch of the UN Human Rights Office; and
- establishing a mechanism by which LEAs in the Gali and Zugdidi districts could discuss police issues of mutual concern.

UNOMIG expects the SAM to be adopted by the Security Council in the coming months, and a small number of police advisers and trainers to arrive shortly after.

Another initiative was to develop a constructive relationship with members of the population among whom UNOMIG works, and help relieve the on-going misery of daily life in the post-conflict setting, particularly for returnees in the Gali district. This is now being done through UNOMIG Quick Impact Fund projects, which funds restoration of basic public service, social rehabilitation and income generating programs on a small, but important, scale.

In leading the peace process in Abkhazia, Georgia, UNOMIG serves a very useful purpose and, despite the slow pace of progress in some areas, has made a number of significant achievements, including:

- maintaining a cease-fire, with few interruptions, in a markedly unstable environment;
- organizing a series of meetings on the Kodori Valley, which have resulted in a dramatic decrease of tensions there;
- establishing mechanisms for frequent interaction and exchanges between the two sides;
- presenting the conflicting parties with a framework and tools with which to solve the problem (the traditional role of the UN); and
- convening a number of important meetings, including the High Level meeting in Geneva, which resulted in a series of recommendations that set the direction for the peace process and UNOMIG's future activities.

UNOMIG continues to push for a peaceful resolution of the conflict. The UN can provide the mechanisms needed to facilitate dialogue, but it is up to the parties to the conflict to demonstrate political will to implement a peaceful solution, and they will be the ones to account to future generations.

Russia's Participation in the CIS Peacekeeping Operations

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Among the broad range of conflicts which splashed out on the geopolitical space of the New Independent States, conflict resolution in Tajikistan, Georgia/South Ossetia, Georgia/Abkhazia, Azerbaijan/Nagorny Karabakh, Moldova/Transdnestria, could qualify as international peace support operations.

The operation in Nagorny Karabakh, however, was never defacto implemented. This is an example of a failed attempt of a regional peace support operation under the CSCE/OSCE aegis (in 1993 CSCE agreed on the mandate of the operation).

Two relatively successful operations, i.e. in South Ossetia and Transdnestria, which for the most part achieved their goals, have the biggest problems gaining international recognition of their political and legal status. Both operations lack mandates from the UN or even regional organizations (OSCE and CIS).

Russia's legitimate interference in the Georgia/South Ossetia and Moldova/Transdnestria conflicts — which was undertaken in compliance with interstate agreements — could qualify as international peace support operations, as the political/diplomatic and military actions of the Russian side, were actions of a neutral "third force", equally distanced from both sides of the conflict. At the start of the operations, all sides involved in the conflicts (i.e. the Georgian government and the political leadership of South Ossetia; the President of Moldova and the leaders of Transdnestria) co-signed the agreement to invite Russian peacekeeping forces, thus providing these operations with the key features of international peacekeeping.

However, one should now consider from a political viewpoint, whether these two operations qualify as peace support operations (N.B. many Western experts do not consider them to be peacekeeping operations) or rather as *legitimate interference*, with the consent of the government of the inviting country, to provide support in combating separatism and unauthorized political and military formations on the territory of the country concerned.

At the same time, the 1992 operation to separate parties at war in the course of the Ingush-Ossetian conflict, should be treated as a unique example of an *"internal" peace support operation, implemented* by the Interior troops using their special tactics. In military (e.g. separation of forces, disarmament, control of migration, etc.), as well as in organizational terms, this operation should be qualified as a peacekeeping operation, aimed at separating conflicting parties and at stopping ethnically motivated violence.

In terms of their status, operations in Tajikistan and Georgia/Abkhazia are full-scale *CIS peace support operations*. Both are being carried out at the request of the CIS Heads of State, and have a CIS mandate, which has been repeatedly updated and specified. The joint military command of these operations is being exercised by an international military force, i.e. by the Staff for c00rdination of Military Co-operation of the CIS Member States

In parallel, in each of the regions mentioned above, a UN monitoring mission involving military observers has been operating, i.e. — UNMOT in Tajikistan and UNOMIG in Georgia/Abkhazia. So one should talk not about two, but about four peace support operations — two international peace support operations under a UN mandate with monitoring functions, and two regional CIS peace support operations — to separate parties at war and to stabilize the situation in the regions of conflict.

Tajikistan

From a political and legal point of view, the actions of the CIS States in Tajikistan sinci 1992 should be viewed not as a single peace support operation, but rather as a series of different types of operations:

— **Operations (a series of actions) by the Russian Border Guard troops and other forces assigned to protect the state border between Tajikistan, Afghanistan and China.** This action was not legally authorized until May 1993. From that point it was carried out on the basis of a bilateral inter-state agreement signed between Russia and Tajikistan on May 25, 1993. Consequently, it was not considered as an international peace support operation.

— **Additional collective border protection actions by the CIS Member States.** These actions were carried out to stabilize the situation on the Tajik-Afghan border in 1993-1994, and were regulated by the decisions of the CIS Heads of State on January 22, 1993, December 24, 1993 and April 15, 1994[1]. Originally these actions did not qualifiy as peacekeeping, in terms of a regional peace support operation, but later on, when the Mandate of the CIS Collective Peacekeeping Forces was amended to include the point of necessity to stabilize the situation in the border region, they were treated as peacekeeping actions.

— **The operation of the CIS Collective Peacekeeping Forces, mandated by the CIS Heads of State.** This was completed in 2000. The CIS Collective Security Forces were originally made up of forces from 5, and then 4 states — i.e. Russia, Kazakhstan, Uzbekistan, and Kyrgyzstan. At first, military forces from Tajikistan formed part of the Collective Peacekeeping Forces, but they were then excluded, in order to more adequately match the criteria of international peacekeeping. Other CIS countries did not take part in the shaping and/or financing of the Collective Peacekeeping Forces. In this instance, one could utilize existing UN terminology and talk about an *ad hoc coalition*, to which was delegated the practical responsibility to undertake a peace support operation by the regional organization, i.e. by the CIS. This would more adequately define the status of the operation, rather than suggesting that the operation in Tajikistan has been implemented by the Collective Security Treaty as a whole. This is even more true because the configuration of the CIS itself has been changing

[1] It is worth noting that, while being discussed and adopted, these decisions were not being considered as part of a peace support operation, but were linked to the CIS Member States Agreement on securing the situation on the external borders of the Commonwealth of October 9, 1992, which is clearly stated in the text of the CIS Heads of State Decision of January 22, 1993.

during the course of the operation, and certain states insisted that their non-participation in the operation is a matter of principle.

— **Actions by the military forces of the Russian Federation located on the territory of Tajikistan, in order to support the government of Tajikistan in stabilizing the situation there.** Additional responsibilities included pursuing other state goals, as defined by the Treaty of Friendship, Co-operation and Mutual Assistance between the Russian Federation and the Republic of Tajikistan, and by other bilateral agreements. Russian actions to support the government of Tajikistan should not be defined as collective peacekeeping operations, otherwise the status of the operation by the coalition of the CIS Member States could be questioned, especially in view of the fact that the actions, as mentioned, have involved all components of the Russian military forces in Tajikistan, which are not included in the CIS Collective Peacekeeping Forces.

— **Political and diplomatic mediation of the CIS Member States to peacefully resolve the inter-Tajik conflict.** The Council of the CIS Heads of State, the CIS Council of Foreign Ministers, the CIS Council of Defense Ministers, the Commission on Political Settlement, the CIS Special Representative on conflict resolution in Tajikistan, etc., were all involved in these actions at different stages. These types of actions looked like a really "classic" peacekeeping mediation in 1995–1997, during the talks between the government of Tajikistan and the Unified Tajik Opposition, which resulted in the conclusion of the Tajik Peace Agreements in 1997. To this extent, political and diplomatic actions, as mentioned, could be defined as the *CIS non-military operation of mediation and peace support*, which was implemented in co-ordination with the UN and OSCE, whose delegation were also stationed in the region during this period.

— And, finally, the **UNMOT operation by UN military observers in Tajikistan** (involving military observers from 13 countries).

With these points in mind, it is much easier to justify the status of an international peace support operation for those actions, as mentioned, which match the general peacekeeping criteria of the UN and regional organizations. Within this context, the peace support operation by the coalition of the CIS Member States consists of two components: military actions of the CIS Collective

Peacekeeping Forces, on the one hand, and the political/diplomatic mediation of the Tajik conflict, on the other.

Georgia

Despite their relative geographic proximity, the operations in South Ossetia and in Abkhazia differ substantially. In South Ossetia the Russian military and diplomats act on the basis of the bilateral agreement between Russia and Georgia, and in the presence of the OSCE monitoring mission. While in Abkhazia there is a combination of the two peace support operations: the peace support operation of the regional organization (CIS), mandated by the decision of the CIS Heads of State, and the UN peace support operation (monitoring mission), mandated by the UN Security Council. The result of the operation in South Ossetia could be labeled as successful, while the result of the efforts in Abkhazia did not meet expectations of those involved.

One could mention certain features of the operation in Abkhazia/Georgia, which have complicated both its implementation and international recognition:

— Actions by the Russian military in Abkhazia included elements of peace enforcement, as specified by the UN Charter. This included forcing military groups out of the Kodor Gorge, Russia's military involvement in the shelling of Sukhumi, and later, the participation of the Russian Navy in the blockade of the Abkhazia sea coast. As the signing of the operation mandate and the ratification of Russian military participation in the operation, by the Federation Council of the Russian Federal Assembly, were formally delayed, the operation to move in military contingents in the summer of 1994, in fact started earlier then its proper legal justification has been finished.
— The operation failed to become a collective operation of the CIS Member States. The basic military contingent was represented by no other CIS Member States than Russia. According to UN standards, any national participation in an international peacekeeping contingent should not be more than the one third of its size (although in other operations under US leadership, i.e. on Haiti or in Somalia, these criteria were actually also not met).

— International multilateral command of the operation was not set up, and the command and control was exercised by the Russian General Staff. Not all of the Russian military units in Georgia participate in the CIS Collective Security Forces, which results in the accidental confusion of functions of Russian military bases in Georgia (these were set up as a result of the 1994 agreements), and the peacekeeping contingent.
— The attitude of the parties at war to the operation has been rather complicated. Despite a formal show of support, the Abkhazian side has repeatedly broken the ceasefire, and delayed the return of refugees. In Georgia, the opposition forces represented by the Popular Front, and leaders of the Republican Party, National Democratic Party, Union of Liberation of Abkhazia, etc., confronted the operation. The Union of Liberation of Abkhazia demanded troops not to be moved in, claiming it could result in "the loss of Abkhazia". At the same time, the operation was supported by the Union of Citizens of Georgia, the Social Democratic Party, and other centrist political forces in Georgia.
— The decision to extend the UN mandate for the operation to include other functions, as it was suggested by the CIS, did not happen, and the operation remained as a monitoring operation. The UN approval of the CIS operation was also not easy, and the CIS peacekeeping forces did not obtain the status of the "Blue Helmets".

Despite the difficulties, mentioned above, the successful aspects of the operation include:
— Overall stop of the bloodshed, as well as a substantial limitation of armed clashes between the Georgian and Abkhazian sides.
— Creation of political structure out of the conflict settlement. Rounds of negotiations, with UN and Russian mediation, now take place on a regular basis, and the interaction between the political and military aspects of the settlement do exist.
— Positive co-operation between the peacekeeping forces of the CIS (Russia) and the UN military observers. The UN Security Council and the Secretary General are satisfied at the way they are being informed about the CIS peacekeepers' activities. Like in Tajikistan, the "division of labor" between the operation by the regional organization (CIS), and the UN operation, is a positive experience worth interpretation and replication.

— As a result of the peace support operation, transport communications (bridges), railroad communication, etc. have been restored, and a series of infrastructure sites in the region have been cleared of mines and put back into order.
— Partial return of refugees to the places of their original location. At the same time, difficulties with the return of the refugees, and the inability of the peacekeeping force to give security guarantees to all of the refugees has been one of the basic reasons of the delay of the conflict settlement.

In general, the operation proved its necessity and delivered certain positive/immediate results, although it is still the least successful of all the peace support operations in the CIS territory. A decision to put a stop to the operation at this point in time would most probably result in military clashes beginning again. The problem is not the military weakness of the operation (the military side of the operation is quite functional, and the Russian forces cope with their tasks), but rather the presence of political will from those involved in the conflict — especially the Abkhazian side — to continue the confrontation until the final victory and until their political goals have been achieved.

In view of the trends of the UN's attitude towards this conflict, one cannot expect that the Russian/CIS peacekeepers will be replaced by the UN "Blue Helmets" in the foreseeable future. With the Chechen conflict unresolved so far, Russia still needs to maintain its influence in Georgia and continue "loyal" interaction with the Georgian authorities, in order to prevent a new hotspot of military conflict on Russia's southern borders. This means that Russia would keep its military contingent in Abkhazia, and would continue the operation and its consistent political mediation towards the conflict resolution.

Despite the rather delayed operation in Abkhazia, conflict resolution in **South Ossetia** has been rather successful. But, unlike operations in Abkhazia and Tajikistan, *the operation in South Ossetia was not mandated by the CIS Heads of State, and thus cannot be considered as a peace support operation conducted by the regional organization*. The operation was legally based on the trilateral agreement between Russia and both sides of the conflict.

Russia still remains a guarantor of the agreements between Georgia and Ossetia. In the context of International Law, Russia's participation in the Georgian/Ossetian settlement is a legitimate interference in the affairs of another State, as agreed by its political leadership. The actions of all three parties involved in the conflict could be given the status of peace support operations if only by analogy or association. The association, however, is quite justified, and some aspects of the organization and tactics of this operation make it really close to an international peace support operation.

However, one should make a clear distinction here, like in Tajikistan and Abkhazia, about the Russian involvement in the conflict before the parties at war agreed on a ceasefire, and the status and role of Russia after they did. Russian troops (engineer and helicopter regiments) stationed in South Ossetia before the agreement was concluded, cannot be regarded as peacekeeping forces. They were not engaged in the trilateral peacekeeping force after their formation, and were consequently moved out from Georgia.

The forces, which joined the trilateral contingent (tasked to separate parties at war), performed typically peacekeeping functions, i.e. controlling the security zone along the line of engagement of the hostile parties; disarmament and demobilization of illegal military formations; disarmament of civil population, etc. However, involvement of the parties at war in the activities, mentioned above, was not typical. In parallel, the same practice was implemented in the course of the creation of the trilateral peacekeeping forces in Transdnestria.

Moldova/Transdnestria

From the analysis of the conflict resolution in Moldova/Transdnestria, the following conclusions can be drawn:

— International Law criteria aside, the preventive deployment of Russian troops and the subsequent formation of the trilateral military contingent, to exercise control over the "buffer zone" between the locations of the parties at war, generally corresponds

to the objectives and tactics of international peacekeeping and peace enforcement operations.

— In political and practical terms, the emerging mechanism of the CIS collective peacekeeping, failed to be utilized, despite the request of Moldova.
— In legal terms, the operation was based on the bilateral inter-state agreement, and thus it was a legitimate interference by the Russian Federation into the affairs of the Republic of Moldova, upon the request of its legitimate political leadership.
— The transformation of the bilateral agreement to deploy the Russian troops in the conflict zone, into a trilateral one (with the participation of the leaders of Transdnestria in the drafting and the discussion of the agreement, and their participation in the Joint Control Commission), has made the operation even more legitimate and politically balanced.
— The process of the settlement was shaped to meet "international standards", including the creation of the multilateral political body, in which Foreign Ministries of the parties involved were represented, and which exercised formal control over military peacekeeping contingents, as well as involving the OSCE observers in the process. This has made the operation not only formally, but in real terms, very similar to international peacekeeping.
— The exclusion of the units of the Russian 14th Army from the peacekeeping contingent (despite the Transdnestrian requests), as "non-objective", as well as the inclusion, in the course of the unit rotation, of other military units from remote parts of Russia, demonstrates the desire of both Russia and Moldova to maintain the peacekeeping status of the operation. It also prevents an unfair portrayal of Russia as an actor supporting only one side of the conflict.
— The inclusion into the peacekeeping contingents of the forces of the parties at war, violates the formal norms and principles of peacekeeping, and would not have been possible at all if the operation was conducted under the CIS or the OSCE aegis. But in terms of the current legal status of the operation, the trilateral structure of the peacekeeping contingent proved feasible and even effective. Moreover, the practical success of the scheme, in which the forces of the parties at war "loyal" to political reconciliation are helping to neutralize actions of the "non-loyal" forces — which are tending to continue hostile activities — justify the con-

clusion that these tactics, which were successfully tried and tested in South Ossetia and Moldova, demonstrate a successful experiment in international peacekeeping.

— Russia, in it's geo-political interests and current national security strategy and military doctrine does not intend to keep its military forces in the territory of other states, if Russia's national security interests are not affected. In this context, the withdrawal of the remnants of the 14th Army from the territory of the Republic of Moldova, seems politically logical and inevitable, although it faces certain economic and technical difficulties. At the same time, there is no direct legal link between the move of the 14th Army from the territory of Moldova and the withdrawal of the Russian component from the peacekeeping contingent. The Russian component in the trilateral peacekeeping contingent could stay in Moldova/Transnistria until the final political settlement is achieved, to represent Russian interests in the region, alongside Russian political and diplomatic participation in the joint control body. The status of such a representation, despite the presence of the 14th Army does not cause any political or legal objections on the side of the international community.

To conclude, the actions of the Russian military in Moldova/Transdnestria can be separated into two periods. During the first period, which lasted until the conclusion of the trilateral agreement of July 21, 1992, the units of the 14th Army performed (not legally approved) peace enforcement actions, i.e. carrying out preventive deployment and the demonstration of force. During the second period, after the conclusion of political agreements on the principles of the conflict resolution, the trilateral operation per se started. This includes certain essential characteristics of a typical peace support operation. The status, structure and substance of the components involved have been changed, and, despite the absence of the legal status of a peace support operation, conducted by the UN or a regional organization, the actions of the trilateral forces were in compliance with the norms and standards of peace support operations. This particular operation, alongside the structurally similar operation in Georgia/South Ossetia, could well be defined as a special type of international peacekeeping.

International Security Regimes, Conflict Resolution and Peace Support Operations in the CIS

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As new challenges to international and national security emerge, which require more concerted international efforts and methods of politics and diplomacy to tackle, the role of the preventive diplomacy and conflict resolution becomes even more evident. It primarily deals with international peace support operations, conducted under the aegis of the United Nations and/or international organizations (arrangements), including the CIS.

In this context, multilateral security mechanisms at the post-Soviet territories, able to effectively interact on the basis of the Common Security principles, become extremely important. Common Security is an outside projection of the internal conflict resolution ethics, generated by democratic societies.

The current history knows amalgamated (integrated) security communities, characterized by the presence of a common decision-making mechanism and centralization (NATO, Warsaw Pact countries, etc.) and pluralistic security communities, wherein multilateral negotiations substitute for formal integration. Whereas in the years of the Cold War and bipolar confrontation the former arrangement was realized quite fully, pluralistic security communities are just in the initial phase now both on the regional and sub-regional levels and still need to be conceptualized.

International regimes proved to become one of the most effective modes of international interaction in the field of security and preventive diplomacy. International regimes can be defined as a set of defined or presumed principles, norms, rules and deci-

sion-making procedures, which reflect agreed position of actor states concerning a particular sphere of international relations.

There is the perception that international regimes include all kind of interactions within the international system. Such a broad interpretation could be argued by the fact that the system of international relations by definition consists of independent sovereign states which, simply put together, cannot be viewed as a regime. On the other hand, regimes could not be reduced to international institutions with formal rules and structure. More reasonably, international regime does exist if relations of actor states are regulated in a certain way and/or not based on independent decision-making.

International regimes could also be defined as decentralized institutions, which means not an absence of sanctions for violating norms and rules of a regime, but a necessity of consensus on sanctions implementation, which could be less strict, comparing to a collective security system. Regimes are necessary not for centralized implementation of agreed decisions, but rather for an atmosphere of confidence and predictability in international relations, conducive to international cooperation and coordination of national interests. International regimes set up standards of behavior, which could help to estimate intentions and reputation of a partner and to exchange information, thus increasing mutual predictability of behavior on international arena.

Principles, norms and rules of an international regime are closely inter-linked, which is a basic criterion for its legitimacy and viability. It helps to distinct between a correction of rules within the regime and a change of the regime per se. In common, principles, norms, rules and procedures regulate behavior of the participants of a regime, though it is not being automatically enforced with the help of hierarchical Law.

International regimes are built not so much for the purpose of implementing approved decisions but in order to create an atmosphere of predictability in international relations so as to furnish proper conditions for the states concerned in their decision making on protection and promotion of their national interests with an eye to other countries' interests as well, and

for forging ties of mutually beneficial cooperation with one another.

International regimes set certain behavior standards which help the states assess mutual intentions and reputation, and contribute to parity information exchanges, thus increasing the predictability of international behavior.

While admitting that international stability can be ensured by an asymmetrical distribution of composite national power, the author maintains that conceptualization of international regimes is possible only on the basis of interpreting interaction and mutual influence of national interests within the framework of international law and international institutions in respect of a concrete region (sub-region) and a concrete area of international relations.

The issues of predictability, trust and equal information exchanges come to the fore in building international security regimes. Meanwhile, international regimes are not completely synonymous with reciprocity; rather, they strengthen and institutionalize it.[1] Norms and regulations existing within a regime fix a common understanding of reciprocity agreed upon in this or that area of international relations, and thus forbid diversion from these norms.

The structure and functioning of international security regimes rest upon the balance of power and interests of the states concerned. For the actor states of an international system (and prospective participants in international regimes) protection and promotion of national security interests represents an unconditional top-priority issue and a starting point in pursuing day-to-day policies.

International security regimes could be most effectively utilized for regional and sub-regional conflict resolution, and for the purposes of international peace support operations.

In the CIS all major models of regional security regimes are represented: the Common Security regimes, Collective Security regimes and Cooperative Security regimes. Although all of them

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[1] "Neorealism and Neoliberalism: The Contemporary Debate." Ed. David A. Baldwin, New York, 1993, p. 140.

share a number of common features, each is distinguished by clear specifics of its own. Notably, collective security regimes proved to become really workable.

Yet the collective security systems both as an abstract model and a range of different variants of its practical realization, including the Collective Security Organization of the CIS, is not fault-free either. For instance, the so-called problem of collective action, i.e. setting up collective security systems, especially in peace, may tempt many states to take advantage of their membership without shouldering appropriate costs thereof (both literally and figuratively).

Obviously, response to aggression within a collective security system is inevitably delayed. Although the theory of collective security envisages diplomacy of preemptive measures to prevent an imminent conflict, there is no exact mechanism of military response to an aggressive act within a system.

In contrast to military alliances whose members have a distinct common enemy, with plans for armed forces mobilization and deployment already worked out, etc., members of a collective security system need more time to coordinate their efforts to repulse aggression.

Placing a special emphasis on joint action to counter aggression diminishes the significance of individual response, which is probably less effective but more rapid. The advantages of collective action are in greater power, though at the expense of flexibility. In this respect the efficiency of military alliances can be placed somewhere in-between.

The advantages of collective security systems stem not only from the fact that they are more efficient in fighting aggression, but also from the fact that they strengthen international cooperation and trust, thus making aggression less likely.

Russia and its partners within the Commonwealth of Independent States which signed a Collective Security Treaty in 1992 have fully experienced all merits and demerits of a collective security system. The Treaty stood the test and moved into the new century, upgraded and reinforced.

It would be quite in place here to recall that in 1993 the Council of the Heads of State of the CIS resolved to carry out the first peacekeeping operation by the CIS in Tajikistan and prescribed Kazakhstan, Kyrgyzstan, Russia and Uzbekistan to provide their military forces for the purpose. However, the Kazakhstan parliament did not ratify the resolution and, as a result, peacekeeping forces of only three countries were stationed in Tajikistan, with the Russian 201st Motorized Infantry Division as the chief task force. The total strength of the troops made up 7,000 men instead of 16,000 provided for in the resolution of the Council of the Heads of State of the CIS.

In 1995–1996 Kyrgyzstan unilaterally withdrew its peacekeeping battalion from Tajikistan attributing the decision to lack of funds to support it. Uzbekistan came next in 1998.[2] Thus the absence of an effective coordination mechanism led to a collapse of the idea of a multilateral peacekeeping operation, triggering a storm of criticism in the West in respect of Russia's "unilateral interference" in Tajikistan's internal affairs.

The Bishkek summit of the Collective Security Council in October 2000 gave fresh impetus to military integration within the framework of the Treaty. The summit passed a resolution on elaborating regulations and a plan for creating collective armed forces of the Treaty member states.

Thus the Collective Security Council evolves as an effective instrument of ensuring security of its members: the principles of building regional security subsystems in Central Asia, the European part of the CIS and in the Caucasus are taking body and form; the legal basis is being improved and mechanisms of creating allied rapid deployment forces laid down.

One of the most promising directions in the activities of the Collective Security Council is creating a consultation mechanism on the problems of peacekeeping activities and forming collective rapid deployment peacekeeping forces. The Treaty (now Organization) Member States seem to have drawn a lesson from the dubious experience of their prior peacekeeping activities in Central Asia.

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[2] Krasnaya Zvezda, March 23, 1999.

Yet the collective action problem confronts not only the Collective Security Treaty Organization of the CIS, but also the UN and regional organizations (arrangements), which are authorized to conduct international peace support operations.

Collective retaliation of an aggression could diminish unilateral retaliation, which could be less powerful but more rapid. Multilateral response is less flexible but more powerful. Comparing to these two, effectiveness of military alliances lies somewhere in-between. Automatic reaction to an aggression within a collective security system could even provoke escalation of a conflict, due to common perception that each violation of peace means violation of stability and international security.

There is also a status quo problem. Strict adherence to status quo ante within a collective security system could complicate conflict resolution, because both participants and mediators to a conflict often argue on who should be labeled as aggressor.

The necessity to urgently response to crisis and/or conflict situation often tempts for unilateral military interference, because the mechanism of multilateral consultations and coordination of national security interests of international actors concerned, still does not exist. This is proved by the debates on vital international security issues at the UN Security Council.

As Walter Slocombe puts it, "In the end, all decisions to use military force are unilateral, in the sense of being made by nation states, but those decisions must, for reasons of both prudence and principle, be made in the light of the opinions and interests of others so as to gain their support". Such an approach could be described as «unilateral if necessary, but multilateral if possible».[3]

Unfortunately, necessity and feasibility are rarely harmonized in the international relations. The debates on Iraq have split the UN Security Council, the EU and NATO, and put under question the very ability of the leading powers to co-operate in the fields of crisis management and regional conflict resolution.

The part of the problem is the imperfect nature of the norms and principles of International Law, as they do not provide for

[3] Walter B. Slocombe, Force, Pre-emption and Legitimacy, Survival, vol. 45, no 1, Spring 2003, p. 119.

mechanisms of adequate and timely international interference in the conflict resolution, and of the use of force, if appropriate.

Of course, the reformation of the International law and of the UN Security Council could make unilateral preventive and pre-emptive measures and the use of force less probable. But the process of this reformation per se would require a lengthy process of consultation and co-ordination, with no guarantee of a mutually agreed positive result.

This is even more true in view of the fact that the global norms, principles and laws are in the process of formation, and are of theoretical, rather then of practical nature.[4] It will take time if even the agreed norms, rules and principles can be transformed into policy co-ordination and joint decision making procedures.

An agreement on reasonable and transparent criteria of imminent threat could create a legal basis for collective action under the aegis of the UN and ad hoc international coalitions.[5]

The agreed criteria of imminent threat should correspond to a selective application of various instruments of interference and pressure, ranging from preventive diplomacy actions and sanctions to pre-emptive strikes. One should distinct between prevention and pre-emption, keeping in mind that the latter are purely military measures, while prevention presumes the use of force as a last resort only.[6]

International debates on Iraq have made evident another burning issue of the global community — the problem of leadership. Although balance of interests and policy co-ordination are of primary importance, an adequate crisis management requires the effective leadership. A leading power and/or coalition of powers should always take a lead in a crisis management effort, in terms of political responsibility, as well as financing, logistics, etc.

It happened so during the anti-terrorist operation in Afghanistan, and during the operation of the US-British coalition

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[4] Michael J. Mazarr, Acting Like a Leader, Survival, vol. 44, no 4, Winter 2002-03, p. 109.

[5] Robert S. Litwak, The New Calculus of Pre-Emption, Survival, vol. 44, no 4, Winter 2002-03, p. 73.

[6] Robert S. Litwak, The New Calculus of Pre-Emption, p. 54.

in Iraq. George Bush Administration has been especially severely criticized on Iraq, as the US unilateralism there has been viewed as a principal refuse from coalition building in the international security area.

Regional and trans-regional security regimes would contribute to the creation of new mechanisms of the International Law, to effectively combine the peacekeeping efforts of the UN and of regional organizations (arrangements), including the CIS. New international regimes and arrangements emerge on the post-Soviet space, which include elements of Collective Security and Co-operative Security systems. They tend to integrate and mutually reinforce each other.

After the logic of competition was replaced by that of co-operation, Russia and the United States were involved in active co-operation in the course of the anti-terrorist operation in Afghanistan. As agreed with Russia, Central Asian states, Russia's partners and allies in the Collective Security Organization and in the Shanghai Co-operation Organization, provided technical and logistic support for the US troops and the forces of the international coalition during the operation in Afghanistan. This joint decision was made after the consultations within the Collective Security Council of the Collective Security Treaty (now Organization).

As it was stressed by President Putin in his State of the Nation Address, "It was not a problem at all for our State, which has been dealing with the threat of international terrorism for quite a while, to support the effort to destroy the hotbed of terrorism. These actions have really contributed to strengthening of security on the southern borders of our States, and to seriously improving the security situation in many other countries of the Commonwealth of Independent States".[7]

Effective conflict resolution would not be possible without establishing of viable international coalitions of those willing and able to join them, even if they differ in terms of goals and scale of

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[7] России надо быть сильной и конкурентоспособной, Послание Президента РФ В. В. Путина Федеральному Собранию Российской Федерации, Российская газета, 19 апреля 2002 г.

activities. In many cases, cross-border co-operation, involving non-government actors, is nor less important then state-to-state co-operation.

Such coalitions should not be limited to narrowly defined tasks and timetables. These coalitions could only be effective if those actors who are long-term allies and who are willing and able to work together join them. Long-term alliances are no less important for the coalitions as a strictly defined mission. You can not force anybody to multilateral actions — now, as well as during the Cold War period.[8]

The NATO-Russia Council could become an effective mechanism of trans-regional security co-operation. The Council was set up as a body for consultations, consensus building, joint decision making and joint actions of Russia and NATO Member States.

As is stated in the Declaration of Rome, adopted t the NATO/Russia Summit on May 28, 2002, "The members of the NATO-Russia Council, acting in their national capacities and in a manner consistent with their respective collective commitments and obligations, will take joint decisions and will bear equal responsibility, individually and jointly, for their implementation. Each member may rise in the NATO-Russia Council issues related to the implementation of joint decisions".[9]

The Declaration of Rome provides for various mechanisms of consultation and co-operation, including the following ones:

- The Council meetings at the level of Head of States and governments, Foreign and Defense Ministers, Ambassadors, etc.;
- Meetings of the Preparatory Committee, at the level of the NATO Political Committee, with Russian representation at the appropriate level;
- Sessions of committees or working groups for individual subjects or areas of cooperation on an ad hoc or permanent basis, as appropriate;

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[8] Francois Heisbourg, How the West Could Be Won, , In: One Year After: A Grand Strategy for the West?, p.152.

[9] Declaration of Heads of States and Goverments of the Russian Federation and NATO Member States, http://www.nato.int.

- Meetings of military representatives and Chiefs of General Staff;
- Meetings of defense experts.

Unlike the Russia-NATO Permanent Joint Council, which was a mere consultation body, the Russia-NATO Council provides for joint decision making and joint action, as it is built in the NATO political/military working machine at all levels.

The Russia-NATO Council competencies include:

- Struggle against terrorism;
- Crisis Management;
- Non-proliferation of weapons of mass destruction (WMD);
- Arms Control and Confidence-Building Measures;
- Theatre Missile Defense (TMD);
- Search and Rescue at Sea;
- Military-to-Military Cooperation and Defense Reform;
- Civil Emergencies;
- New Threats and Challenges.[10]

In this context, one can not exclude NATO-Russia co-operation in the field of peacekeeping, including joint peace support operations.

Political/diplomatic mechanisms of interaction, as described, create a basis for legitimate, in terms of International Law, trans-regional security co-operation of the key subjects of preventive diplomacy, conflict resolution and international peacekeeping.

[10] Declaration of Heads of States and Goverments of the Russian Federation and NATO Member States.

Peace Operations: the US Policy

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The US policy relating to Peace Operations is based upon domestic law, comprised of provisions of the US Constitution, laws passed by Congress, decisions of the US Federal Courts, official interpretations of US law by the Attorney General of the US, international treaties to which the US is a party and Executive Orders of the President of the US.

The US Constitution authorizes the President of the USA independent legal authority to order the deployment and participation of US military forces for the purpose of participating in military operations outside of US territory, including peace operations. The term "peace operations" is used here to include traditional "peacekeeping" based upon consent of the parties as well as "peace enforcement operations" involving the use of military force, using the US terminology, and related type operations.

Under Article II of the US Constitution the President designated as being exclusively authorized and responsible for the conduct of all diplomatic affairs of the US with foreign nations.

The US Constitution establishes the President of the US as the Commander in Chief of all US military forces. As the designated Commander in Chief of US military forces the President has the "power to dispose of troops and equipment in such a manner and on such duties as best to promote the safety of the country."

However, the President's power to deploy USA forces overseas under Constitutional authority is limited to deployments that protect US national security interests or protect US citizens abroad.

In addition, the President also has additional authority under laws passed by Congress to support peace operations.

1. The **UN Participation Act of 1945** and the **Foreign Assistance Act of 1961** are the two primary statutory enactments which provide legal authority for US support of peace operations.
2. The **UN Participation Act of 1945** specifically authorizes the President to provide support, including the commitment of up to 1,000 US military personnel worldwide, to serve as observers, guards or in any other non-combat capacity, in UN directed peace operations dedicated to the peaceful settlement of disputes, that is, Chapter VI peacekeeping operations. This statute does not authorize participation in Chapter VII peace operations.
3. The **Foreign Assistance Act** authorizes the President to furnish assistance to friendly countries as he may determine, for Peacekeeping operations and other programs carried out in pursuing of the national security interests of the US. This Act has provided legal authority for the deployment of US forces for Chapter VII operations (UNOSOM II).

The UN Charter. In addition to providing international legal authority for the conduct of peace operations, the UN Charter is a treaty ratified by the President and the Congress under the treaty clause of the US Constitution. As such, under Article VI of the Constitution, called the Supremacy Clause, the UN Charter has become part of the Federal law of the US and, therefore, in addition to providing international legal authority, it also provides domestic legal authority for US support to peace operations authorized or directed by the UN. Specifically, Article 21(5) of the UN charter calls upon all members to give the UN "every assistance" in any action it takes under the Charter. In addition, Article 25 of the Charter calls upon all member states to agree to accept and carry out the decisions of the UN Security Council.

In addition to giving the President powers over the military, the Constitution also provides powers to the Congress to counter-balance the power of the President as Commander in Chief. Only Congress can declare war. The Constitution authorizes only the Congress by the power to create, regulate and maintain military forces and to determine their size and levy taxes to pay for the military. Congress has the power to investigate the use of funds by the military. Collectively, these powers provide a strong check upon the President's powers.

During the Vietnam war a good deal of opposition to the US prosecution of the war developed in civil society in the US. At the end of the war, in 1973, the Congress attempted to further limit the power of the President to commit US military forces to any conflict without a formal Congressional declaration of war as required in the Constitution. This law is called the **War Powers Act** and it was passed over the veto of then President Nixon — requiring 2/3 vote of the Congress — which was very unusual in US society. There are many details of the War Powers Act, but basically it prohibits the President from committing US military forces to conflict overseas without either 1) specific, advance statutory authorization from Congress, 2) a national emergency created by an attack on the US or its military forces, or 3) a declaration of war by the Congress.

Even if authorized under the War Powers Act the President must terminate the use of armed forces within 60 days unless Congress specifically authorizes further action. The Act also requires the President to report and consult with the Congress about the particular use of military force both before and after deployed. If Congress does not authorize a continuation of armed conflict within the 60 days, the President must stop military operations. Finally, under Section 1544b of the War Powers Act, if Congress adopts a joint resolution of both houses directing the President to stop hostilities, he must immediately do so. Many commentators believe that this latter provision, called a "legislative veto", is probably unconstitutional as a violation of the separation of powers between the three branches of the government established in the Constitution. In practice this particular provision has simply been ignored.

Since the War Powers Act was enacted into law in 1973, every President has taken the position that the Act is an unconstitutional infringement upon the war powers of the President as provided for in the Constitution. However, since the Act is an official Act of Congress, most of the time presidents have more or less tried to comply with at least the provisions requiring notification and consultation concerning the commitment by the President of US forces overseas. Congress takes the position that the President must comply with the requirements of the Act, even when com-

mitting forces in compliance with US obligations under NATO or UN Resolutions.

Naturally, members of Congress have often been unhappy with the President's lack of compliance with the War Powers Act. At various times, in frustration, some members of Congress have brought suit in Federal Courts seeking to obtain a judicial declaration that the President is in violation of the War Powers Act. The legal challenges in the courts have never been successful. The courts, including the US Supreme Court, have consistently taken the position that this is a political controversy between two independent branches of government and therefore not appropriate to be resolved by the judiciary. And so the controversy continues.

Presidential Decision Directive 25 (PPD 25). Finally, in 1994 President Clinton ordered an inter-agency review of the US peacekeeping policies and programs in order to clarify and develop a comprehensive US policy framework suited to the realities of the post-Cold War world. There were extensive consultations with Members of Congress (recall that Congress controls the funding of the military and has investigative powers as well). It was acknowledged that peace operations can be a useful tool to help prevent and resolve conflicts before they pose direct threats to US national security. And, that peacekeeping can also serve US interests by promoting democracy, regional security, and economic growth.

The final document that resulted from this review is called **Presidential Decision Directive 25 (PDD 25)** and is in the form of a Presidential Executive Order issued in the President's capacity as Commander in Chief of US military forces. PDD 25 sets forth six major areas of reform and improvement which establish the basic policy of the US for peace operations. These can be briefly summarized as follows:

The US must make disciplined and coherent choices about which peace operations to support. This policy requires a 3 phases or levels of analysis:

The US will consider the following factors when deciding whether to vote "YES" in the UN SC or NATO, etc., for a proposed (either Chapter VI or Chapter VII) peace operatio.

- Does the UN involvement advance US interests and is there a community of interests for dealing with the problem on a multilateral basis?
- Is there a threat to or breach of international peace and security, defined as one or a combination of the following: international aggression, urgent humanitarian disaster coupled with violence, or sudden interruption of established democracy or gross violation of human rights along with violence or the threat of violence?
- Are there clear objectives and an understanding of whether the mission is defined as neutral peacekeeping or peace enforcement?
- Does a working cease-fire exist between the parties prior to Chapter VI missions?
- Is there a significant threat to international peace and security for Chapter VII missions?
- Are there funding mechanisms, supporting forces, and mandate to accomplish the mission?
- Are the political, humanitarian, or economic consequences unacceptable?
- Is the operation linked to clear objectives and realistic end state.

If this first phase of analysis results in a US "YES" vote for approving the operation, a second set of criteria must then be considered in order to determine whether US will commit troops to the UN operation:

- Does participation advance US interests?
- Are personnel, funds, and other resources available?
- Is US participation necessary for the success of the mission?
- Is the endstate definable?
- Is there sufficient US domestic and Congressional support for the operation?
- Are Command and Control arrangements acceptable?

Finally, one more analysis must be made if there is a significant possibility that the operation will commit US forces to combat:

Is there a clear determination to commit sufficient forces to achieve the clearly defined objective?

Do the leaders of the operation possess a clear intention to achieve the stated objectives?

Is there a commitment to reassess and continually adjust the objectives and composition of the force to meet changing security and operational requirements?

The second point of Presidential directive sets forth specific steps that are proposed for the UN to reduce the costs of UN peace operations.

Chapter VI peacekeeping operations are paid for by member obligatory contributions of member states based on a standard assessment. The US assessment at the time was 30.4 % and PDD 25 instructed that is should be reduced to 25%. In Ch VII peace enforcement operations participating states each pay for their own costs.

The third point of Presidential directive sets forth US policy regarding command and control of US forces in peace operations.

The US will relinquish only "operational control" of US forces when doing so serves the US security interests. The greater the military roll the less likely the US will give control of US forces to UN or foreign command. Any large scale participation of US forces that is likely to involve combat should ordinarily be conducted under US command and operational control or through competent regional organizations such as NATO or other coalitions. The President will never relinquish command of US forces. However, the President can in an appropriate circumstance release designated US forces to the Operational Control of a foreign commander for designated missions. When US forces are under the operational control of a UN commander, the US forces will always maintain the capability to report separately to higher US military authorities. It should be noted in this respect that this contravenes UN policy that provides once placed under UN control, soldiers will only report to and seek orders through the UN command channels. The US policy also provides that commanders of US units participating in UN operations will refer to higher US authority any orders that are illegal under US or international

law, or are outside the mandate of the mission to which the US agreed with the UN, if they are unable to resolve the matter with the UN commander. The US reserves the right to terminate participation at any time or take whatever actions are necessary to protect US forces.

The Presidential directive recommends 11 different steps to strengthen UN management of peace operations.

Document also tends to improve US Government management of US involvement in peace operations. It assigns lead agency responsibilities involving the likely use of troops in combat to the Department. of Defense. The Department. of State is designated lead agency to handle issues of traditional peacekeeping not involving US combat units. And, the Department of State retains responsibility for the conduct of diplomacy and instructions to embassies and to the US Mission in the UN.

Final directive seeks to increase the flow of information and consultation between the executive branch of government and Congress and acknowledges the necessity of bipartisan and Congressional support and the support of the American People for any US participation in peace operations. This portion of the policy represents a recognition by the President of the requirement of advice and consultation with Congress required under the War Powers Act referred to earlier.

Soon after becoming President, President Bush rescinded all of President Clinton's executive orders, which would include PDD 25. However, most authorities in the US believe that PDD 25 is followed and will continue to be followed by the US in making determinations of whether and to what extent the US will become involved in peace operations under the UN or otherwise.

Since President Bush took office as the President of the US, there have been dramatic events and changes in the environment of international peace and security, and US security in particular. Presently, President Bush is requesting some 97 Billion dollars in funds to carry out the US missions he has ordered in Afghanistan and Iraq. In view of this substantial current US commitment abroad it seems doubtful that the US will commit to any further substantial international peace operations in the near term,

except under exceptional circumstances, such as the recent assistance provided in Liberia. This state of affairs will increase the need for leadership and participation by regional organizations such as the CIS, NATO or perhaps the OSCE, under Chapter VIII of the UN Charter, to help moderate the international and national instabilities that the international community will continue to face in the near term.

Use of Military Force in International Conflict Resolution: Case of NATO Response Forces

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The principal purpose of this paper is to elaborate on the reasons for and the manner in which the NATO Response Force, or NRF, is intended to be used and the legal limits on its use. Without question the NRF is about power projection, not for itself, but rather in the quest of maintaining international peace and security. In the context of this work first, the rationale for the NRF, second, the specific role of Legal Services in the future employment of that force in the context of the legal limitations on the use of force will be discussed. NRF is the result of many lessons learned, the cold realities of the world today and the likely future.

History is replete with significant events that have radically altered the way military force is applied and is likely to be applied, principally because of what rightly can be called «technological» advances. The longbow, gunpowder, the tank and the machine gun can be mentioned in this context. The same thing can be said about nuclear weapons.

Deployability has become a so-called buzzword in the projection of military force, particularly in situations short of all out inter-State conflict. Within a country so large as the Russian Federation and within the Commonwealth of Independent States, deployability resonates as much as it does for NATO.

Unquestionably, the threats to national and international security today, at least in the near term, will come less from the kinds of massive, military confrontations anticipated during the

* Paper presented at the conference in Russia reflects the opinion of the author and not of organization.

Cold War than from other threats. Gulf wars I and II show how technology can render fixed, key targets and large military concentrations vulnerable to the point of virtual total destruction or, at the least, neutralization. «Big and more is better» is no longer the golden rule, unless «big and more» relates to high tech. Had one side in the Iran/Iraq war had high tech military capability, that war would not have ended in a stalemate. Given the current world situation, with all the different perceptions as to threats, the name of the game is downsizing the military, most particularly land forces. But technology is also having a dramatic effect on both naval and air forces too. The idea that every country can and should have robust military capabilities across the entire spectrum is now outdated. This even applies to the United States.

Situations possibly requiring the use of armed force will come in a variety of sizes and shapes, but more often they will flow from failed, or failing, States or, more likely, from international terrorism, the most insidious threat to national security today because of its relatively faceless character employing asymmetrical means and obeying the strictures of no laws.

The limitations on the use of armed force firmly enshrined in Articles 2 and 51 of the UN Charter are well known. Those ius ad bellum laws , along with the ius in bello rules (found in the Hague Regulations, Geneva Conventions and its Protocols as well as other customary and conventional limitations which have become known, collectively, as the laws of armed conflict), are all too well known but, regrettably, breached far too frequently. A seminal question seems to be whether the current rules on recourse to armed force are properly synchronized with the world situation of today and tomorrow.

For some time now, the legality of pre-emptive self-defence has been argued about in many fora. The military firmly understand the risks associated with taking the first «hit», so to speak. Technology has made the risks of taking the first hit — or hits — unacceptable. Of course, the magnitude of the first hit determines the penalty for passivity, but the general idea permeates all the way down to, for example, even the loss of a major fighting ship or several aircraft such that national rules of engagement (ROE) are tailored accordingly. So the core question is: are the

legal constraints of relevance today, or is there a shift in thinking that makes the famous Caroline case significantly out of date? Here we suggest that it is, but if that is so, where are the limits of self-defence to be found? Aggression is easily recognizable when we see it. Iraq's invasion and occupation of Kuwait is a classic example, but such scenarios are less likely to occur than other forms of threats to international peace and security. At the other end of the force spectrum, is the unilateral use of armed force justified on claims of humanitarian intervention? An example of that is NATO's operation, Joint Force, in the former Federal Republic of Yugoslavia. From the point of view of many legal experts that operation, in terms of international law as it stood (and still stands) at the time, was illegal.

Today, the confluence of costs and threats has required the nations of NATO to reassess levels of military ambition. One has to have a vision as to how international peace and security can be maintained under vastly different circumstances before there can be an appropriate analysis of just what mixture of military forces is required. As the NATO alliance grows in membership, it is all the more evident that each nation cannot afford self-sufficient self-defence, and there is no reasons for that. An alliance should offer a certain measure of synergism that can be translated into role specialization and combined efforts, such as a standard fighter aircraft. This, however, requires a cultural quantum leap. The people of a State ordinarily look to their State to provide them with national security, and they become nervous when that security is reliant on other States, no matter how friendly they are. Coupled with that is position towards the international community, which may just be a matter of pride or national identity. Who is going to take a State seriously if it cannot defend itself one way or another?

Military alliances lose all sense if they cannot measure up to their raison d'etre. So here the question of the level of ambition arises once again. Where is NATO going? Is it turning into world «policeman»? Certainly not, but no one has drawn the outer geographic limits of organization's responsibility. Should there even be such limits? This question has no answer now. However now it is clear that 19 member States, soon to be twenty-six, will

decide when and where to act militarily under NATO command, but this does not mean that action will take the form of armed force use without a legal underpinning. In this context it is worth noticing that operation Allied Force was developed on the assumption, among other things, that there would be a United Nations Security Council resolution authorizing the use of armed force to stop what the Security Council ultimately termed a «catastrophe». Indeed, all NATO military operation plans proceed upon the presumption that there will be a lawful basis for the use of armed force. However while the nations may listen to legal advice, both from within the NATO military structure and in their own capitals, legal advice is not always followed. It was hardly predictable that all nineteen, member nations of NATO would approve the campaign in Yugoslavia without a Security Council resolution, but that instance may just indicate where States, at least the NATO member States, are going in the area of humanitarian intervention.

What is NATO's military level of ambition? Basically, it is to be ready to carry out several military operations outside NATO territory on very short notice. Those operations could be, at one extreme, the most benign, not requiring the use of force, to a North Atlantic Treaty Article 5 situation, the ultimate core mission of NATO, at the other extreme. Article 5 deals with an armed attack on one of the member countries. The events of 11 September 2001 in the United States led to the NATO Council invoking Article 5 for the first time in the history of NATO. That first instance surely was hardly what the drafters of the North Atlantic Treaty envisaged. Nevertheless, NATO is effectively at «war» with transnational terrorism, but NATO is not alone in that regard. It is, unfortunately, a war of indeterminable duration. It will not be like other wars. The enemy has many faces, wears no uniforms, obeys no laws, holds no territory and is beholden to no particular constituency. The means and methods terrorists might employ could have staggering consequences, and this is what makes this «enemy» so insidious. NATO is preparing itself to deal with the threats posed by international terrorists, but because of the nature of the enemy, the military measures that can be taken are rather finite.

Besides terrorism, there are other scenarios where armed force may be required. It could be as a result of a Security Council resolution. Think of Bosnia and Kosovo, East Timor and other examples. It could be by invitation of a State to deal with some form of grave, internal situation. It could be a result of a request from a regional organization such as OSCE. Last, and most importantly, it could constitute some form of pre-emptive self-defence, for if it is not Security Council sanctioned or not by invitation of the State wherein force will be applied, it can only have a legal foundation if it constitutes some form of self-defence. This leads, unfortunately, into the endless morass of defining self-defence and the temporal element of the appropriate timing of the use of armed force. How long can one wait until a potentially lethal act occurs? By «lethal act» we mean some form of attack that does major physical or psychological damage to a State. For example, some types of cyber intrusion could be so severe as to constitute what today is defined as an armed attack. Weapons of mass destruction are such that they constitute inordinate risks. Since those risks are so high, can one afford not to contemplate proactive (pre-emptive) action under certain circumstances? The response is self-evident, but the problem lies in fears that the floodgates on the unilateral use of armed forces would be opened and international peace and security would suffer as a result. We believe that is a hugely unjustified fear. What State or group of States would possibly benefit in the long run by abusing extended notions of self-defence? It is unlikely that nations that genuinely believe in the rule of law will form part of a coalition of the willing or sanction alliance action where the action or likely action will offend such beliefs. Even in the matter of the second Gulf War, as events have shown, there was less argument with removal of Sadam Hussein than the reason cited as the need for his removal. Hence, the argument was really over whether or not there was a clear and present danger that obviated the need for a Security Council resolution. What makes people nervous is that the perception of a clear and present danger is dependent upon the state of mind of the beholder.

With respect to NRF, one might readily ask, is this old wine in a new bottle? The response can be "yes" and "no". The response

is "yes" to the extent that the initial NRF will have to draw on existing capabilities in the hands of the Alliance members. So there is nothing particularly new. But the response is a strong "no" because a new command and control (C2) structure has just been developed to utilize the NRF in varying scenarios. We will discuss key C2 structure in more details before going into some finite details about the NRF.

The NATO member nations have just approved the most sweeping realignment of the integrated military structure. While there used to be two combat commands, Allied Command Atlantic and Allied Command Europe, with their own, separate, geographic areas of responsibility, in terms of the projection of military power, there is now only one operational command, Allied Command for Operations, or ACO, and one geographic area of responsibility — the entire NATO area. The headquarters of that command is vested in SHAPE, making the Supreme Allied Commander Europe, as he has been known since 1951, the sole, supreme NATO combatant commander. All other operational commanders are subordinate to him. Allied Command Atlantic has disappeared. In its place is Allied Command Transformation, a non-combatant command. Among its missions is the core function of transforming the NATO military structure into a lean, efficient and effective military force tailored to meet the challenges of the XXIst century.

The member nations fully appreciate that NATO has been too slow to realign after the demise of the Cold War. They themselves are down-sizing their armed forces because large standing armies are expensive, but even more compelling is the fact that they simply are not appropriate for current and future circumstances. In any case, fully implemented, down-sized forces would leave the Alliance with sufficient military capability to deal with more classic military threats. Since eighteen of the nineteen member nations fund NATO's integrated military C2 structure, they want economies there too. Until five years ago, the C2 structure had four levels of command. Since that time, three levels have been deemed sufficient, with the fourth having moved from the C2 structure to the force structure that is almost totally funded nationally. In Europe, where the most diversified C2 structure

existed, the three C2 levels were made up of a supreme headquarters (SHAPE), first three and then two regional headquarters, one north and one south, and eleven sub-regional, static headquarters, far too many being land oriented. The integration of those headquarters, the slimmed down progeny of the Cold War era, was nevertheless awkward. There was much duplication of effort, and so a detailed functional review was undertaken of all headquarters to find out just what everyone was doing. This coincided with studies of C2 structures that would better correspond toscarce assets.

The result of the studies led to the Combined Joint Task Force (CJTF) C2 construct. A CJTF headquarters can actually be any size, but the key to it is a core element in what are soon to be two regional joint, forces headquarters (JFHQs) and a smaller joint headquarters (JHQ West). For ease, the three will be referred as JFHQs. Each of those headquarters can be designated to direct joint and combined military action as a CJTF. This can be done from land or afloat. The CJTF can deploy or operate from its peacetime location. Depending on the nature of the mission, attached to it will be land, air and sea components, which are replicated north and south in Europe but can be employed anywhere without geographic limitation.

The JFHQ should not be confused with combat formations, which would be attached to a JFHQ to make up the full CJTF. A JFHQ is a C2 element pure and simple. As for deployability, the core element of a static JFHQ is designed to be ready to deploy, if required, on five days notice. The full CJTF is to be constituted and/or deployed in 30 days. The forces that would be used would come principally from NATO's force structure.

Now the structure of NRF itself will be discussed. It can be spoken of as a catalyst for the Prague Capabilities Committees agreed by the Alliance members in Prague in November 2002. The NRF is to enhance NATO's operational capabilities by having a credible, expeditionary, joint reaction force that will be responsive and tailored to the actual mission.

The NRF is more than just a rapidly deployable military force. It is the centerpiece of Alliance-wide military capabilities, both

national and NATO common-funded, most particularly in the communications and information system domain.

It is designed to rely less heavily on the United States for the ability to project power to deter, pre-empt and/or shape a conflict. It is the basis upon which NATO's restructured C2 is configured. Beyond merely a restructured C2, the NRF obliges the European allies to come up with solutions to theatre missile defence, strategic airlift, air-to-air refueling, precision guided munitions, intelligence, target acquisition sophistication and other capabilities. The NRF also requires the NATO force structure to move to a higher state of overall readiness and modernization, acquire capabilities that are relevant while at the same time divesting those that are not, and, hopefully, will narrow the European-US capability gap. All of this is aimed to meet the challenges of the XXIst century.

A combined, joint statement of requirements has been with the nations for several weeks. They are to reply by today. Depending on national responses to meet the projected requirements, there will very likely have to be a further request to sort out just what the nations think the requirements are. The analysis of the national replies is to take five days. A week later there would be a force generation conference to find out which nations can meet which requirements. This process goes on with the target date of 15 October when an initial operating capability (IOC) is targeted. What this would mean is that one of the JFHQs (the northern JFHQ starts) will be on call so to speak to C2 two NRFs, one on «hot» standby (30 days to move) and another to a lesser notice to move. Each year another JFHQ will be on «hot» standby with the ability to command and control from its static location or a deployed location. Thus, every third year each of the three JFHQs will be in command of two NRFs.

Initial operating capability is hoped in mid-October of this year. The process will be tested through command post exercises and a full field exercise. Full operational capability, or FOC, is looked for in mid-October 2006, after each of the three JFHQs has been at the helm for one year.

The NRF concept is built around the Combined Joint Task

Force (CJTF) construct. A CJTF has land, air and sea elements. This does not mean the full spectrum of those capabilities would be required in every instance, but that is the more likely scenario since the NRF is not intended for benign peacekeeping operations. In this respect it may be recalled that one of the NRF' missions could be pre-emptive. The size of a fully capable NRF is approximately 6,300, which includes the C2, combat and support elements.

Now the role of Legal Services Supreme Headquarters Allied Powers in Europe will be studied with regard to the development of operation plans (OPLANs) and contingency operating plans (COPs) that would be the basis for any NRF use. All planning begins with a NATO Atlantic Council (NAC) decision and guidance. Normally this will be to develop a broad concept of operations (CONOP) that offers a variety of options. Picking one or more options or parts of options, the NAC will order the development of an OPLAN that wi11 actually thoroughly flesh out the CONOP. We would not go into the details of such plans, but there is always a legal annex and an annex dealing with rules of engagement (ROE) governing the use of armed force.

OPLANs are used for situations in peacetime, irrespective of how much of a crisis there might be. Peacetime is a period of time distinct from time of armed conflict. Hence, the legal basis for the use of armed force must take account of that fact since the laws of armed conflict do not apply by operation of law. They may be applied in whole or in part, but one always has to look for the legal basis to use lethal force. If there is a UN Security Council resolution using the code words, «all necessary means», the use of armed force, to include lethal force, is legally permissible, provided fundamental tenets of the laws of armed conflict are respected. This calls for proportionality and respect for rules related to collateral damage. The use of force in self-defence, which is not a NATO rule of engagement (ROE), since it is an inherent right, is explained in detail in the legal annex to each OPLAN. So, too, are the concepts of anticipatory self-defence, hostile act, and hostile intent. These concepts are not without question for some member countries as is, for example, the ROE authorizing lethal force to protect property.

Certainly an important characteristics of the NATO-approved baseline document on ROE for NATO-led operations is that no individual is ever required to carry out authorized military action if to do so would violate the laws of that individual's country. What this illustrates is that the member countries have agreed a Military Committee document (viz., MC 362) dealing with ROE principles and profiles that form the basis of the development of the ROE and legal annexes to every OPLAN. The member countries have to agree, by consensus, any OPLAN before it ever can be used. If the ROE, or any other facet of an OPLAN for that matter, would contravene or likely contravene the laws of a member country, be they based on specific domestic legislation or interpretations of customary international law, that country can enter a caveat explaining why its forces cannot do a particular task. It should be obvious that this is the only way an OPLAN has any hope of reaching consensus.

For the legal services it means that all facets of every NATO-led military mission must be scrutinized for compliance with international humanitarian law and, to the extent applicable, fundamental human rights laws. Having been through a number of military operations, the legal services of NATO are very experienced in weeding out any proposed actions that do not have a firm foundation in law, and it also knows which issues are sensitive for member countries, such as the use of riot control agents. Legal Services Supreme Headquarters Allied Powers in Europe , however, is not the final arbiter of such matters. As just mentioned, the member countries all scrutinize the OPLAN, and this means their lawyers do too.

The NAC has just recently decided that in the future, all targets that would be the subject of air attack are to be reviewed for compliance with the laws of armed conflict. This is a significant demarche, and one that puts a heavy burden on lawyers for they have to become familiar with munitions and methods of their delivery to a target, for the principal consideration is collateral damage, that is, injury or death of protected persons and facilities. In an era of media access to just about any place, a single error in targeting will be on the front pages of all newspapers probably before the aircraft can return to their operating bases.

While errors do occur, the more egregious ones can result in criminal prosecution.

The biggest challenge today is legally reviewing plans dealing with terrorism. Clearly, everyone would admit that a terrorist, however defined, is a criminal. If such criminals are engaged by legitimate armed forces, what legal rules are going to be applied? Apart from rights in individual or unit self-defence, where is the right to use lethal force by military personnel outside their borders and in the territory of another sovereign nation? One should not take the Afghanistan situation as the template, for Afghanistan was a curious situation. The Taliban, the so-called government, was not recognized as the legitimate government by most States. It harbored persons widely believed to be terrorists and allowed them to train. After the events of 11 September 2001, the United States demanded that the Taliban turn over Osama bin Laden. After its refuse to do so, on a claim of self-defence, the United States resorted to self-help and began an armed conflict with Afghanistan in its quest to capture or kill bin Laden and his Al Qaida personnel. This has led to profound legal arguments over the status of persons captured in that armed conflict. The detention of someone gives rise to a fundamental tenet of human rights. The status of the individual, prisoner of war or not, has to be determined, for it carries with it rights and obligations for the capturing power.

Finally we would like to notice that the rule of law is not an idle standard; it applies as much on the battlefield as in peacetime. This principle is reflected in the organizational structure on NATO.

Use of Force in Resolving Military Conflicts: Ways to Increase Efficiency

Vladimir Plotnikov,
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During the last 15 years Russian Federation has gained the experience of using force in peace-keeping operations at the post-Soviet space, in Yugoslavia and in the course of the anti-terrorist operation in the North Caucasus.

The transformation from the bi-polar to a uni-polar international system and the end of the ideological confrontation between the East and the West made the world safer on macro-level, but at the same time revitalized the lower level conflicts. Internal conflicts, initiated by ethnic groups in order to change their political, cultural, religious, linguistic, etc. status developed in the Soviet Union and then at the post-Soviet space.

The most important features of such conflicts are the high speed of their latent phase, and their quick transformation into military clashes, as it happened in Tajikistan, Nagorno-Karabakh, Georgia (Abkhazia and South Ossetia), and in Moldova (Transnistria). As estimated, at least four of these conflicts resulted in 10 thousand of victims each, which has made the post-Soviet conflicts comparable to the gravest conflicts in the rest of the world in 1980–1990-s. Because of the high intensity of these conflicts (about 15% of military conflicts per 6% of the population), the CIS can be considered as one of the most dangerous and instable places in the world[1].

The CIS Member States apply various methods for the purposes of conflict resolution and for the protection of their vital national interests. Among these, military power plays a special role. As a last resort, it still remains the most efficient instrument of politics. Of course, political, economic, etc. instruments are the

[1] Ремарчук В.Н. Некоторые аспекты использования армии в урегулировании конфликтов в постсоветском пространстве. www.nns.ru/analytdoc/konf.html 1997.

priority for the conflict resolution. As the ancient Chinese military thinker, Sun Tzu, puts it, "The best way of war is to ruin the enemy's plans, then to ruin his alliances, and only offen thet to destroy his army".[2]

This rule could well be applied to the CIS and Russia nowadays. One should neither prioritize, nor ignore military power as a conflict resolution instrument. Military power should be used in the course of the armed conflicts resolution only as an exceptional measure, when all other possibilities to transform the conflict from an armed clash into a peaceful dialogue are exhausted. In this context, the structure, the functions and the role of the military power could be defined as follows.

Military Force — the capacity of a State to influence politically other State and/or system of international relations by direct or indirect use of military violence, and to successfully wage war (armed struggle). In the narrow sense, Military Force includes Armed Forces, other troops, military bodies and formations, etc.

S T R U C T U R E

Armed Forces, Other troops, military bodies and formations are the elements of the political structure of the society, and the basic means to achieve political goals of the armed struggle. They are the basic elements of the military power.

Military economics satisfies material needs of the armed forces, and gives a State the ability to be engaged in military struggle.

Science and technology gives a State the ability to equip the armed forces with the most advanced military hardware.

Morale represents the ability of the society and its military structure to go through the war trials, and to achieve political goals of the war

[2] Сунь-Цзы. Трактаты о военном искусстве/Пер. с кит. М.. ООО «Издательство АСТ»; СПб.. Terra Fantastica, 2002. — с. 558.

F U N C T I O N S:

— Shaping of a desirable power balance on the global and/or regional levels;
— Maintaining the stability and/or destabilising the situation on the global and/or regional levels;
— Exerting political pressure;
— Economic confrontation (arms race);
— Repelling an aggression, defeating an aggressor.

A p p l i c a t i o n

Direct military violence

Aggressive and defensive wars (global, regional, local, etc.) and military conflicts (military actions, revolts, coups, military terror, etc.), and also peace enforcement operations

Indirect military violence

Threat of using force to achieve defensive (strategic deterrence) and offensive (threatening) goals, by demonstration of military power and readiness to use the military power, and also to conduct peace support operations

Hidden military violence

Involvement of other States into the military politics of a Leader State by means of alliances and partnership relations; arms sales and deployment of arms on the territories of other States; military assistance; construction of military objects on the territory of other States; development of military infrastructure of other States; transfer of military technologies, etc.

Thus the military power can be viewed as a guarantee of national independence, giving the freedom of choice in political decision making, and also as an ultimate means to deter the military threat, if the peaceful means has not worked properly.

The ability of a State to effectively use armed forces for the purpose of conflicts resolution is not only military, but also political instrument to advance its geo-political interests.

At present Russia and its Armed Forces play the main role in the peace support operations at the post-Soviet territories. The CIS Member States would often only declare their intention to participate in an operation. The peace support operation in Abkhazia, conducted under the CIS aegis, in which de facto only Russia participates, is a good example. This is one of the most complicated peace support operations run by the Russian peacekeeping force at the CIS territory, which started in July 1994. By that time the Georgia/Abkhazia conflict had entered into chronic phase.

Official Moscow maintained the neutrality in the course of the conflict, blaming the human rights violations, and introducing sanctions against both parties at war.

The deployment of the peacekeeping force was preceded by the lengthy preparatory phase. Both sides agreed to ceasefire. Russia insisted that the UN agreed on the status of this operation as the CIS peace support operation. The UN peacekeeping mandate was elaborated in detail, and the area of the operation was limited to the Gali region of Abkhazia adjacent to inner parts of Georgia. The UN observers were supposed to monitor the situation in the conflict zone. After all other details were agreed upon by June 26, 1994, the Russian peacekeepers entered Abkhazia.

During the first months of the operation joint battalions of the Batumi and Akhalkalaki Divisions of the Russian Army also entered the zone of the conflict. Local residents, including citizens of Georgia, have been recruited by these military units (now military bases).

As a result, the following scheme of the peacekeeping force deployment was adopted. Three battalions were deployed on the territory of Abkhazia, and one battalion in Mingrelia, in the city of Zugdidi, neighboring Abkhazia. The Commander of the force and

the headquarters were deployed in Sokhumi, Deputy Commanders — in Zugdidi and Gali (in Abkhazia). The primary task of the Russian force was to separate parties at war and to set up checkpoints at the river of Inguri, which has become the demarcation line. Within the short period of time, the peacekeeping force established control over the key bridges and fords, although the groups of Georgian and Abkhaz militants still cross the river from time to timedisturbing the population.

The next task of the peacekeeping force was to demilitarize the Kodor Gorge, the last area of Abkhazia, populated by Georgian Svans and controlled by the government of Georgia. After the long period of negotiations, the level of confrontation was decreased, the parties at war were separated, and heavy weapons were removed from their arsenals. Although it was not possible to totally de-militarize the Gorge, the intensity of shootouts decreased substantially.

The peacekeeping force also launched large scale de-mining operations, thus enabling population of Abkhazia to start farming. Mine clearance was complicated by the absence of mining maps, but within the first month of the operation the peacekeeping force cleared a 12 kilometers wide area within their zone of responsibility. The peacekeeping force established control over the Inguri hydroelectric power station, which provided electricity for the whole region.

The peacekeepers failed to achieve the goal, which was very important for Georgia, i.e. the return of the refugees. Many in Georgia interpreted the peacekeeping agreement as an obligation of Russia to bring back refugees by force, although the Russian forces were only to provide for security of the returning refugees. The authorities of Abkhazia did their best to prevent refugees from returning to the Gali district.

The operation had been criticized from the very beginning for the absence of political functions of the peacekeepers in the zone of their control. The Georgian side first thought the peacekeepers were able to bring back to it political control over the territory of Abkhazia, but from spring 1995 it started to demand the police functions for the peacekeepers.

Authorities of Abkhazia continuously insist on drastic reduction of the peacekeepers' functions. They think that the law enforcement bodies of the Republic should protect the local population, including those Georgian refugees who come back, from criminal elements.

At present, the scenarios of possible developments in Abkhazia and Georgia could be summarized in the Table, as follows:

Table 1

Scenarios of possible developments	Reaction of Abkhaz leadership	Reaction of Georgia leadership	Reaction of peacekeeping force
Total independence of Abkhazia	positive	negative	negative
Abkhazia remains as a part of Georgia	negative	positive	negative
Autonomy of Abkhazia and its partial reintegration with Georgia	negative	positive/ /negative	positive

It is obvious that none of the scenarios mentioned above, is acceptable for all sides of the conflict. The military participants of this peace support operation think that any action disturbing the fragile peace could again provoke the armed conflict. It will take quite a time to reach resolution of the conflict more or less acceptable for all participants.

Martti Ahtisaari, former President of Finland, comments on the resolution of the conflict in the Balkans, similar to the Georgia/Abkhazia conflict, as follows:

"I always compare the situation in the Balkans to what we have learnt in other regions of Europe. Take the unification of Germany as an example. My German friends were telling me during the unification that this process would demand a generational change. But I have met people dealing with these problems recently, and they said it would take at least two generations. This is not only a matter of administrative decisions, but also a mental and psychological process. If they need two generations for this

in Germany, they will definitely need more time in the Balkans»[3].

To conclude, as far as the CIS is ready to maintain its presence in Abkhazia, one can set up short-term practical goals and develop peaceful conflict resolution.

Various conflict situations in the world and at the post-Soviet space in particular, require a differentiated approach to each of the conflicts, for planning, preparation and implementation of the peace support operations.

To separate parties at war is not enough, and it is necessary to increase multi-functionality and to raise efficiency of a peace support operation. In this context broad interpretation of peace-building is required, including restoration of the peaceful life in the conflict zones, from recreation of statehood to school education[4].

Although it is understood that mandates of the peace support operations are the result of the compromise of parties at war, these mandates should be more precise. Security of the population, normal condition of people's life, inter-ethnic peace and reconciliation, etc. are the key pre-requisites for the solution of the main problems of peace-keeping.

It is important to analyze the whole chain of interconnections in the process of a peace support operation. To increase the efficiency of peacekeeping, one should comprehend the complex nature of the armed conflicts resolution, which is a system of the more simple operations, being its structure elements. These simple operations include:

- Defining of political and military goals of a peace support operation;
- Timely political decision making regarding the use of force;
- Time for the preparation of the peacekeeping force for the armed conflict resolution;
- Amount of military force required for the conflict resolution;
- Possible damage to the local population, economy and the environment, and possible losses of the personnel and military hardware in the course of the conflict resolution;

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[3] НАТО Вестник: Мартти Ахтисаари — международный примиритель/По ред. К. Беннета., НАТО, Бельгия, — 2001., -№ 49., с. 24 — 25.

[4] См.: Чубаненко Ю. «Голубые каски» меняют ориентацию. ООН разрабатывает новую концепцию миротворчества//«Коммерсант». № 156. 24 августа 2000.

- Financial and material resources necessary for the implementation of the operation.

To increase efficiency of a peace support operation, timely decision and strong political will of a decision-making body (UN Security Council, OSCE, CIS Council of the Heads of State, etc.), is needed. Peacekeeping forces should have clear, justified and realistic tasks, which is nor less important.

The efficiency of a peace support operation depends on the following:

- If the scale and complexity of the armed conflict are wrongly estimated, the conflict could come out of control;
- The UN and/or CIS peacekeeping mandate should provide for substantial responsibilities and amount of military force enough to localize the conflict.

The initial periods of the peace support operations in Tajikistan, Transnistria, Abkhazia, North Ossetia, Chechnya, Yugoslavia, etc., give the examples of the situations coming out of control, because the amount of military force did not match the scale and intensity of the conflicts, as mentioned.

Analysis of the key stages of the conflict should define the goals and methods of the conflict resolution. They should be defined in accordance with their specific details, i.e.: the first stage is the initiation of the conflict; the second — escalation; the third — the beginning of combat actions; the fourth — crisis; the fifth — military actions/conflict resolution. Peace-building could be considered as a separate, sixth stage[5].

This taxonomy is of a conditional nature. The case of Yugoslavia shows that the peaceful conflict resolution was still possible during the fifth stage, when the military actions started.

The analysis of the conflict resolution shows that the peaceful means usually cover the first three stages. Force, as a means of deterrence, could also be used during the first and second stages of the conflict. The preliminary and actual use of force starts from the third stage.

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[5] Барынькин В.М. Оценка эффективности мер по разрешению военных конфликтов на ранних фазах их развития//Военная мысль. — 1996. — №, с. 2–9.

Each of the stages of the conflict resolution should have its own goals and objectives, plan of implementation, budget and resources estimation, calculation of the force structure, expected results and possible consequences, etc.

The scenario for each stage of the conflict resolution should include the options of the escalation and the peaceful solution, as well as the pre-conditions to achieve the goals of the next stage. Such kind of planning should be done by the central body of the conflict resolution and by the regional structures of operative command and control, with their own command and monitoringsystems.

The practical importance of such an approach lies in the real possibility to put the armed conflict resolution under control during each stage of the conflict, as described, and to apply the peaceful means for the de-escalation of the conflict.

One could agree with the experts, who suggest that the efficiency of a peace support operations should be measured by the ability of the Collective Peace Support Force to timely reach its goals and objectives, considering human losses suffered and financial and material resources spent[6].

To estimate the efficiency of peacekeeping force, the criteria of efficiency should be defined. To put it systematically, the criteria should be divided into two separate groups. The first is to estimate the preparation of the operation. It includes the following:

— The timely political decision-making;
— The quality of the Collective Peace Support Force training;
— The delivery of comprehensive resources;
— The actions of the parties at war and their readiness for the peaceful solution;
— The timely deployment of the peacekeeping force in the zone of the conflict.

The second group of criteria includes the following:

— The ability to reach the goals of the operation;
— The implementation by the peacekeeping force of the tasks assigned;

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[6] Основные термины и понятия коллективной безопасности миротворческой деятельности для государств-участников СНГ/Штаб по координации военного сотрудничества государств-участников СНГ. М., 1995. С.13.

— The time period of the operation;
— The material and environmental losses;
— Complete human losses of the peacekeeping force;
— Spending of financial and material resources, etc.

Other factors, which are not easy to define, could also influence the operation. They include information sharing with local authorities; readiness of the local population to co-operate with the peacekeeping force; overcoming language barriers; respect for national and local traditions; weather conditions; timely planning of the operation; co-operation, co-ordination, and chain of command; refugees and victims among the local population; the presence of nuclear and chemical sites in the zone of the conflict, etc.

The ability to reach the goals assigned is the key criteria of the efficiency of a peace support operation. The operation should be considered as effective, if 90-100% of the goals are met, partially effective, if 80 — 90% of the goals are met, and non-effective, if less then 80% of the goals are met.

The new approaches to the resolution of actual and potential conflicts on the global and regional levels should consider economic, social, demographic, political, etc. factors of instability. The key initial pre-requisites on the global level are the analysis and prognosis of the development of the key civilizations; the creation of a system of indicators; the analysis of the indicators selected; economic and mathematical modeling of conflict and stability management; identification of the regions, especially at the cross-border of different civilizations, in which local conflicts could emerge[7].

The system of indicators should be designed in view of various groups of factors, which include macro-economy; demography; resources; military potential; ethnic and religious characteristics, etc.

Increase of military spending could indicate the growth of instability. One should carefully watch the dynamics of the military potential of the neighboring states. One should predict the

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[7] Варшавский А.Е., Варшавский Л.Е. Конфликты на глобальном и локальном уровнях: экономико-математические методы и модели исследования стабильности. М.: ЦЭМИ РАН, фонд стратегических приоритетов, 1995, 55 с.

moment of potential break of stability by defining the period of equalizing of the military spending of neighboring states.

As for criteria of ethnic and religious differences, one should consider that at present nearly all of the New Independent States are heterogeneous. Quota of various ethnic and religious groups within the total population of a country could be used as criteria of ethnic and religious differences in various civilizations.

Complex analysis of indicators for the neighboring states, as described, could help to define the dynamics of stability on the global level. It can also be effective for predicting the probability of emerging local conflicts.

The conflict resolution at the post-Soviet space displayed the clash of the two approaches among Russian political and military establishment to peace support operations:

— diplomatic, when a peacekeeping force is being used to solidify the results of negotiations;
— and the use of force per se, based on purely military resolution of a conflict.

The latter presumes the use of a peacekeeping force as a matter of common sense, sometimes beyond the legal limits of a peacekeeping mandate.

The second approach seems more natural for Russian public leaders, who came to power during the collapse of the Soviet system. Though being of democratic nature, this transformation produced a new negative behavioral stereotype in Russia, i.e. ignoring of legal norms and principles for the purpose of reaching a practical result.

From this viewpoint, the peacekeeping policies of the two Deputy Ministers of Defense, Boris Gromov and Georgy Kondratyev, reflect not only differences in their personal perception of peacekeeping, but rather certain periods of Russian political life. Colonel-General Gromov, the former commander of the Soviet troops in Afghanistan, who was considered to be the advocate using force by peacekeepers, in fact denied the use of force as a means to stop the armed conflict: «Combat units, authorized to separate the parties at war by force, find themselves in the situation, in which they have to fight each of these sides, and to

become an enemy for the both. In practical terms, they take a side and de facto loose their peacekeeping status»[8]. General Kondratyev, who normally advocated compromise solutions for the parties at war, was ready to use force to make the authorities of Abkhazia agree with the return of Georgian refugees.

The analysis of the conflict resolution and peace support operations gives the key approaches to solution of some of the peacekeeping problems, and justifies the necessity of a joint command and control body, able to generate and to implement the strategic concept of the Russian peacekeeping, training of the peacekeeping force, etc.[9]

A certain organ or structur could be created within or by the Presidential Administration, with the following functions assigned to it:

1. Monitoring and analysis of the conflict situations, expert advise for the political and military decision-makers.
2. Elaboration of the strategic concept and/or doctrine of the Russian peacekeeping.
3. Compliance of the Russian view of peacekeeping and the legislation with international norms and standards.
4. Advising the President of Russia on Russia's participation in peace support operations.
5. Introduction of Peacekeeping studies as a state-authorized teaching course.

Various conflict situations in the different regions of the globe require an individual approach to planning, preparation and implementation of peace support operations. The efficiency of the operations will depend on a coherent approach by the global community, and its readiness to act for the purposes of international peace and security.

To conclude, the analysis of effective use of force in peace support operations is a kind of applied research. Despite various ways of modeling conflict prevention, crisis management and post-conflict peace-building, the main problem of building new world order, i.e. the ratio of forced and peaceful methods of effectively resolving armed conflicts, still remains unaddressed.

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[8] Interview by General Boris Gromov to «Krasnaya Zvezda», 27 November 1993 г.

[9] Лавров С. Инициативная записка//Военный дипломат. Апрель. 2003, с. 42-45.

Evolution of Concepts of Use of Force in International Law

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Modern international situation and new types of peace support operations corresponding to it increased the importance of strong, well-equipped military task forces implementing peacekeeping missions. These task forces enter conflict zones to separate parties at war, to stop clashes and bloodshed, to disarm conflicting sides, and to restore people's peaceful life.

In the 1990s traditional peace support operations under the UN aegis have been transformed, by using force or threats of using force, into complex multi-purpose peacekeeping operations, like in Yugoslavia or Cambodia. But the events of 2002 showed that an anti-terrorist operation can be transformed into a peace support operation, and then, following the logic of national interest, into a standard military presence in the zones of a "vital interest". This shows the necessity to analyze the distinctions between traditional and new style peacekeeping operations, as well as Western and Russian approaches to them.

The basic distinction is criteria of interference, in particular, related to peace enforcement. coercive operation can still be implemented only if it responds to the condition of an imminent threat, such as threats to global and/or regional security, large-scale human rights violations, etc.

Nevertheless, recently the Western version of limits of use of force has been substantially differing from that of Russia. E.g., the US and British field manuals imply that, in the course of a peace support operation, military units should be always ready for the use of force. The traditional UN principle of non-use of force has evolved, in the Western interpretation, into a "minimal use of force", then into "a minimal necessary use of force", and now it

reads "a constant readiness to use force". The new interpretation also includes "capacities required to neutralize obstacles to the implementation of the mission". A principle of neutrality also evolved into a principle of impartiality.

This approach to using force puts under doubt the traditional principles of international security under the International Law. These approaches resulted in a debate on Humanitarian Intervention as a means of conflict resolution. Finally they have led to the NATO operation against Yugoslavia, and the US and British operation in Iraq.

The actions against Yugoslav government has not resolved the conflict in Kosovo, they even escalated it. After September 11, in the context of global community's fight against international terrorism, NATO operation in Yugoslavia is being criticized not only by Russian political and military elite, but also by the varius forces in the West.

Interference in a conflict without consent of parties at war, not speaking about the government of the country in which a conflict evolves, could discredit the principle of reasonable use of force and destroy the main attribute of statehood, i.e. national sovereignty. At the seme times the international community still cannot exist in the world without national borders. This is the essence of Russian political and military elite viewpoint on the problem of peacekeeping.

Efficiency of the use of force depends on its quantitative and qualitative parameters as well as on the ways of applying it. In this context it will be useful to analyze the traditional ways of using military power and the recent tendencies of the evolution of this process.

The military force is used as a means of armed violence and/or material/psychological pressure, being applied directly or indirectly, as a threat. This pressure affects material potential of a state, or morale of the population. The direct use of force not always brings a result desired, and many states often imply indirect use of force.

Traditionally military power was used for achieving victory at a war. As destructive power of military might was increasing, nonviolent means were more and more often being used in the international relations. But this process is far from over, and it will continue in the future.

Another function of military power is a favorable positioning of a state on different levels, — bilateral, local, regional, global, etc. Favorable balance of power could be achieved not only by increasing military might, but also by merging it with the power of other states, by creating military and political blocs and alliances. Unfortunately, this function is also far from being exhausted, and even being galvanized with the new NATO strategy.

One more function of military power is affecting other countries and/or international system, to protect and to advance a country's or a group of countries' national interests. Theoretically, such a pressure should not result in a military conflict or war, but often such a pressure still results in a direct violence.

Military power is also being used as a means of pressure against different movements, terrorist groups, or as a means of destabilizing economic and political situation in different countries and regions. Unfortunately, this tendency has become rather common in the recent decades.

The history shows that the lack of military power can put a state under foreign pressure and/or domination even without a war. But excessive use of military force can bring unfavorable results for both initiators and objects of such policies. At present period we observe the continuation of military competition between states and/or groups of states, direct or indirect, and attempts to gain military advantage.

The use of force under the UN aegis to separate parties at war, to prevent conflicts from escalation, and to enforce peace, is being practiced for at least three decades. The USSR and Russia have been actively participating in peacekeeping activities in the Middle East, Yugoslavia, and other regions. The UN experience could be expanded to other regional international organizations, such as OSCE. It would be to the advantage of Russia and other European countries.

At the same time, a negative tendency towards the substitution of traditional UN functions by that of NATO, also emerges. The delegation of global political decision-making to NATO, which remains a regional defensive military bloc, is totally unacceptable. The UN and OSCE should primarily maintain international peace,

otherwise the basic architecture of European and global security could be ruined.

Due to all these positive and negative tendencies a new type of global and regional security models becomes more and more important. The military power is also to play an important (and at certain period, a dominating) role in these models.

The strict adherence to International Law should always condition the use of military force. The main principle, applied, like in the medicine, should be "No Harm". The interference of a third party in a conflict should not result in its escalation. The success of a peace support operation depends on harmonizing national interests of involved states; methods of interference; skillful application of different means to pressure conflicting sides; military exhaustion of warring parties; readiness by the sides of the conflict to compromise and to fix a status-quo.

Besides that, the practice shows that the interference in a conflict could be moresuccessful if being authorized by the government of a state, in which conflict develops.

Many recent peace support operations under the UN aegis prove that the peacekeepers, with their own interests and perceptions, often become, purposely or unintentionally, the side of a conflict. In some respect the wars for national interests are being replaced by the wars for the purpose of peacekeeping. Such a transformation of basic principles of international mediation in the conflict resolution, alongside with the failures of the "classic" UN operations in Angola, Western Sakhara, Somali, Yugoslavia, on Cyprus, etc. (already recognized by the UN itself), justify the global crisis of contemporary peacekeeping.

The analysis of this crisis, and of ways and means of solving it, thus becomes an important task. The experience of regional level conflict resolution could give the way out of this crisis. In this context, the political and military efficiency of the peace support operations under the CIS aegis sets an important example to international peacekeeping. In each of these operations in the CIS the direct military conflict was stopped without coersive use of force, by using it in a mode of peacekeeping.

Russian EMERCOM: Participation in Internal and External Conflict Resolution

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A transformation of global security processes began when the Cold War and the confrontation between the two super-powers, the USA and USSR ended. Alongside military defense and security, the protection of the population and territory from non-military threats has become increasingly important for national security. Ethnic conflicts, acts of terrorism, the spread of infectious diseases, disasters, damage to the environment, etc. are now considered as non-military threats to national security.

In drafting its national security policy, Russia paid particular attention to these new non-military security threats. Therefore, in January 1994 a new agency was created within the Russian government: the Ministry on Civil Defense and Emergencies (EMERCOM), which is a rapid-reaction body, designed to deal with the consequences of natural and man-made disasters, and to be involved in humanitarian relief operations in Russia and abroad.

After the collapse of the USSR, Russia, as one of the major powers, still has an obligation to participate in international humanitarian operations. On the other hand, Russia is a developing state, whose governing bodies and political regime are still in a transitional phase. Consequently, EMERCOM's role in Russia's national security and in international conflict resolution should take into account Russia's international and national security status as that of a developing state.

EMERCOM helps to prevent and/or deal with the consequences of natural and man-made emergencies and disasters, the number of which has increased substantially due to the crisis of management, obsolete and/or worn-out hardware, lack of

financing in the public sector, and other reasons. These emergencies have been viewed by the Russian authorities as a serious threat to the national administrative and political system, as it seriously hampers the government in performing its role effectively. The necessity to prevent and to deal with the consequences of emergencies, disasters and catastrophes has become ever more apparent. However, the government agencies, in a state of internal transition, have been unable to perform their own functions, let alone any additional functions assigned to them. That is why a new agency was set up to back-up existing agencies in this period of transition and to help them deal with any technological malfunctions.

Moreover, a whole series of ethnic conflicts have emerged after the collapse of the USSR. Since 1992, EMERCOM's predecessor, the State Committee on Emergencies, has had to perform a new important function, i.e. involvement in peace support operations on Russian soil. None of the government agencies existing at that time were capable of dealing with this task. The State Committee on Emergencies was the most appropriate candidate to perform this function, and the Russian Government made it a supervisory body to co-ordinate other agencies' activities in the sphere of ethnic conflict resolution.

The State Committee on Emergencies was delegated a responsibility for the evacuation of people residing in conflicts zones and there safe relocation, as well as for the delivery of medical and humanitarian aid. As a result, peace support and humanitarian operations in ethnic conflict zones became the responsibility of the government, and EMERCOM became a key player in these peacekeeping operations.

The creation of EMERCOM as a government agency with wide-ranging administrative powers was driven by the need of the political leadership to deal with the increasing number of internal security threats in post-Soviet Russia. The need for urgent humanitarian aid in ethnic conflict zones, and the necessity of urgent political reaction to an increasing number of emergencies and disasters prompted the creation of a specialized independent agency in Russia in the early 1990s.

EMERCOM's work in the sphere of international humanitarian activities has led the agency to become increasingly well known abroad. It improved Russia's image in the rest of the world. The Russian political leadership is increasingly using EMERCOM's capabilities to meet Russia's international obligations. EMERCOM is authorized by the government to offer assistance to other states, as required by existing bilateral treaties. As the humanitarian aid and peacekeeping become more important in current international relations, integration into international humanitarian aid and peacekeeping bodies is turning into a priority in Russian foreign policy. Partnerships with these bodies and organizations help the Russian political leadership to create a positive image of Russia abroad, and to advance Russia's national interests by participating in international decision-making.

Due to political reasons, the Ministry of Defense was not in a position to be involved in humanitarian aid and/or peacekeeping actions abroad. After the collapse of the USSR the Ministry of Internal Affairs was in need of thorough modernization, and was not able to perform additional functions. As a result, EMERCOM was assigned substantial foreign policy functions. EMERCOM is helping to integrate Russia into the emerging global system of crisis management, and to maintain its status as an active player in this area of international co-operation.

When the transition and modernization of national state institutions has been accomplished, EMERCOM's role is likely to become more focused on international, rather than national (internal) activities. The priority of EMERCOM's foreign activities up until 2006 is greater integration into the global crisis and emergencies management system. EMERCOM's capabilities and/or experience of aid and peace support operations, as well as its internal political support and participation in international organizations, could make it a key-player in Russia's integration into the international security institutions.

Linking Anti-Terrorism and Peace Operations: Specifics and Constraints

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Since the 11th September 2001, it has become almost commonplace to agree that there must be some link between anti-terrorism and peace operations. In practice, however, peace operations and the fight against terrorism have, by and large, continued to be implemented separately. This is hardly surprising as the 9/11 events led the world»s leading states to reassess terrorism as a security threat, but did not change the nature of and priorities for peace operations and tasks, from peacekeeping and peace enforcement to post-conflict peace-building (recovery, reconstruction, institution— and democracy-building etc.). A rather limited, cautious and reserved approach towards the fight against terrorism on the part of many participants involved in international peace operations has not been entirely unfounded. It may even be seen as a natural reaction to the post-9/11 global «war on terrorism» which has so far had rather mixed effects both in conflict and post-conflict areas and on international efforts to prevent conflicts and restore or build peace in those areas.

On the one hand, in the course of the global war on terrorism, direct military losses were inflicted on some groups involved in terrorist activities, some of them were also deprived of safe havens or had their financial channels blocked. That, in turn, might have temporarily improved the security environment in selected areas of concern (such as southern parts of Central Asia, bordering Afghanistan). On the other hand, there have been many adverse effects, such as serious disruption of economic activity in post-conflict areas (especially in the least developed areas, such as Somalia), as a result of the targeting of key local and regional business groups for their alleged terrorist links.

Moreover, an impression was created that the world»s leading states are now prioritising the need to fight terrorism over all other considerations. On the one hand, this «obsession» with anti-terrorism at a global level might have pushed some local participants in post-conflict and conflict areas to publicly denounce terrorism and distance themselves from terrorist connections. On the other hand, it has also provided room for endless attempts by local participants, involved in armed conflicts or operating in a post-conflict environment, to misuse the anti-terrorist agenda for their own purposes — for instance, by trying to label their political opponents and military rivals as terrorists (even in those areas where, prior to 9/11, terrorism as such had not been a major problem or a matter of primary security concern, especially compared to other forms of violence, no less brutal and deadly).

The same goes for the impact of the war on terrorism on international peace operations in war-torn areas, which unsurprisingly has also been very mixed. On the one hand, in selected cases (notably, in the case of Afghanistan), initial post-9/11 hopes that the «war on terrorism» would provide an opportunity to draw attention to long neglected conflicts and to launch new or more ambitious peace-building efforts, did materialize. On the other hand, there has been some diversion of political and financial resources from peace operations (which cannot be as easily tied to the vital national security interests of the world»s leading states) to anti-terrorism operations.

In this context, it is understandable why counter-terrorism and peace-building operations are not only treated separately, but generally do not seem to be easily reconcilable. Terrorism is viewed by many in the international «peace support» community as a threat to be considered, but primarily to the extent it might affect the security environment for their own operations. It is thus seen as a problem to be solved by someone else, either by the security component of the mission itself, or, preferably, by an ad hoc international security force, or by national security structures (if there are any). There have also been concerns that excessive emphasis on anti-terrorism might in some cases interfere with the longer-term, and ultimately, more fundamental peace-building tasks and operations.

While this «doing no harm» approach is not unfounded, it should not be interpreted as an excuse for «doing nothing» in the fight against terrorism and does not mean that some of the more fundamental links cannot be drawn between anti-terrorism and peace operations. After all, they both concern, while not necessarily in the same way, a) ***armed conflict*** and b) the *so-called* ***failed states***.

For all peace operations, from peacekeeping to peace-building, it goes without saying that they are related to conflict (as their goal is to prevent and stop conflict or build peace where there has been conflict). In contrast, not everything called terrorism is directly tied to violent conflict. Since 9/11 it has become particularly important to distinguish between at least two types of terrorism that have been too often confused in the course of the global anti-terrorist campaign. While these two types share some common characteristics and are not necessarily unrelated, there are also some important differences between them, including the way they relate to violent conflict.

First and foremost, there is a more traditional type of terrorism (referred to as ***conflict-related terrorism***), directly and immediately tied to the concrete agenda of concrete local or regional conflicts and used (in some cases, for decades) as one of the modes of operation by groups in conflict areas and openly identify themselves with a certain political cause in that conflict. This cause may be quite ambitious (to seize power in a state, to create a new state, to fight against foreign occupation), but normally *does not go beyond the local or regional context*. While these armed groups' fund-raising, logistical, propaganda or even planning activities may be *internationalized* (in the sense of being conducted in and from outside the territory of several states beyond the conflict area, as in the case of the Tamil Tigers), their goals and agenda, by and large, remain localized. Thus, terrorist activities are carried out by these armed non-state participants for political goals, limited to the local or regional context, and by limited means (the weapons, explosives, delivery means and other materials employed do not have to be very advanced and are normally standard, readily available and sometimes are even quite primitive, such as the unstable bombs used by Palestinian

suicide bombers). As conflict-related terrorism is used in the context of a broader armed confrontation, it is likely to be practiced by groups that might enjoy some level of local popular support within a conflict area, ranging from a very limited to quite substantial one (as in the case of Hamas that enjoys 30–40% of public support among the Palestinians).. For most of these groups, terrorism is not their only method of operation or type of violence employed and is often combined with other forms of violence (such as guerrilla warfare) and sometimes even with non-violent (social, religious, political and other) activities. While groups engaged in conflict-related terrorism are commonly referred to as "terrorist organizations", it might be more accurate, at least from the academic point of view, to refer to them as *"groups involved in terrorist activities"* (as terrorism is not necessarily the only violent tactics they employ).

A more recent phenomenon of the so-called super-terrorism was generated primarily by the 9/11 events and has manifested itself in a number of more recent cases (such as Bali). Super-terrorism is by definition global or at least seeks to create a global influence and, as such, does not have to be tied to any particular armed conflict. Al-Qaeda's goals, strategies, logistical and financial networks, and operations are truly global and as extensive in areas of peace, areas of conflict and in the developed world (in the global «West» and global «North»), as anywhere else. While Sudan and then Afghanistan were used as safe havens, London was used as an important recruitment centre. Several operational cells were set up in Western Europe, and it was not in a suburb of Mogadishu that Al-Qaeda pilots learnt how to fly Boeing airliners. Super-terrorism is focused on targets in the developed world or directly associated with it. In order to hit targets in the developed world, a terrorist group or network needs to set up an operational presence and to undergo at least some training in the developed world. In other words, it needs to, to a certain extent, become «part» of the developed world. Finally, super-terrorism has unlimited and non-negotiable goals (to challenge the world order and the West, as in the case of Al-Qaeda, or to achieve global dominance, as in the case of the Japanese religious sect Aym Shinrikyo). Unlimited goals require the use of more advanced

technical means and may even imply the use of unlimited means, including weapons of mass destruction.

Conflict-related and super-terrorism may share some common characteristics (such as their asymmetrical nature), demonstrate some structural and ideological parallels and even maintain some direct contacts and links. Al-Qaeda's own origin, for instance, may be traced to the anti-Soviet Jihad in Afghanistan and its super-terrorist network has served as one of the donors to several local groups engaged in conflict-related terrorism throughout the 1990s. But all actual and potential financial, ideological and other links, and their parallels and connections between ***super-terrorism*** and the more traditional ***conflict-related terrorism*** still do not make them entirely similar or fully conditional or dependant on one another. Each of these two types of terrorism retains a great degree of autonomy and its own logic and dynamics.

While triggered by clear acts of «super-terrorism», the US-led «war on terrorism», perhaps inevitably, has turned into the fight against all forms of terrorism (which in itself is a positive development). At the same time, however, the «war on terrorism» has led to increasing confusion between different forms and types of terrorism, and attempts to make them all fit one uniform pattern and to bring them all under a common denominator, with insufficient attention paid to their specifics and nuances. Meanwhile, the tools used against clandestine terrorist networks with global influence and non-negotiable agenda, such as Al-Qaeda, should at least be some extent modified and refocused when dealing with locally and regionally based groups involved in more traditional conflict-related terrorism, so that these anti-terrorism tools and operations complement and reinforce the longer-term conflict resolution and peace-building tasks.

There are several key defining characteristics of conflict-related terrorism that help distinguish it from other forms of violence that maybe used in an armed conflict.

First, it is the presence of a political goal that distinguishes terrorism from plain crime. While an act of terrorism is certainly a crime, it is always more than a crime due to its political goal (that is interpreted very broadly, ranging from a very concrete to a more

abstract one, and can be formulated in ideological, religious or other categories). Terrorism is a tactic to achieve a political goal, which is an end in itself and not just a secondary instrument or a "cover" for advancement of other interests such as illegal economic gains, as it is for some organized criminal groups.

Secondly, *civilians* are the main and the most immediate target which distinguishes terrorism from guerrilla warfare which implies the use of force primarily against governmental military and security forces (although various Kashmiri, Chechen, Palestinian or Iraqi armed groups often combine these two different tactics).

The third key defining characteristic is the asymmetric nature of terrorism as "the weapon of the weak" which implies not merely a gap in capabilities, but, more importantly, an asymmetry of level and status of the main protagonists. The most basic and classic form of such in *status asymmetry* is when terrorist means are used by a sub-state or non-state participant in an asymmetrical confrontation with an established, functional or at least identifiable state. This asymmetry, not just in military capabilities, but, more importantly, in the status and level of participants, is a defining characteristic of terrorism, distinguishing it from some other forms of violence, such as «symmetric» inter-communal/sectarian violence (between several non-state parties), inter-state violence or the use of violence by the state itself. It is in this way that status asymmetry is the most common method used by terrorists in conflicts, whether by various extremist Palestinian groups, or by the most radical groups of Kashmiri or Chechen separatists. It also implies that terrorism may be used as a method of operation, not just in any armed conflict, but only in an armed conflict which is either asymmetrical or at least has an important asymmetrical aspect.

No state is completely safe from conflict-related terrorism, as any state might find itself fighting an asymmetrical conflict, whether domestically (such as the UK involvement in Northern Ireland) or far away from home (such as the UK military involvement in Iraq since the end of the combat stage of the 2003 war). In any case, however, for an armed conflict to qualify as an asymmetrical one (in terms of the level and status of the parties), the

state as one of the parties to an armed confrontation has to be identifiable, i.e. at least more or less functional.

It could be argued, however, that that such «asymmetric conditions» (a confrontation between one or more non-state participants and domestic or foreign states) while most favourable for conflict-related terrorism, are not necessarily the most typical circumstances in which international peace operations are carried out. In an asymmetrical conflict between state (particularly a relatively powerful state, such as the United Kingdom, Israel, Russia or India) and non-state participants (such as the Irish Republican Army prior to 1997 and a number of the more radical «splinter» groups, such as the Real IRA and the Continuity IRA or various armed groups involved in terrorist activities in Chechnya, Middle East, Kashmir or in other conflict areas), as long as the state itself remains more or less in control of the situation and combines anti-terrorist and counter-insurgency operations with attempts to build peace and with some form of recovery and reconstruction activities, it is unlikely that any international involvement in the peace process and conflict management efforts will take the form of peace support operations on the ground.

In contrast, in an absence of a functional state, there seems to be little room for asymmetrical warfare in general and for terrorism in particular in the local context, as there is no state to serve as an ultimate target for non-state participants to pressure by hurting or threatening civilians. Why then are we talking about terrorist threats posed by a number of conflicts in the last decade (from Afghanistan to Somalia), where the local context has been characterized not in terms of *functional* states, but in terms of *failed* and *dysfunctional* states? From the counter-terrorist perspective, *failed* or collapsed states can pose even more complex challenges of two types.

First, while the use of terrorist means do not make much sense within the local context, as there is not much place for asymmetrical warfare, they can still be employed by local groups against neighbouring «functional» states (especially if perceived as occupying or meddling powers) or, in the case of a foreign or international diplomatic, humanitarian or business presence in the conflict area or in a wider region, employed against foreign or international targets (as, most recently, in «post-war» Iraq).

Secondly, *failed* states offer opportunities for external groups or illegal trans-national networks (including terrorist networks) for relocation, sanctuary or transportation of arms and people.

In both cases, the impact of terrorism is not confined within the failed state and has wider regional and international implications.

No need to say that it is particularly problematic to apply counter-terrorist measures to weak or failed states, as they are intersections of homegrown and international terrorism, where the line between them can be very blurred, and have no effective national/local state capacity to fight terrorism. In the absence or weakness of such capacity, it is the international community, led by the U.S, that in the aftermath of 9/11 has found itself increasingly pressed to take upon itself certain counter-terrorist tasks in failed states; tasks that otherwise would be the responsibility of and associated with functional national authorities. This problem seems to have poor prospects for being solved simply by applying counter-terrorist measures from the outside, unless a workable and legitimate local state capacity and internal defenses are rebuilt, which in most cases would require some form of external/international assistance. In summary, it is the phenomenon of the *failed* states that most strongly link anti-terrorism to international peace operations, particularly to peace-building and, more specifically, state-building activities and it is in this context that counter-terrorist concerns could and should be used to reaffirm the rationale for conducting international peace operations in *failed* states. Even from the purely counter-terrorist perspective ***the significance of international peace operations, particularly in their most ambitious peace-building form, is that they are literally aimed at rebuilding one of the most effective tools to combat terrorism i.e. a state that is both functional and legitimate***.*

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* These notes are a follow-up to a more detailed report published within the framework of the Stockholm International Peace Research Institute (SIPRI) research project on "Terrorism and Armed Conflict". See Stepanova, E., Anti-terrorism and Peace-Building During and After Conflict (Stockholm: SIPRI, June 2003), 54 p.; *http://editors.sipri.se/pubs/Stepanova.pdf*

Part III
PARLIAMENTARY OVERSIGHT AND LEGISLATIVE ISSUES OF PEACE OPERATIONS

The Role of Legislative Power in Decision Making on Peace Support Operations

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Global political developments at the end of the XXth and beginning of the XXIst centuries clearly show a proliferation of new ways of using military force, referred to as "operations other than war". They include, inter alia, a whole complex of peace support operations, from peace enforcement up to post-conflict peace-building. The experience gained during the 1990's has proved that peace support operations have become an essential component of international relations within the CIS zone. While hotbeds of separatism still exist in Abkhazia, South Ossetia and Trans-Dniestr, and the situation in Central Asia still remains complicated, peace support operations will remain necessary for the CIS member states. The situation also remains tense in the regions neighbouring the CIS which could also result in a series of peace support operations within close proximity to CIS territory. CIS member states will also most probably join international peacekeeping efforts under the aegis of the UN and/or other international organizations, both near and far from their national territories. Generally, peace support operations will remain an essential element of the CIS member states' military activities.

So what is the role of legislative power in political decision making related to the participation of CIS member states in peace support operations? In a broad, conceptual sense, the shaping of democratic civil-military relations requires a serious parliamentary role and responsibility in decision making on military issues. They, undoubtedly, include problems of peace support operations. Moreover, the experience of the democratization of the former authoritarian/totalitarian regimes makes it abundantly clear that you can not build a true democracy without democratic control over the security sector as a whole. This derives from the political role of parliament as a state body representing interests of all social strata. However, in transitional societies parliament could become an instrument of political adventurism for those interested in the restoration of anti-democratic regimes.

In a more practical sense, however, it is difficult to define with greater accuracy the role and responsibility of parliament with regard peace support operations. Leaving aside questions over the real democratic level of these transitional societies, one can foresee at least several problems arising. Without question, parliament should not be involved in the day-to-day command and control of peace support operations. This should not be an excuse, however, for those who wish to diminish the role of parliament and make it merely a formality. Therefore it is necessary to define precisely and to fix in legislative terms parliament's authority with regards control over executive power in the course of peace support operations, namely:

- Parliament should give general approval to the participation of a country's armed forces in the peace support operation. Members of Parliament should be obliged to take into account the peacekeeping mandate, and other basic documents on the status of troops participating in the operation; their period of stay in the zone of operations; the method of troop replacement; their tasks and command and control structure; the guarantees and compensations for peacekeepers, and other politically important conditions and details of the peace support operation. Parliament is not supposed to approve each of these documents, although the agreement of parliament to approve the participation of the

armed forces in the operation should be conditioned by the parliamentarian authority to amend documents, as mentioned above.

- Parliament should have the authority to stop and/or suspend the participation of the armed forces of a state in the peace support operation, if the conditions of their participation in the operation are being changed, or the international military or political situation in the conflict zone is undergoing change, etc. To provide for practical implementation of these authorities, parliament should have the right, at any given moment, to consider whether the participation of a state in a peace support operation should be continued.
- Parliament should approve the financing of the participation of the armed forces of a state in a peace support operation.
- To provide for effective implementation of its authority, as mentioned above, parliament should be regularly and properly informed on the situation in the zone of the peace support operation, including information about human losses, and the quantity of material, medical, and other supplies used in the support of servicemen, etc.

A Parliamentary Perspective on Peace-Support Operations

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This paper contains the analysis of model law of the Commonwealth of Independent States on peacekeeping operations from a viewpoint of modern developments in the realm of peace-support operations.

Modern peace-keeping and the situation in Iraq

Discussing the tendencies of modern peace-keeping it is impossible to avoid mentioning horrendous attacks on the UN representation in Baghdad. Nothing will ever be the same in international affairs and in peace-support operations. The war in Iraq and the two successive bombings of the UN premisses have marked a dramatic turning point.

The situation in Iraq has posed the following questions before the international community:

- How to address the deep blow inflicted on the international system by unilateral action and by deliberate and arrogant disregard for all principles of international law?
- How to face and curb the aspiration of some states to impose security and order — their security, their order — when total security and order is pure myth, and a dangerous one, that has led in the past, and is currently leading to policies and action that eventually prompt exactly what they claim they aim at avoiding?
- How to prevent that the values of democracy and human rights are not violently rejected simply because they are been used (and abused) to disguise selfish economic and strategic interests?
- In other words, how to make sure that peace support operations do not serve the interests quite foreign to their stated objectives,

and that national engagement in such missions is based both on respect for international law and on values and approaches that are consistent with the UN Charter, in addition to being consistent with the national Constitution?

Modern security issues

With all States exposed to terrorism or to the consequences of the armed conflicts as well as to the social and economic difficulties the concept of security has acquired a different and larger meaning than before. It transcends the traditional idea of security, which was essentially military, and has been substituted by the concept of human security. This concept encompasses a wide range of concerns. In international jargon, it covers both «freedom from fear» and «freedom from needs».

At the same time, security within national boundaries, while remaining any state's priority concern and objective, is henceforth perceived as only a part of human security, like one piece of a larger puzzle. The responsibility of any state to secure its internal stability and security is seen as a responsibility not just towards its citizens but towards the entire world since internal problems may eventually turn into a threat for neighboring but also distant states and even into a world concern.

Increasingly though, ensuring security has become a complex challenge. In the last couple of decades the following tendencies have developed:

- new forms and modalities of conflict have emerged;
- new kinds of combotants appeared (including thousands of teenagers);
- new security actors have emerged or become stronger;
- the civilian population have turned into deliberate target of belligerent action or been used as shields or negotiation chips;
- trafficking of arms and lethal substances has become more sophisticated, complex and difficult to trace;
- cyber-crime, especially in relation to financial assets, has expanded;
- a wide range of new military and non-military technologies have been developed that can be applied not only by the military, the

para-military and the intelligence services but also by guerrilla and opposition groups;
- the role of the media in the context of conflict has evolved dramatically, with some media being directly associated to military action as we witnessed in Iraq.

That list could be expanded by noticing that in today's conflicts humanitarian actors are no longer at safety: increasingly, the military tend to blur the difference between them and humanitarian organizations with the result that these organizations become the direct targets for conflicting sedes. This is a situation that weakens them and weakens at the same time the protection they can offer to those exposed to the conflict. This process is especially dangerous when UN personnel becomes a military target. Surely, the UN need to be drastically reformed, but there is no other alternative to supporting a world organization providing collectively agreed responses to security challenges.

Peace support missions

Traditionally peace support operations have form part of such a response. While envisaged in the UN Charter from the very early days of the United Nations, peace support operations, and more especially peacekeeping and peace enforcement operations, have rather been an exception until the early eighties. Yet, in recent years, they have become not only more numerous but also far more complex, more costly and risky. The emergence of a more global world and increased awareness that a breach of human rights or bad governance — wherever they occur — could endanger world peace and security, have turned peace support activities into a central concern and a central task for military and other security forces as well as for civil administrations around the world. No State can any longer afford to ignore that dimension in its legislation as well as in the training and career of its security forces and in its security budget.

This clearly forses Parliaments and their members to face a series of political, institutional, legal and practical challenges. Developing comprehensive legal tools with regard to peace sup-

port operations has become an urgent task for legislators. Without denying national specificities, the CIS draft Model Law attempts to lay down key elements and guidelines which ought to be taken into account for a sound and consistent management of peace support operations on the national level. The draft is already quite solid and covers a lot of ground. Nevertheless it can be reinforced from the point of view of parliamentary control and also from a perspective of human rights and humanitarian law.

Terminology

Draft CIS Model Law should include a section on terminology. It is important to take in account in this law specific United Nations definitions of peacemaking, peacekeeping, peace enforcement and peace-building which, together with missions of a purely humanitarian relief character, constitute different types and degrees of international efforts towards peace to which any state may be called upon to contribute. Such consistency between the vocabulary used in the Model Law and the UN language would help to keep the mainstream of CIS efforts towards peace within the framework of UN endeavors.

Parliament's role: host or contributor

A clear distinction should be made in the final text between situations in which a CIS member State is a recipient of a peace mission and situations in which if takes part in international peace efforts abroad. These two scenarios are quite different and, as far as Parliaments and their members are concerned, they call for different responses, especially as they have very different impacts on societies. Addressing them in one single section may in fact blur these differences and generate some legal and practical problems.

Furthermore, in elaborating about the two types of scenarios, it would be important to refer to the role of the Parliament and its members. Such role, while only complementary to that of the Government and the security forces, is crucial. It involves evaluating the political and other rationale for a mission and includes a contribution to the decision-making process with regard to defin-

ing the specific terms of reference of the mission, the rules of engagement and the line of command, the human, material and financial resources to be mobilized for the mission, the operation phases and general modus operandi, and finally the assessment of the mission's outcome and impact.

To achieve its objectives, Parliament has at its disposal a series of institutional tools which are not always as useful as members would like them to be but that may be applied to the best: debates, committee work, public hearings and inquiries, oral and written questions to the Government, possible visits to the troops forming part of a peace mission, etc.

Key principles

All CIS member States form part of the United Nations and, as such, they are bound by the eight indivisible and equally important following principles which could also be more thoroughly and explicitly referred to in the Model Law:

- Principle I. Refraining from the threat or use of force;
- Principle II. Peaceful settlement of international disputes;
- Principle III. Inviolability of frontiers and territorial integrity of States;
- Principle IV. Right of peoples to self-determination and to life in peace on their own territories within internationally recognized and guaranteed frontiers;
- Principle V. Sovereign equality of States and non-intervention in internal affairs;
- Principle VI. Respect for human rights;
- Principle VII. Co-operation between States;
- Principle VIII. Fulfilment in good faith of obligations assumed under international law.

These principles include the obligation for all CIS member States to contribute to international peace efforts which may be aimed at inter-State conflicts but also, and increasingly so, intra-State conflicts and civil wars.

Grounds for getting involved in a peace mission

Surely, it is the security forces that have the technical competence to advise the Government about the expediency and feasibility of either getting involved in a peace mission abroad or hosting such a mission at home. Yet, Parliament and its members are the legitimate representatives of the people and of national collective values. As such they should not be marginal in the political decision-making process and in assessing the financial and other consequences as well as the popular support enjoyed by the potential operation.

It is thus quite proper that, in its Article 8, the draft Model Law should state that the final decision on any military involvement «shall be made by Parliament». Indeed, this provision could also concern para-military personnel and more especially the police which is often asked to take part in peace missions. In addition, a similar provision could be included in Article 9 with regard to the involvement of civil personnel as there is no reason why Parliament should be consulted on military or para-military involvement but not on civil involvement. Its opinion and decision is equally important in all cases.

From a good governance perspective, it is also crucial to make it explicit in the Model Law that the decision by the people's representatives shall be taken not post factum but, on the contrary, a priori. It is true that — due to institutional, procedural and of course political constraints — Parliament may be slow in taking its final decision and that this may cause a problem, especially where an emergency is involved, but, on the other hand, the decision will gain in legitimacy and popular support, a point that may be crucial in raising the necessary funds or even in enrolling public support for pursuing the efforts despite any casualties or difficulties suffered by the national force.

In addition, Parliament ought to receive all available elements of information so as to enable its members to make a sound and informed decision. As stated in draft Article 5.2, a lack of proper grounds or a poorly documented proposal should detract the State to become involved in a mission, and it would be good link

to make a between that provision and Article 8, so as to refer to Parliament in that connection.

It is further crucial that the Model Law clarify that Parliament's role shall not be confined to debating the issue but that, as stated in Article 8, it shall be responsible for taking by law all necessary provisions regarding the involvement of national forces in any peace mission abroad. The law should also define in principle the reasons, conditions and modalities for withdrawal of peacekeepers.

Budget, reporting on the peace support mission and lessons learned

Critical areas through which Parliament may exert a real influence on both military issues and peace-support operations are the approval of the budget and later the study of the outcome of the national audit of accounts. In a democratic environment, it is quite proper that Parliament may be presented with budgetary estimates prior to making a final decision on engaging in a peace support mission. Wherever Parliament has to approve funds post factum, its position and margin for maneuvre, while still strong, will be more restricted. And clearly, Parliament should avoid any situation whereby the Executive engages a mission on the basis of reserved funds, without relevant information being provided to Parliament.

The CIS draft law envisages an annual report to a Parliament. The report should concern the rationale, the terms of reference, the rules of engagement, the human material and financial resources made available, the actual conduct of the operation in its different phases, the outcome and finally the impact of and possible follow-up to any peace support mission. An explicit reference to the audit of the budgetary provisions would be proper here too.

Finally, it would be good if common guidelines for reporting were developed so as to enable CIS States to develop a consistent approach and to draw lessons from past experience. This would be useful in planning for further missions. It could further help developing a collective peacekeeping «culture» by CIS member States that have contributed to peace support missions and allow for exchange of experience.

The Parliamentary Dimension of Oversight over the Military[1]

Wim F. van Eekelen,
Member of the Netherlands Senate, former Vice-President of NATO Parliamentary Assembly

Parliamentary Control

In principle, parliamentary control should extend to all sectors of government activity, particularly in terms of budget allocations. Nevertheless, it has to be admitted that security and defense have special characteristics. Ever since Plato the question has been raised of how to control the custodians. The army was a source of power for the sovereign, but also a potential threat. In feudal days the King himself was the field commander and his vassals came to his aid with their contingents. When armies came to rely on mercenaries their loyalty depended on the extent to which their leaders were able to finance the campaign. All that changed with the advent of conscript armies, which involved every citizen but also led to an officers' corps with its own professionalism, traditions and culture. The army became integrated into society, but the growing complexity in training, equipment and logistics caused a gap between political aims and military needs. The military by and large accepted the primacy of politics, but felt that their governments did not provide them with the means to carry out the tasks allotted to them. Conversely, politicians became increasingly concerned about the use of military power, both in terms of their control over the budget and on moral and legal grounds. The increase of destructive power of new technologies raised issues of deterrence, defence and protection of the civilian population. Recently, the pendulum came swinging

[1] First published in DCAF Occasional paper 2 "Democratic Control of Armed Forces: the National and International Parliamentary Dimension" — Geneva, October 2002.

back from conscript armies to volunteer forces in view of the difficulty of dispatching conscripts on missions of peace support and intervention. This problem could be circumvented by forming volunteer units among the conscripts, but even then questions remained. Would their time of service be sufficient to master the technological skills required? And, more importantly, was it fair to call up only some of the eligible young men when the army no longer needed all of them?

One should speak of democratic control of the armed forces rather than civilian control. Of course, politicians should be civilians. After Stalin and Tito only president Tudjman of Croatia wore a uniform as head of state and then only occasionally. The point is that civilian leadership is not necessarily democratic. Which brings us to the next question. How deeply should democratic control be applied? Intelligence and military planning often do not lend themselves to full disclosure. In a crisis, rapid decision-making is of the essence and the actual conduct of operations should be left as much as possible to the military commanders, once their terms of reference and rules of engagement have been clearly defined. In this respect the dictum attributed to Clemenceau that 'war is too serious a matter to be left to the generals' requires some refinement. One should not construct an adversarial relationship between military and civilian, it is the primacy of politics that matters. While it is true that the military have to be under democratic control — for such as overall security policy, security requirements and the decision to use force — micromanagement is not a task for politicians. In particular, generals should be held accountable for their conduct within their terms of reference and accept the primacy of democratic politics. A successful defense policy relies heavily on a climate of mutual respect, recognition of professional competence and transparent decision-making procedures which reflect military as well as political inputs. Ultimately politics will prevail, but the military must feel confident that their views have been taken into consideration.

The borderline between delegation of authority on the one hand and responsibility and accountability on the other, is one of the crucial questions in modern democracy, accentuated by the flood of information coming from all sides: government, media,

non-governmental organizations and pressure groups. It is a constant challenge to every parliamentarian to steer a steady course amid the daily temptation to intervene on the basis of headlines in the morning papers. This challenge is even greater in security affairs where human emotions are easily aroused, often on the basis of incomplete information, but the decision to dispatch soldiers into possible danger is a matter of life and death.

In a parliamentary democracy, the government — i.e. the Head of State and the Cabinet — functions under the control of parliament. Over the centuries parliamentary powers have increased greatly. Originally their function was to allow the princely ruler to levy taxes, which later developed into a balance — often uneasy — between rights and duties of the sovereign and his citizens. Today, they cover a wide spectrum which varies considerably among European countries, but can nevertheless be outlined as follows.

— To provide support for the government on the basis of electoral party platforms or the agreement on which a coalition is formed. When a new government takes office and makes a policy statement (which includes defense issues), usually a vote of confidence is called or a motion of no-confidence debated.
— Legislative authority on bills introduced by the government or individual members and accompanied by an explanatory memorandum. Drafts are considered in standing committees and written questions asked. Sometimes hearings are organized. Approval is granted after a debate in plenary where amendments and motions are considered and which is concluded by a vote. Sometimes it is allowed for oral explanations of the votes cast to be given.
— Controlling authority over the executive which can be divided into political control (does the government still enjoy the confidence of the majority of parliament), policy control (through oral and written questions or the more substantial means of interpellation to question a specific act of policy), budgetary scrutiny and finally accountability on the basis of reports from the Board of Auditors about the implementation of the budget. In cases where serious misconduct might have occurred, Parliament has the authority to hold a formal inquiry. A parliamentary inquiry resembles a court of

law in so far as it can call witnesses and interrogate them under oath, seize documentation etc.

Policy control through the right to request information through written and oral questions and in debates, if used extensively, brings parliaments close to the executive function of government. In most Western parliaments there is a tendency to move beyond control ex post facto to participation in the governmental decision-making process even before the cabinet has tabled a formal proposal. In some cases a pending governmental decision is even forestalled by anticipatory parliamentary action.

Parliamentary Practice in the Field of Security Policy

In the field of foreign affairs and defense, parliamentary practice varies even more than in the other domains of government activity. All Western parliaments have Standing Committees on Foreign Affairs and Defense, many also on European Affairs and Intelligence. Germany probably has the closest scrutiny of the defense budget. France works with a rapporteur whose findings are subject to a general debate. The Netherlands legislative process contains several rounds of written comments and questions from all parties to which the government responds extensively before an oral debate can take place.

The challenge is to devise a method by which the constitutional role of the legislature can be exercised in a purposeful and professional manner. If a rigorous method is not formalized, parliamentary control is in danger of becoming political rhetoric, leaving too many opportunities for the bureaucracy and the military to go their own way. A model for a policy-making and review cycle could be as follows:[2]

1. Research on and assessment of problems and policy options

a) determining the entire range of external security problems facing a country; determining the need to define a policy to

[2] Taken from SIPRI publication «Arms procurement decision making, Volume II» edited by Ravinder Pal Singh, Oxford University Press, 2000, p. 4-5.

address those problems; and devising methods to identify priorities among the problems so defined;

b) identifying methods, frameworks and processes for policy implementation, monitoring, review and scrutiny, and adjusting policy;

c) building up information and data on policy options; and

d) building up information and data on alternative methods of policy implementation.

2. Examining policy alternatives

a) forecasts of alternative scenarios and assessment of the methods of implementing alternative policies;

b) advanced research to examine the impact of alternative policies on each of the alternative scenarios; and

c) analysis of the strengths and weaknesses of each policy and the opportunities they offer in advancing national security and society.

3. Decision-making and implementation

a) deciding on policy and defining responsibilities, resources and timeframes for implementation;

b) selecting methods for policy monitoring and review and for carrying through a change or adjustments in policy; and defining decisions that would need to be taken in order to implement the policy, and setting objectives.

4. Policy evaluation and review

a) periodical scrutiny of the objectives and results; monitoring of effectiveness in terms of costs and benefits; and evaluation of the implementation;

b) review of policy implementation, methods, resources and priorities, and assessment of the impact of policy on problems; and

c) meta-evaluation — examining the evaluation process itself, to validate the objectives of policy, methods, assumptions and supporting data and processes.

5. Policy reassessment, adjustment or termination

a) decision on continuation of policy; corrections by the executive;

b) decision on policy modification — major corrections and adjustments; and

c) decision on termination of policy. A decision to stop the policy means initiating a new policy, which involves going back to stage 2.

How Much is Enough?

The terrorist attacks on 11th September 2001 will undoubtedly have an impact on defence planning. The link between internal and external security has become more explicit, which will require close cooperation between the military, the police and the intelligence services. Disaster relief and the protection of vital objects will be strengthened and the military will consider increasing their special services capability. In the past they dealt with terrorism on a domestic basis and only a few countries possessed capabilities for action abroad in a hostile environment. Now such operations will also acquire a multinational dimension. The attacks also demonstrated the need for flexible forces, for it is no longer enough to argue that defense planning should be «capability-driven» instead of the «threat-driven» approach from the Cold War years. Capabilities, yes, but the capabilities needed are constantly changing, which poses a special problem for long-term defense planning. Moreover, in a no-threat environment it is very difficult to quantify military requirements, as the yardstick of potential opponents seldom lends itself to numerical conclusions. The question "how much is enough?" is harder to answer than ever before. Unmanned aerial vehicles proved even more useful in Afghanistan than in the Kosovo campaign and are likely to become more important, not only in reconnaissance but also in delivering weapons on target. This is only an example, but it shows that opinions on likely future developments are bound to vary. Only a transparent debate on future trends can avoid miscalculations in force planning.

Parliamentary control cannot function properly without adequate internal mechanisms of inspection and of dealing with complaints within the defense establishment. Public reports by an inspector general and an ombudsman greatly assist the parliamentary committee in judging the overall situation in the services and the morale of their personnel. The same goes for reports from independent think-tanks and the media. Full transparency is the best way to build a public consensus behind the armed services by showing that taxpayers' money is well spent and that the defense department is a good employer for its personnel. If soldiers, sailors and airmen are to risk their lives, they are entitled to

good equipment and support. In that respect democratic oversight of the military sector addresses only a part of the larger problem — building up awareness in society of citizens' fundamental right to know how the state is planning and applying policies for their security.

Such transparency and the ensuing public discussion will to a certain extent make up for the lack of expertise available in most parliaments. With the present flood of information on all conceivable issues, a small staff of a parliamentary committee possessing an adequate database and Internet facilities should be able to cope. If necessary, hearings should be organized, either in public or behind closed doors. The obstacle of secrecy becomes increasingly irrelevant in our information age. Only very few things deserve to remain secret. Not all governments have realized this.

Parliamentary Defense Committees

The Parliament as a whole is too unwieldy a body to make full inquiries into matters of interest to it and to consider issues in detail. This is why parliamentary committees have become one of the most powerful tools for efficient parliamentary business. As a body involving a limited number of members of parliament, parliamentary committees can — depending on the level of means (information and research capacity more especially) and expert support they enjoy — perform in some depth the vast and complex task of overseeing the security sector.

Nearly all parliaments have a specialized standing committee on defense or security issues. The main areas they cover are usually the following, depending on the provisions of the constitution and the standing orders of the parliament:

Military doctrines and strategies;

Long-term planning of the security sector, including high-level documents such as the regional and national security concept, or defense planning;

Missions, tasks and objectives of the military;

General organization of the defense sector, including defense reform issues;

International cooperation and treaties in the military/security/international humanitarian law realm;
Peace missions: decision to participate in, or accept on national territory, international peace missions (peace-making, peace-keeping or peace enforcement), mandate, rules of engagement, type of troops and equipment (armament);
Disaster relief operations of the armed forces;
Control of the execution of the defense budget;
Industries involved and employment aspects;
National service and military recruitment policy (civil and military staff);
Gendarmerie and Paramilitary organizations, sometimes only during exceptional circumstances;
Military justice.

Parliamentary committees vary in their powers to collect and receive evidence from external sources. Some parliamentary committees, such as the ad hoc standing committees of the British House of Commons, are not entitled to collect evidence themselves whereas other committees, such as those in the US Congress, have nearly unlimited power to take evidence from external sources.

Some parliamentary committees enjoy the capacity to legislate (e.g. the committees on defense of Canada, Belgium, Germany, Italy, Luxembourg, Norway, Poland and Turkey) — adopting or even drafting new laws or proposing amendments to existing legislation — while other committees are only entitled to scrutinize action by the Executive and the budgetary appropriations without being able to legislate (e.g. Hungary, United Kingdom).

In some countries, the parliamentary committee of defense/security has to present an annual report to parliament on the activities of the defense sector. This report can be followed by a vote, and even sometimes by a vote of confidence.

Finally, the level of means and expertise available to a committee will be crucial to whether it can perform its mandate effectively: the number, capacity level and stability of the staff servicing the committee; the research capacity and its nature (specialized versus general; separate versus part of the broader parliamentary

research unit); access to data and relevant support documentation (the capacity to obtain and copy it); the capacity to call on experts; the capacity to holds hearing and to carry out inquiries.

Key functions that may be performed by a committee on defense or security issues:

Security policy

To examine and report on any major policy initiative announced by the ministry of defense;

To report annually on the ministry of defense's performance against the objectives of the national military/security strategy;

To periodically examine the defense minister on his discharge of policy responsibilities;

To keep under scrutiny the ministry of defense's compliance with freedom of information legislation, and the quality of its provision of information to parliament by whatever means;

To conduct inquiries and report to the parliament on any issues raising special concern (as can happen in Belgium, Canada, Germany, Hungary, Italy, Norway, and others, though it is not in the authority of the committee in countries such as Poland and Turkey);

To examine petitions and complaints from military personnel and civilians concerning the security sector.

Legislation

To consider, and report on, any draft legislation proposed by the government and referred to it by the parliament (as with the committees on defense of Canada, Belgium, Germany, Italy, Luxembourg, Norway, Poland, Turkey and others);

To consider international or regional treaties and arrangements falling within the area of responsibility of the ministry of defense, and to draw the attention of the parliament to those which raise particular questions of policy requiring debate or other consideration: ratification or adhesion, corresponding policy and legislation, budgetary appropriations;

If appropriate, to initiate new legislation by asking the minister to propose a new law or by drafting a law itself (as with the committees on defense or national security of Belgium, Canada, Hungary, Italy, Norway, Poland, Turkey and others).

Expenditure

To examine, and report on, the main estimates and annual expenditure of the ministry of defense;

To consider each supplementary estimate presented by the ministry of defense and to report to the parliament whenever this requires further consideration;

To report periodically on the impact of efficiency savings on the running cost of the ministry of defense;

If necessary, to order the competent authorities to carry out an audit.

Management and Administration

To consider the reports and accounts of each branch of the armed forces and to report periodically on whether any matters of particular concern are raised;

To consider and, if appropriate, to take evidence and report on each major appointment made by the relevant executive authority (leading military commanders, top civil servants);

To consider the internal organization of the defense sector, eventually through external bodies relating to the parliament (e.g. ombudsman), and to draw the attention of the parliament to possible malfunctioning.

Parliamentary Control Over the Budget

Most parliamentary democracies have standing committees to cover each government department. Their size and attributions vary considerably. In Germany the Basic Law provides for standing committees for Foreign Affairs, Defense, European Union Affairs and Petitions. The Bundestag is free to establish other committees. Currently, the Defense Committee comprises 38 members, reflecting the relative strengths of the parliamentary groups in parliament, and an equal number of substitutes. In the UK the select committees are much smaller and number around 12 members.

In Germany the traditional task of the Defense Committee is to deliberate on bills and motions for resolutions referred to it by the plenary of the Bundestag. It can also consider issues on its own initiative, mostly to discuss reports the Committee has

requested from the Federal Ministry of Defense. It has the right to summon a member of the government to a committee meeting at any time. The Defense Committee is the only committee which may declare itself to be a committee of inquiry. On the budget the committee has an indirect role in reporting its examination (taking several days each year) to the Budget Committee.

All procurement projects over 25 millions Euro have to pass the committee. The German Bundestag also appoints a Parliamentary Commissioner for the Armed Forces, who works closely with the Defense Committee and regularly attends its meetings. His primary task is to protect the basic rights of service personnel and to ensure compliance with the principles of Innere Fuhrung, the concept of leadership, dignity and civic education.

In 1994 the Federal Constitutional Court in Karlsruhe ruled that the prior consent of the Bundestag was required for all missions of the Bundeswehr except in cases of imminent danger. The manner in which parliament would handle these matters could be regulated by law. Parliament does not have the right to demand on its own initiative that a mission should take place.

In the Netherlands every draft law, including the budget, is subject to a written phase in which the relevant committee asks questions and obtains written answers before an oral debate takes place, usually in plenary. Policy questions are discussed in committee and, when sufficiently controversial, also in plenary.

Looking at NATO countries generally, the manner of detailed scrutiny of the budget varies considerably. In principle, it should be possible to examine it line by line. In its most extensive mode it concerns both authorization of expenditure as proposed and amendment of the figures. The latter can take the form of increasing or decreasing the line item, but usually this is done in connection with another article to effect a change in priorities. Depending on the constitutional possibilities for doing so, multi-annual budgeting for defense projects is recommended, because it facilitates smooth implementation. Such authorization, however, should be accompanied by reliable reporting arrangements to ascertain whether a project is on track and the money made available for it is not diverted to other purposes.

Parliamentary scrutiny is at its most effective when policy control is combined with accountability for past and current performance. Most countries possess a Planning, Programming, Budgeting and Evaluation System (PPBES), but in many cases the evaluation aspect remains underdeveloped. That is not surprising, as it is labor-intensive and politically sensitive. The Netherlands government introduced an overall system of 'policy accountability' in 2001 giving more information about policy objectives, the performance required and the resources made available. It aims at the ability to measure not only input and output, but also outcome. In the field of defense the new system is combined with the ongoing program of costing the various units and tasks, which is a precondition for judging their cost-effectiveness.

Conclusion

The analyses can be summed up as 13 principles[2] that ensure the military play their proper role in a democratic society:

a) the existence of proper constitutional and legislative structures with clearly defined responsibilities for the executive and legislative branches and a system of checks and balances;
b) coordination between foreign and security policy-making structures and processes, the primary role being played by the former in formulating a country's external policies;
c) a clear political primacy in the ministry of defense, the military being ultimately accountable to the democratically-elected representatives of the public;
d) substantive parliamentary oversight involving members of parliament trained in the techniques for and the responsibilities of holding the military authority accountable;
e) the presence of expert professional staff in national parliaments to keep the members fully informed on key security issues and related data;
f) the development of a cadre of security policy experts in the public domain, specializing in a range of security issues in order to generate public debate;

[2] This list is an amended form of the points raised in the SIPRI publication by Ravinder Pal Singh.

g) statutory audit structures to prevent corruption, fraud and abuse of public resources by the military, which remain unknown to the public because of military confidentiality;
h) transparency in the defense budget-making process in order to prevent the military's threat perceptions being driven by interest groups;
i) training and education in the armed forces about the role of the military in democratic society, including respect for human and civil rights;
j) a fair and effective military justice system that enforces established standards of conduct and discipline and allows complaint procedures;
k) an open and informed national debate preceding major decisions on national security and military matters;
l) the commitment of armed force outside national borders should require broad endorsement by the elected representatives of the population;
m) depoliticization of the army's role in society but also minimum political interference in professional military matters.

Annex I: The Powers, Procedures and Practices of Parliamentary Oversight of Defence in the NATO Member States[1]

PART A: Committee Structure and Organisation

	1a. Original Name	1b. English Name	2. Number Members	3. Annual Budget	4. Assisting Staff
BEL	Commissie Voor de Landsverd-ediging/Commission de la Defence Nationale		17		1
CAN	Attending Committee on National Defence and Veteran Affairs		16		3
CZR	Vybor Pro Obrano A Bez-pecnost	Committee on Defence and Security	19		4
DEN	Forsvarsudvalget and Det Udenrigspolitiske Naevn	Defence and Foreign Policy Committee	17	€33.333	3
FRA	Commission de la Defense National et des Forces Armes	Committee for National Defence and Armed Forces	72	€130.000	11
GER	Verteidigungsausschuss	Defence Committee	38		8
GRE	Aiapkhs Emitpomh eonikhs amynas kai eeotepikon ymooeseon	Standing Committee for National Defence and Foreign Affairs	50		1
HUN	Nemzetbiztonsagi Bizott-sag	National Security Committee	15	€4000	2
ICE	.	.	.	.	.
ITA	Commissione Difensa della Camera del Diputati	Defence Committee (Chamber of Deputies)	43		4
LUX	Commission des Affaires Etrangeres et Europeen-nes et de la Defense	Committee for Foreign and European Affairs and for Defence	11		2
NET	Vaste Kamercommissie Voor Defensie	Standing Committee or Defence	30	Aprox. €25.000	5
NOR	Stortinsets Fursvarskomite	Standing Committee on Defence	10		1
POL	Komisja Obrony Naro-dowej	National Defence Committee	18		3
POR	Comissao de Defensa Naciona	Committee on National Defence	26		3
SPA	Comision de Defensa	Defence Committee	40		4
TUR	Milli Savunma Komisyonu	National Defence Committee	25	€130 millions!	3
UK	Defence Committee		11		7

[1] Research carried out in cooperation between DCAF and NATO-PA. DCAF: Dr. Hans Born (Project Leader), Mr. Matias Tuter (Research Assistant). NATO-PA: Dr. Wim van Eekelen, Ms. Svitlana Svetova

PART B: Committee Procedures

	5. Regulation Source	6. Public Meetings	7. Secret Meetings	8. Meeting Frequency	9. Chairman Election	10. Chairman In office
BEL	RoP and custom	Y	Y	Once a week	C. Members themselves and political parties	19
CAN	RoP and custom	Y	Y	Twice a week	C. Members themselves	4,5
CZR	RoP	Y	Y	Twice a month	The Parliament and C. Members themselves	10
DEN	Const, Law, RoP and customs	N	N	Once or twice a month	C. Members themselves and political parties	18
FRA	Const, Law, RoP and customs	N	Y	Once a week	C. Members themselves and political parties	24
GER	Const, RoP and customs	N	Y	Once a week	Political parties	22
GRE	RoP	N	Y	It depends	C. Members themselves	25
HUN	Law and RoP	N	Y	3\month	The Parliament	10
ITA	-	N	Y	More than twice a week	C. Members themselves	3
LUX	Const, RoP and customs	N	Y	1\2 \month	C. Members themselves	8
NET	RoP	Y	Y	Once a week	C. Members themselves	12
NOR	RoP	N	Y	Once a week	The Parliament and C. Members themselves	13
POL	Const, RoP	Y	Y	3\month	C. Members themselves	9
POR	Const, Law, RoP and customs	N	N	Once a week	C. Members themselves and political parties	22
SPA	RoP	Y	Y	Once or twice a month	C. Members themselves	12
TUR	Const, RoP, customs	Y	Y	1\2 \month	C. Members themselves	1
UK	RoP and custom	Y	Y	More than once a week	C. Members themselves	28
US	RoP and custom					

PART C: Committee Procedures

	11. Members Reelected	12. Chairman Opposition	13. Expertise Criterion	14. Previous Discussi on	15. Minority Reports
BEL	13	N	Y	Y	Y
CAN	5	N	N		
CZR	10	Y	Y	Y	Y
DEN	9	N	N	N	Y
FRA	32	N	Y	Y	Y
GER		N		Y	N
GRE	30	N	Y	Y	Y
HUN	0	Y	N	Y	Y
ICE	6	N	N	Y	Y
ITA	10	N	N	Y	Y
LUX	15	N	Y	Y	Y
NET	3	Y	N	Y	
NOR	5	N	?	Y	Y
POL	9	N	Y	Y	Y
POR	12	N	Y	Y	Y
SPA	N	N	N	N	Y
TUR	2	N	N	N	Y
UK					

Powers of the Defence Committee

Does the Parliamentary Committee on Defence and\or the Parliament (the Plenary) have the following powers?

	16 The Committee has oversight powers (oversight of military,executive,budget,enquires)	17 The Committee has a legislative function	18 To initiate legislation on defence issues	19. To amend or to rewrite proposed defence laws	20 To question the minister of defence	21. To summon the minister of defence to Committee\Plenary meetings and to testify	22 To summon military and other civil servants to committee meetings and to testify	23. To summon experts from society (NGOs\Universities\Think Tanks) to committee meetings and to testify
US								
UK	Yes	No	Neither	Parl.	Both	Parl.	Comm.	Comm.
TUR	Neither	Yes	Both	Both	Neither	Both	Both	Comm.
SPA	Yes	Yes	Parl.	Parl.	Comm.	Both	Comm.	Comm.
POR	Yes	Yes	Neither	Comm.	Comm.	Comm.	Comm.	Comm.
POL	Yes	Yes	Comm.	Comm.	Comm.	Comm.	Neither	Neither
NOR	Yes	Yes	Both	Both	Comm.	Comm.	Comm.	Comm.
NET	Yes	Yes	Parl.	Parl.2	5	Comm.	Comm.	Comm.
LUX	Yes	Yes	Parl.	Parl.	Both	Neither	Neither	Neither
ITA	Yes	Yes	Neither	Both	Both	Both	Comm.	Comm.
HUN	Yes	No	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.
GRE	No	Yes	Neither	Both	Both	Comm.	Comm.	Comm.
GER	Yes	Yes	Parl.	Comm.	Comm.	Comm.	Comm.	Comm.
FRA	Yes	Yes	Both	Both	Both	Comm.	Comm.	Comm.
DEN	Yes	Yes	Parl.	Both	Both	Both	Comm.	Comm.
CZR	Yes	Yes	Both	Both	Both	Both	Both	Both
CAN	Yes	Yes	Comm.	Both	Comm.	Comm.	Comm.	Comm.
BEL	Yes	Yes	Both	Both	Both	Both	Both	Both

BEL	CAN	CZR	DEN	FRA	GER	GRE	HUN	ITA	LUX	NET	NOR	POL	POR	SPA	TUR	UK	US	
Both	Comm.	Both	Both	Comm.	Comm.	Comm.	Comm.	Neither	Both	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.		24. To obtain documents from the ministry of defence and military
Both	Comm.	Parl.	Both	Both	Comm.		Comm.	Neither	Parl.	Comm.	Comm.	Neither	Comm.	Comm.	Neither	Comm.		25. To carry out investigations (parliamentary inquiries) on defence issues
Both	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.	Comm.	Both		Comm.	Neither	Comm.	Comm.	Neither	Comm.		26. To hold hearings on defence issues
No			No	No		Yes		Yes	Yes	No	No		No	No		Yes		27. Does the Plenary of the Parliament often change draft laws submitted by the Parliamentary Committee on Defence?

Comm. : power of the Committee
Plen : power of the Plenary
Both: power of the Committee and the Plenary
Neither: neither a power of the Committee nor of the Plenary

Notes: Questions 16 and 17 are introductory and can be answered by yes or no. Questions 18 to 26 show whether it is a power of the Committee on Defence (Com) or a power of the Plenary (Plen), or of both of them (Both) or neither of them (Neither). Question 27 is general question about practice and can be answered by yes or no

Budget control of Defence Issues

Does the Parliamentary Committee on Defence and\or the Parliament (the Plenary) have the following powers or procedures?

	28. Has access to all defence budget documents	29. Has the right to amend and to allocate defence budget funds	30. Control the defence budget by programmes	31. Control the defence budget by projects	32. Control the defence budget by line-items	33. Has the right to approve or disapprove any supplementary defence budget proposals
US						
UK	Neither	Neither	Neither	Neither	Neither	Plen.
TUR	Plen.	Plen.	Plen.	Plen.	Plen.	Plen.
SPA	Comm.		Comm.	Comm.	Comm.	Both
POR	Comm.	Comm.				Plen.
POL	Comm.	Plen.	Comm.	Comm.	Comm.	
NOR	Comm.	Both	Comm.	Comm.	Comm.	Both
NET	Comm.	Plen.	Comm.	Comm.	Comm.	Plen.
LUX	Both	Plen.	Plen.	Plen.	Plen.	Plen.
ITA	Both!	Both	Comm.	Neither	Comm.	Both
HUN	Comm.	Comm.				Plen.
GRE	Comm.					
GER	Comm.		Comm.	Comm.	Comm.	Comm.
FRA	Comm.	Both	Both	Both	Comm.	Both
DEN	Both	Plen.	Plen.	Plen.	Plen.	Plen.
CZR	Both	Both	Neither	Neither	Neither	Plen.
CAN	Comm.	Comm.				Comm.
BEL	Both	Both	Both	Neither	Neither	Both

Powers Concerning Peace Missions

Does the Committee on Defence and\or the Plenary approve the following aspects of peace missions?

	34 Participation in peace missions before the troops are sent abroad?	35 The mandate	36 Budget	37 The risks for military personnel involved	38 Rules of engagement	39 Command\control	40. The duration of the peace mission	41 The committee members have the right to visit the troops on missions abroad
US								
UK	Neither	Plen.	Plen.	Neither	Neither	Neither	Neither	Comm.
TUR	Plen.	Neither	Neither	Neither	Neither	Neither	Neither	Neither
SPA	Neither		Plen.	Neither	Neither	Neither	Neither	Comm.
POR	Neither	Neither	Neither	Neither	Neither	Neither	Neither	Neither
POL	Comm.	Neither	Neither	Neither	Neither	Neither	Neither	
NOR	Plen.	Neither	Plen.	Neither	Neither	Neither	Neither	Comm.
NET	Both	Both	Both	Both	Both	Both	Both	Comm.
LUX	Neither	Neither	Neither	Neither	Neither	Neither	Neither	Neither
ITA	Both		Both					Comm.
HUN								
GRE	Neither							Comm.
GER		Both	Both	Both	Comm.	Comm.	Both	Comm.
FRA	Neither	Neither	Neither	Neither	Neither	Neither	Neither	Comm.
DEN	Both	Both	Plen.	Both	Both	Both	Both	Comm.
CZR	Both	Both	Both	Neither	Neither	Neither	Both	Comm.
CAN	Neither	Neither	Neither	Neither	Neither	Neither	Neither	Both
BEL	Neither	Neither		Neither	Neither	Neither	Neither	Comm.

Comm.: power of the Committee; Plen : power of the Plenary; Both: power of the Committee and the Plenary; Neither: neither a power of the Committee nor of the Plenary

Powers concerning Procurement

Powers of Committee on Defence and\or the Plenary

	42. The Minister of Defence is obliged to provide the Committee\Parliament with detailed information on procurement decisions above ...EUR (or USD)	43. The Committee\Parliament decides all contracts above ...EUR (or USD)	44. The Committee\Parliament is involved in specifying the need for new equipment	45. The Committee\Parliament is involved in comparing and selecting a manufacturer and product	46. The Committee\Parliament is involved in assessing offers for compensation & off-set
US					
UK	Comm.	Neither	Neither	Neither	Neither
TUR	Neither	Neither	Neither	Neither	Neither
SPA	Neither	Neither	Neither	Neither	Neither
POR					
POL	Comm.	€28 Mill	Neither	Neither	Neither
NOR	Comm. €0.8 Mill	Comm.	Neither	Comm.	Neither
NET	€50.000	€50.000	Comm.	Comm.	Comm.
LUX	Neither	Neither	Neither	Neither	Neither
ITA	Neither	Neither	Neither	Neither	Neither
HUN					
GRE					
GER	Comm. € 25 Mill	Comm. €25 Mill	Comm.		
FRA	Neither	Neither	Both	Neither	Neither
DEN	Neither	Neither	Neither	Neither	Neither
CZR	Neither	Neither	Both	Both	Both
CAN	Neither	Neither	Comm.	Neither	Neither
BEL	Neither	Neither	Neither	Neither	Neither

Comm.: power of the Committee; Plen.: power of the Plenary;
Both: power of the Committee and the Plenary; Neither: neither a power of the Committee nor of the Plenary

Powers concerning Security Policy, Planning and Documents

Powers of Committee on Defence and/or the Plenary

	47 The security policy	48 The defence concept	49 The crisis management concept	50. The force structure\planning	51. The military strategy
US					
UK	Neither	Neither	Neither	Neither	Neither
TUR	Neither	Neither	Plen.	Neither	Neither
SPA	Neither	Neither	Neither	Neither	Neither
POR	Neither	Comm.	Neither	Neither	Neither
POL	Neither	Neither	Neither	Neither	Neither
NOR	Plen.	Comm.	Comm.	Comm.	Neither
NET	Comm.	Comm.	Comm.	Comm.	Comm.
LUX	Neither	Neither	Neither	Neither	Neither
ITA					
HUN	Plen.	Plen.	Comm.		
GRE					
GER	Comm.	Comm.	Comm.	Comm.	Comm.
FRA	Both	Both	Neither	Neither	Neither
DEN	Neither	Neither	Neither	Neither	Neither
CZR	Both	Both	Both	Both	Both
CAN	Neither	Neither	Neither	Neither	Neither
BEL	Neither	Neither	Neither	Neither	Neither

Powers concerning Military Personnel

Powers of Committee on Defence and\or the Plenary

	BEL	CAN	CZR	DEN	FRA	GER	GRE	HUN	ITA	LUX	NET	NOR	POL	POR	SPA	TUR	UK	US
52. The Committee\Parliament (The Plenary) approves: The defence human resources management plan	Neither	Neither	Neither	Neither	Both					Neither		Neither		Neither	Neither	Neither	Neither	
53 The Committee\Parliament (The Plenary) approves: The maximum number of personnel employed by the MoD and military	Both	Neither	Neither	Neither	Both	Comm.				Neither		Plen.		Neither	Neither	Neither	Neither	
54 The Committee\Parliament (The Plenary) approves: High-ranking military appointments	Neither	Neither	Neither	Neither	Neither				Neither	Neither		Neither		Neither	Neither	Neither	Neither	
55 The Committee\Parliament (The Plenary) is consulted by the Minister of Defence about high-ranking military appointments	Neither	Neither	Neither	Neither	Neither				Neither	Neither		Neither	Neither	Neither	Neither	Neither	Neither	

Comm.: power of the Committee
Plen : power of the Plenary
Both: power of the Committee and the Plenary
Neither: neither a power of the Committee nor of the Plenary

Principles of Peacekeeping for Parliamentarians

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The purpose of this article is to provide a basic introduction to the subject of peacekeeping and peace enforcement or support operations for parliamentarians. In addition to a general history of peacekeeping, this article will also provide a description of the basic legal framework within which these activities are conducted The term "peacekeeping" is often employed in common usage to describe a wide range of military and civilian activities to intervene, stop and prevent conflict. More precise terms have evolved with time and they will be described in the text.

Basic History of Peacekeeping

Modern peacekeeping was born after the World War II. Prior to the World War I there were no international organizations of nations comparable to the United Nations to provide a forum for discussion of international issues or provide a basis for multilateral cooperation in resolving conflicts. Various conventions and treaties between nations existed, but international relations between nations were conducted on the basis of diplomacy between individual nations. One of the great lessons learned from the World War I was the necessity for an international organization of nations to help avert future wars.

After World War I the League of Nations was founded with headquarters in Geneva. It was the first international organization dedicated to collective security and joint action against aggressors, arbitration of international disputes, reduction of armaments and open diplomacy. Unfortunately, due to the failure of the United States to join and the League's failure to prevent

Japanese, Italian and German aggression it fell into disrepute and ceased to operate during World War II.

After World War II the United Nations (UN) was founded in 1945 as a successor to the old League of Nations and it has proven to be a major source of international stability and international law.

When the UN Charter was drafted it was the intent of the drafters to establish a system, embodied in the Charter, under which member nations would take collective measures to prevent and remove threats to international peace and suppress acts of aggression or other breaches of the peace. The UN Security Council was delegated the primary responsibility under the UN Charter for the maintenance of international peace and security. It was contemplated that the Security Council would employ the powers provided to it in Chapters VI, VII, and VIII of the Charter to carry out its duties. The Security Council is made up of fifteen members, five of whom are permanent. The five permanent members of the Security Council are the Russian Federation, the United Kingdom, France, the United States, and China. Each of the permanent members possesses veto power over the resolutions of the Security Council.

The Security Council's authority for dealing with matters impacting upon international peace and security are primarily embodied in Chapters VI and VII of the UN Charter. Chapter VIII permits the Security Council to utilize regional organizations for enforcement actions under its authority. Chapter VI provides the Security Council with non-binding power to recommend procedures and terms for the diplomatic settlement of international disputes or situations which might lead to a breach of the peace. Chapter VI does not include the power to employ military force. Chapter VII of the Charter provides the Security Council with the power to take mandatory coercive military and non-military actions to maintain or restore international peace and security in situations where it has determined that a threat to peace exists, or that a breach of peace or an act of aggression has occurred.

Unfortunately, subsequent to the Charter entering into force, the Cold War broke out. As a result of the polarization between the

US and the USSR caused by the Cold War, the organizational functioning of the Security Council was completely stymied. The UN was incapable of acting in many of the growing conflicts worldwide, many of which resulted from decolonization, because the veto power, or threat of veto power, held by the US and the USSR and utilized to influence their own geopolitical interests, prevented nearly every effort by the Security Council to take action. As a result, for many years, the Security Council was unable to carry out its primary responsibility for the maintenance of international peace and security.

UN peacekeeping evolved because a way had to be found to stop hostilities and control conflicts to prevent them from developing into broader wars, despite the deadlock in the Security Council. Peacekeeping, then, was born out of necessity, largely improvised, as a practical response to a problem that required action by the international community.

Peacekeeping was an innovation not specifically provided for in the UN Charter. There is no specific language in the charter defining or describing peacekeeping. However, the advent of peacekeeping allowed the UN to begin to assist in resolving international disputes, while the Cold War and Superpower veto made implementation of the originally contemplated collective security system impossible. The fact that peacekeeping operations, as devised, required the consent of the parties to the dispute, made it politically difficult for either Superpower to veto these operations. Thereafter, peacekeeping has evolved over time into a mechanism that is more than the peaceful settlement procedures contemplated in Chapter VI of the Charter, but is less than the enforcement procedures provided for in Chapter VII. The hybrid nature of peacekeeping prompted former UN Secretary-General Dag Hammerskjold to remark that peacekeeping might be put into a new Chapter of the UN Charter – "Chapter Six and a Half".

In peacekeeping missions, troops are placed in situations of conflict to defuse tensions and are deployed only in situations in which all parties to the conflict in question have agreed upon their emplacement. As a result, UN peacekeeping has most often involved observing, or supervising and assisting parties to a dispute. Impartiality and neutrality are the fundamental concepts

underlying peacekeeping. Peacekeepers are not present to prevent violations of a truce or ceasefire, their presence alone is considered sufficient to maintain peace.

On the other hand, operations under Chapter VII of the UN Charter involve what are often referred to peace enforcement operations.[2] Peace enforcement operations since they involve the employment of military force do not require the consent of the conflicted parties and impartiality, while desirable, is not essential. Although peace enforcement operations cannot solve the underlying problems that caused peaceful relations to dissolve, they may help create the conditions in which the process of peaceful resolution of the dispute may proceed. The cessation of conflict of course will often not alone provide the solutions to the political issues which caused the outbreak of hostilities in the first place.

Legal Authority for Peace Operations

The terms "peacekeeping" and "peace enforcement" do not appear anywhere in the UN Charter. This portion of the article will discuss both international and domestic legal authority to conduct peace operations.

The international legal authority for peace operations is derived from the UN Charter and, perhaps, from the charters of Regional Organizations that might be participating, such as the Commonwealth of Independent States (CIS), or NATO. The Organization for Security and Cooperation in Europe (OSCE) cannot authorize peace operation under its Charter.

Most commentators point to Chapter VI of the UN Charter as legal authority for peacekeeping. As mentioned previously, peacekeeping is not specifically mentioned. Chapter VI addresses peaceful means of establishing or maintaining peace. It references such activities as conciliation, mediation, adjudication and diplomacy or taking disputes before the International Court of

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[2] It should be noted that terms such as peacekeeping, peace enforcement, peace support, etc. are often defined differently. UN, US, NATO and the Draft Law on CIS Peacekeeping all use slightly different definitions. US doctrine is that peace operations include peacekeeping and peace enforcement operations.

Justice. The Security Council's authority under Chapter VI is *advisory only*, it may only make recommendations to the disputing parties, but it may not take mandatory coercive action. The prevailing view is that since peacekeeping operations are consensual in nature and lack any enforcement authority, they are essentially the same as the consensual efforts to establish peace contemplated in Chapter VI and, therefore, Chapter VI provides sufficient legal authority to conduct peacekeeping operations.[3]

Peace enforcement operations involving the use or threat of the use of military force are clearly authorized under Chapter VII of the Charter. As a prerequisite for the employment of coercive action under Chapter VII by the Security Council it must first make a determination that a threat to the peace exists or that a breach of the peace or an act of aggression has occurred. After making such a determination, the Security Council may impose sanctions, embargoes and other coercive actions, including the use of military force. The military forces are provided by the member nations. The UN does not have its own military forces. The text of the authorizing mandate of the Security Council will typically refer specifically to Chapter VII as authority and may use the phrase "all necessary means" in order to authorize the use of military force.

Chapter VIII of the UN Charter provides that Regional Organizations are authorized to maintain peace and security. Under Article 52 of the Charter Regional Organizations may undertake peacekeeping operations without Security Council authorization. However, under Article 53 of the Charter Regional Organizations may only undertake peace *enforcement* operations when authorized by a mandate of the UN Security Council. The Commonwealth of Independent States (CIS) is a Regional Organization within the meaning of Chapter VIII of the UN Charter. The presently existing Agreements, Protocols and Concept documents of the CIS authorize regional peace enforcement operations if authorized by a mandate of the UN Security Council. The

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[3] Other commentators contend that peacekeeping operations can be considered as being implied, apart from the principle of consent, in the broad powers conferred by the UN Charter upon the Security Council with respect to international peace and security. The reference to Chapter "Six and a Half" by the former Secretary General recognizes a spirit of compromise between these two views.

Model Law "On participation (of a CIS member-state) in peace support operations" drafted and proposed for adoption by the CIS by the Center for Political and International Studies, Moscow, provides doctrine and requirements for peace enforcement operations utilizing military force by the CIS under the authority of a UN Security Council mandate. Therefore, one may look to the charter and other documents of Regional Organizations for additional international legal authority to conduct peace operations.

The next level of legal authorization for peace operations is the domestic law of an individual nation. Domestic legal authority may be found in the constitution and other statutory laws of a nation. In modern democracies, typically the president is designated to be the commander in chief of the armed forces and given the authority to authorize the use of military force, though, as in the US, the authority to declare war is reserved for the legislative branch of government. If a nation is a member of the United Nations, the Charter of the United Nations itself becomes a part of the domestic national law by virtue of the fact that the Charter is a treaty to which each member nation is a party. Article 2(5) of the UN Charter provides that all members are required to give the UN "every assistance" in any action it takes under the Charter. Additionally, Article 25 of the Charter calls upon all member states to agree to accept and carry out the decisions of the UN Security Council.

On the other hand, there may be prohibitions upon a nation's ability to participate in peace operations contained in its domestic law. These prohibitions or limitations may take the form of a declaration of neutrality or a restriction upon use of the armed forces outside of the territory of the nation or, perhaps, a time limit upon deployment of armed forces outside of the country. In the US Congress adopted the War Powers Act in 1973 which attempted to restrict the power of the President to commit US armed forces to overseas deployments without advance Congressional approval. The Act also set a 60 day time limit on any deployment and required notification and consultation with Congress about the details and plans for the deployment. However, all the US Presidents since 1973 have taken the position that this Act is an unconstitutional infringement upon the war powers of the

President as contained in the US Constitution. The Courts have taken the position that they cannot decide the validity of the Act because this is a political question not subject to judicial review. This US example is given to point out that any legislative attempt to curtail the power of the president to deploy military forces for peace operations may not be very effective. The most effective limitation would probably be a limitation contained in the constitution itself.

In the US the Constitution provides that Congress must approve the budget for the military. This power over the budget has proven to be the most effective tool with which to affect legislative oversight over the use and employment of military forces. The Model Law on peacekeeping in the CIS provides detailed requirement for parliamentary approval of the initial provision of the budget for peace support operations and for approval of any funds in excess of those initially provided. This provision should substantially enhance the ability of CIS parliaments to ensure parliamentary oversight of any proposed involvement in CIS peace operations.

Finally, another issue for consideration is whether the armed forces of a nation possess a military justice system that can be deployed outside of its territory with the forces provided for peace operations. Some nations have abolished their separate military justice systems and now all military criminal cases are handled in the civilian courts. This presents a problem if a soldier deployed on a peace operation is accused of committing a crime in the host nation. If there is no deployable military justice system, and the crime must be handled in the soldier's civilian court system, although the witnesses and victim are located in the host nation, it could be prohibitively expensive and difficult to provide justice.

Conclusion

A parliamentarian would probably desire the answer to at least the following questions if confronted with a request to authorize use of his nation's military forces in a peace operation:

1) Is the proposed peace operation in the nation's national security interest?
2) Is the proposed peace operation one of peacekeeping or peace enforcement involving the use of military force?
3) Is the peace operation pursuant to a mandate of the UN Security Council?
4) Is the peace operation pursuant to a mandate of a Regional Organization?
5) What is the size and nature of force requested?
6) Is there sufficient international and domestic legal authority for the peace operation?
7) Does domestic law prohibit or limit the nation's participation in any way?
8) What is the anticipated cost of the peace operation known and who will pay the cost?
9) What is the anticipated duration of the peace operation?
10) Will the armed forces to be deployed have sufficient training in order to safely participate in the peace operation?
11) Do the armed forces to be deployed have a military justice system that can effectively address crimes while deployed?
12) What are the command and control arrangements for the forces?

The answers to all these questions should be included in any legislative act regulating peace-keeping and peace enforcement efforts by national states.

Peacekeeping Forces and Human Rights Law

Ian Leigh,
Professor of Law, Co-director of the Human Rights Centre, University of Durham[1]

The experience from a number of peacekeeping operations around the world suggests that, whatever the peaceable intentions behind the mission, on occasion individual components of peacekeeping units may themselves become a threat to the human rights of those they are sent to protect. In those situations what legal redress is there?

Some notable events from the past involving abuses by peacekeepers (for example, by Canadian forces in Somalia) have been dealt with by military discipline— trial by court martial. Commonly, the Status of Forces and Co-Operation Agreements under which peacekeepers operate will reserve jurisdiction over their personnel to the sending state according to its law and give immunity from prosecution in the courts of the receiving state. However, military justice suffers from two drawbacks: in some states it is not a regular system of criminal justice and, moreover, it is in the hands of the state whose representatives are accused of the abuse. This may not appear to be sufficiently impartial to satisfy victims and international opinion.

As a possible alternative I am concerned in this brief note with the question of how international law applies to peacekeeping forces, and whether it applies to international forces or to individual states. I will concentrate on the possible application of international human rights law, after some brief remarks concerning the Law of Armed Conflict and International Humanitarian Law.

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[1] I gratefully acknowledge the advice of my colleague Ms. S. Williams in preparing this note.

Difficulties arise over applying the Laws of Armed Conflict for two reasons. Firstly, many peace-keeping situations are below the necessary threshold level of violence. Secondly, the country or organisation sending peacekeeping forces is not strictly in conflict. At most the Rules of Engagement are likely to allow the use of force in self-defence or defence of the civilian population.

International Humanitarian Law, contained in the Geneva Conventions and protocols, is likely to have greater relevance. It, however, has certain limitations. While states taking part in peacekeeping forces will be bound, International Humanitarian Law does not apply to international organisations, and so unified forces will not be bound as a matter of law. Moreover, enforcement is via the traditional means of international law -by a claim brought by another state rather than by individual petition. A claim would need to be brought before the ICJ, which would have to assume jurisdiction, since there is no other standing forum. Nevertheless, International Humanitarian Law contains specific duties with regard to prisoners of war and civilians of considerable relevance to peacekeeping operations.

International Human Rights Law, similarly, only applies to states and not to international organizations, which are not signatory to the major human rights treaties, such as the International Covenant on Civil and Political Rights 1966 (ICCPR) or the European Convention on Human Rights and Fundamental Freedoms 1950 (ECHR).

So far as states are concerned, not all CIS members are signatories to the European Convention on Human Rights. However, Armenia, Azerbaijan, Georgia, Moldova, the Russian Federation, and the Ukraine are, and in their case the possibility of liability under the Convention for the actions of their peacekeepers could arise.

A state is normally responsible under human rights law for violations of human rights occurring within its jurisdiction. For example, Article 1 of the European Convention on Human Rights states:

Obligation to respect human rights. The High Contracting Parties shall secure to *everyone within their jurisdiction* the rights and freedoms defined in Section I of this Convention. (Italics added)

Jurisdiction in this sense obviously includes the territory of the state. However, less obviously, it can apply extra-territorially and this is where it is of possible relevance to peacekeeping operations.

In *Loizidou v Turkey (Preliminary Objections)* (1995) 20 EHRR 99, at paragraph 62 the European Court of Human Rights stated:

> "Bearing in mind the object and purpose of the Convention, the responsibility of a Contracting Party may also arise when as a consequence of military action — whether lawful or unlawful — it exercises effective control of an area outside its national territory. The obligation to secure, in such an area, the rights and freedoms set out in the Convention derives from the fact of such control whether it be exercised directly, through its armed forces, or through a subordinate local administration."

In that case the Court determined, applying this test, that Turkey was in control of Northern Cyprus and so had human rights obligations under Article 1 of the European Convention for the actions if its officials within it.

Broadly similar arguments have been put forward by a leading international lawyer with regard to the ICCPR: Professor Buergenthal argues that the Covenant can apply where to a state which is in actual control of all or part of the territory of another state.[2]

Extra-territorial effect has also been given to the Convention where a member state takes decisions that have a real risk of leading to violation of a person's rights, even if this will take place in another territory or by a state which is not sig-

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[2] T. Buergenthal, "To Respect and Ensure: State Obligations and Permissible Derogations", in L. Henkin (ed.), The International Bill of Rights, (1981), 73-77.

natory to the Convention. In ***Soering v UK*** (1989) 11 EHRR 439 this applied where extradition of a fugitive could lead, if he was convicted, to imposition of the death penalty in the United States.

Either of these routes might possibly lead to the imposition of liability upon a member state under the Convention for the actions of its peacekeepers while they are outside the sending state's territory.

Arguments of this type these were raised (albeit unsuccessfully on the facts) in a challenge brought by the survivors and relatives of victims of the NATO bombing of Radio-Television of Serbia on April 23, 1999, as part of Operation Allied Force: *Bankovic and others v Belgium and 16 Other Contracting States*, European Court of Human Rights, Application No. 52207/99, Decision of December 12, 2001[3].

The applicants alleged breaches of Article 2 (the right to life), Article 10 (freedom of expression) and Article 13 (the right to an effective remedy) arising from the attack, in which 16 of the broadcaster's employees were killed and a further 16 injured. They argued that since NATO forces were in effective control of the airspace they were responsible under Article 1 of the ECHR to people within their 'jurisdiction'. In addition they claimed that since the injuries arose from decisions planned and taken within the territory of the states concerned, this brought them within 'jurisdiction' for the purpose of Article 1.

The European Court rejected this broad approach to state responsibility and distinguished the facts here from the degree of control in a case like mentiened case of *Soering*. Nevertheless, it affirmed that in exceptional circumstances states could be considered to have jurisdiction over events beyond their territorial limits; the question was whether the State had 'effective control' of the territory, and so could exercise governmental powers. Clearly, then, the door remains open for extra-territorial liability under the European Convention for states sending peacekeeping forces, depending on the situation on the ground.

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[3] See S. Williams and S. Shah, [2002] European Human Rights Law Review 775).

Even if the effective control test is satisfied, however, liability would depend on the make-up and terms of operation of the particular peacekeeping force. Where the force is under United Nations or CIS unified command, since neither body is party to the ECHR there could be no liability even if the force is exercising control within the receiving state. It is arguably different, however, where national contingents exercise control over specific areas of territory, under the overall control of a unified command (as in Kosovo under KFOR). Here sending states should be alert to their potential liability in international human rights law.

Thought might then be given to the possibility of derogating from human rights obligations for peacekeeping forces. It is worth noting that the European Convention applies even in wartime, although some rights are derogable in war or public emergencies under Article 15 «Derogation in time of emergency»

1 In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2 No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
3 Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefore. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Consequently, some fundamental rights (notably, the right to life under Article 2 and Article 3 protection from torture, inhuman and degrading treatment) are non-derogable and procedural requirements for the registration of a state of emer-

gency exist under Article 15. The European Court of Human Rights will be able to review the legality of the state of emergency in order to check that the necessary pre-conditions are met[4].

States taking part in peacekeeping missions have not generally thought to enter human rights derogations in respect of the territory they control. Perhaps they should. More generally, it seems they may also have some legal obligations, especially for non-derogable human rights in territories over which they exercise control.

[4] See, for example, Ireland v UK (1978) 2 EHRR 25; Lawless v Ireland (1961) 1 EHRR 15; Aksov v Turkey (1996) 23 EHRR 553).

Peacekeeping: Only a Soldier Can Do It

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Introduction

It was in the beginning of the nineties that the Secretary General of the United Nations, Mr Boutros Boutros Ghali came with his ambitious plan called 'The Agenda for Peace". In that document the UN would play an important role in preventing and resolving of conflicts.

The document was a reaction on the changed security situation in the world. The situation in Europe was totally changed after the collapse of the Soviet Union and the emerging of new democracies. In the Middle East a large coalition of the willing and able had liberated Kuwait after the invasion by the forces of the dictator Saddam Hussein of Iraq. Even there was some hope in a settlement of the conflict between Israel and the Palestine. At that time the Administration of the United States of America did not want to play an international 'police role'.

The 'Agenda for Peace' was a blueprint for peacekeeping operations for the future. It starts with conflict prevention and it ends with post-conflict building. When the early warning system of the international community has failed, and a conflict breaks out, the UN has to act and to settle the conflict as soon as possible. Peacekeeping units will pave the way for a peaceful settlement and the build up of the conflict area.

The 'Agenda for Peace' was based on the principles of classic peacekeeping. That was a big mistake. Because a new security situation requires new answers.

Peacekeeping: the classic approach

Peacekeeping is an invention of the UN itself. It was a concept developed because the Military Committee as foreseen in the Charter did not in practice. The basis for peacekeeping operations is laid down in Chapter VI (Peaceful settlement of conflicts) and VII (Actions as result of threatening of peace, disrupting of peace and acts of aggression) of the UN Charter. Most of the peacekeeping operations in the past were based on Chapter VI. The UN Security Council (with a mandate for the OSCE within the OSCE area) is the only legitimate authority to approve peacekeeping missions. Since the early fifties, the functions of peacekeeping are threefold[1]. First of all it is that of defusion. Parties in conflict will accept a cease-fire and a withdrawal of their troops by using the peacekeepers as a face-saving device. Otherwise the deployment of peacekeepers as an — in between force — can prevent parties to go to war. The second function of peacekeeping is that of stabilisation. Peacekeepers can create the appropriate circumstances for negotiations after a cease-fire has been established. They can contribute to calmness by removing tensions and preventing incidents. The third function is to provide assistance in resolving disputes.

To implement these above-mentioned functions, the concept of peacekeeping is based on the impartiality of troops. So the peacekeeping contributing countries should have that political approach too. Countries with are in some way involved in the conflict or express their sympathy for one of the parties involved should not contribute with forces. The military units should be light equipped (not heavy arms) and non-threatening. Both sides should trust them. The use of weapons by the peacekeepers is primarily justified in the case of self-defense. Peacekeepers are operating in white painted vehicles as a sign of their impartiality and non-violence posture.

The so-called classic peacekeeping by UN forces was a success for many decades. It was the only possible way for the UN

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[1] Peacekeeping in International Politics, Alan James, ISS London, 1990

during the bi-polar system to act in a military way. But in the early nineties, when the bipolar system of power did not work any longer, the UN made the mistake to approve peacekeeping missions which the same set of rules and principles which did not fit to the changed security situation. The mission in Bosnia in the mid nineties was an example in which the UN failed as a result of using the old concept which didn't fit to the changed security environment. It showed that UN missions could not always be impartial and non-threatening. As a result of the failed UN missions on the Balkan but also in Rwanda and Somalia the UN started with a revision of its concept. The report of Mr Brahimi in 2001 stated very clear that the UN peacekeeping missions should be more robust and more backed with a wider mandate to act in a proper way to the situation on the ground. It also acknowledges that the UN is not the proper organisation for leading military missions, which are of an other character than the classic UN-missions. UN peacekeeping operations (pko) should preferable carried out by organisations, which are more suited to conduct military operations.

Peacekeeping since 1995

The changed security situation requires a new approach. Since the dramatic results of the UN mission in Bosnia, the UN prefers to hand over the conduct of military operations to other international organisations (NATO, OSCE, CIS) which are better equipped and more successful. So it was primarily the NATO-organisation supported by a lot of non-NATO countries (among them the Russian Federation) which fulfilled their missions based on a mandate given by the UN. The changed view on peacekeeping operations requires different skills of the military. Sometimes they have to act in the same mission in a non-threatening posture as well as in a threatening posture. The equipment has to apply to both situations. The UN-mission in Afghanistan is quite different in relation to the UN-mission in Cyprus, which is a typical classic one. One of the new challenges for pko is the post-conflict period. If there is in the former conflict area only poorness, illness,

unemployment and remnants of hatress it is the basic material for a new conflict. The build up of the area in the postconflict situation is very important. This is not primarily a military task but a pko can create the necessary safety conditions for other organisations to do their job.

Standby High Readiness Brigade (Shirbrig)

After the failure of the UN in Ruanda (1994) to prevent genocide, a couple of countries (among them the Netherlands, Canada and Denmark) tried to improve the rapid availability of troops for pko. It was a response to the statement of Koffi Annan. He stated that if he have had a unit of 5000 soldiers, the genocide in Ruanda could have been prevented. The present UN-system, so-called UNSAS[2], did not fit to the change security situation in which the quick readiness of troops is essential. In 1998, about ten countries decided to a permanent headquarter that could be called up for pko. The headquarter was established in Copenhagen (Denmark) and acted perfectly for the first time in a classic pko (UNMEE) in Eritrea. The contribution of troops was tailored to the area. The Shirbrig is not a UN unit or HQ but available for UN missions. Every country can contribute to Shirbrig. The CIS-countries are not yet represented.

The Dutch experience

In the beginning of the nineties the Dutch government with the approval of the parliament decided to take an active policy posture in the contribution to peacekeeping operations. The cold war was over and the main task of the armed forces was no longer focused on Eastern Europe. But instead of that, new security risks appeared. The defense policy stated that every Dutch military unit has to be ready to contribute to pko. The government and the parliament discussed extensively about the elements, which would

[2] United Nations Standby System (UNSAS) is list of military assets of the UN memberstates, which are in principle available for peacekeeping operations.

be part of the political decisionmaking process. A review of the Constitution was the result. The promotion of the peace and stability and the maintaining of the international law are part of it. However the Dutch government needs the final approval of the parliament if they decided to take part in a pko. The Dutch experience in Bosnia was also a reason to review that process. One of the new elements which have been added to the list of criteria is the availability of an exit-strategy and the element of risk-sharing.

In its proposal to participate in a pko, the government has to take in account a list of criteria, which has been approved by the parliament. These criteria plays an important role in the final decision in the case that the Netherlands is willing to contribute to military missions abroad.

Another important aspect is the care about the military, which are involved in pko. Almost every pko leads to casualties, wounded soldiers and mental damage. Research has showed that about 5% of the soldiers involved in pko have some physical and/or mental damage. It is very important that the armed forces have developed a long-term follow up care system.

The cost of pko missions is only refunded in the case when the mission is executed by the UN itself. In all other circumstances it is important that there is a special budget for the participations in pko missions, which is also transparent to the parliament.

Criteria for the political decision — making process

National interest

The government has to make it clear what the specific national interest is to take part in a mission. The national interest is not limited to a narrow notion. The violence on a large scale of human rights can be a reason to take part in a pko. Also the support of a friendly country can be a reason to contribute.

Political goal

The political goal of the mission must be achievable by executing a military operation. Sometimes the first reaction of politicians and public society when they watch large-scale violence is to send soldiers. But a good analysis on beforehand of the real

situation is needed. A military operation is not a panacea for every situation. It the political goal is clear and achievable through the use of military means, an analysis of risks is needed.

Risks

Governments and parliaments sent soldiers to conflict areas because they are educated, trained and equipped for these situations. So a military mission without risks is hardly to imagine. But not every price is acceptable. There is a relationship between the national interest and the acceptance of risks. To contribute to a mission in a far away country where there is a lack of real national interest, the society and the politicians will not accept a lot of a casualties. So in the Dutch case, the parliament will not easily approve a pko with a high riskprofile and a lowprofile of national interest. Very important is the risk sharing. For medium-sized countries like the Netherlands, which is not a member of the UN Security Council, it is not wise to take all the responsibility or risks in a mission. It is preferable to share the responsibilities and risks in pko with large countries, which are represented in the UN Security Council. If that was the case in Srebrenica (1995) it is my opinion that the enclave was not attacked by the Bosnian Serbs.

Mandate and Rules of Engagement

The mandate for a mission determines the operational performance of that specific mission. For a classic UN Mission based on Chapter VI a limited mandate and Rules of Engagement are sufficient. For all other pko a wider mandate is needed. When the UN mandate is not suitable in relation to the real situation on the ground, parliaments should not give the green light for contribution. If the mandate meets the political and military requirements, it is very important that the Rules of Engagement (RoE) are clear, sufficient and applicable. The Rules of Engagement are the practical guidelines for the soldier to perform its daily work. The mandate and the RoE are decisions of the UN Security Council. Robust Roe must prevent that soldiers during their duty have to watch with tied hands the violation of human rights and the killing of innocent people.

e. Fixed term

When the decision is made to take part in a pko, it is important for political as well for operational reasons to agree on a period that a country contributes to a pko. An open-ended agreement can lead to misunderstanding between government and the parliament and even in deception. For the armed forces it is for planning reasons important what the future requirement are. The principle used in the Netherlands between government and parliament is that a contribution is fixed to a 6 month period, which the possibility to review the contribution for another period of 6 months.

f. Exit-strategy

When circumstances changes and the mandate can not be fulfilled any longer, the withdrawal of troops (with or without consent of the involved parties) can be an option. Such a withdrawal (for e.g. the US troops in Somalia) should be prepared in advance. Not every country is able to conduct withdrawal operations due to a limitation of military assets. (air— and sealift, combat— and transporthelicopters etc.) In that case the exit strategy has to work out with other countries which are willing and able to support the evacuation of troops of other contributing countries. The Netherlands had prepared withdrawal plans with other friendly countries during their pko in Eritrea/Ethiopia, Afghanistan as well as in Iraq.

6. Training and exercises for peacekeeping missions

A peacekeeping mission requires different skills from the military. As the late Secretary General of the UN, Dag Hammerskold said once it is not a soldier's job but only a soldier can do it. The regular basic education for a soldier is not sufficient. A peacekeeper has to fight in the last place. Most of the times he has to act as a diplomat, a negotiator or as an observer. It is important that countries which like to contribute to peacekeeping operations develop specific training for their soldiers and (nco) officers. In the Netherlands (and some other countries) has its own

Peacekeeping Training Centre. Also the implementation of the lessons learned from other missions is important. Every military unit or individual which has been appointed for a pko has to fulfil the training. This of course is not limited to educate military skills but also the input of civilians and specialist of the area of conflict have their input. Understanding of the culture and nature of the population in the mission area is important.

Operational Command

Every nation keeps the full command of its own troops during peacekeeping missions. The operational command is handed over to the military commander of the organisations, which conduct the pko. In practice it can be a UN commander but also a NATO commander or a commander of an ad hoc coalition like ISAF. In practice the full command is restricted to one option: the military units can be called back by the respective government. That means the end of the mission.

Parliamentary control

In most of the democratic countries the parliament has to approve the national contribution for peace keeping en peace support operations. It is recommended that the approval is based on realistic information. Even a list of criteria, as used in the Netherlands, can be helpful. It obliges the government to look carefully to all these aspects and to include them in the decision-making process.

Once parliament has approved a pko, it is necessary that during the mission the parliament get a regular update of the political situation and risks. When the mission have been finished, the government should evaluate the mission to draw lessons for future missions. The evaluationreport should be sent to the parliament for further debate.

Conclusions

a. Since the early nineties peacekeeping operations are not limited to the classic pko lead by the UN. A new range of pko (operations other than war) is the answer on the changed the security environment.
b. Not the UN, but other organisations like NATO, CIS, OSCE or coalition of the willing and able can conduct pko with a mandate of the UN Security Council.
c. A UN mandate and the Rules of Engagement (RoE) should be proper formulated to meet the requirements of the soldiers in area of peacekeeping area. Robust Roe's are required to prevent that a mission fails. In pko, which does not meet the classic situation, the military units and soldiers should be equipped, as the mission requires.
d. Soldiers need appropriate pko training and education, which is not, limited only to military skills.
e. The parliamentary oversight is very important for the democratic control on pko. Every parliament has to develop the best practice for it. In The Netherlands, both government and parliament uses a set of criteria in their decisionmakingproces.

Geneva Centre for the Democratic Control of Armed Forces (DCAF)

In spite of the progress made in the past decade, the transformation and management of democratic civil-military relations remain a major challenge to many States. This is particularly true for the countries in transition towards democracy, war-torn and post-conflict societies. Armed and paramilitary forces as well as police, border guards and other security-related structures remain important players in many countries. More often than not, they act like "a State within the State", putting heavy strains on scarce resources, impeding democratisation processes and increasing the likelihood of internal or international conflicts. It is therefore widely accepted that the democratic and civilian control of such force structures is a crucial instrument of preventing conflicts, promoting peace and democracy as well as ensuring sustainable socio-economic development.

The strengthening of democratic and civilian control of force structures has become an important policy issue on the agenda of the international community. As a practical contribution to this general and positive trend, the Swiss government established in October 2000, at the joint initiative of the Federal Department of Defence, Civil Protection and Sports and the Federal Department of Foreign Affairs, the Geneva Centre for the Democratic Control of Armed Forces (DCAF).

Mission

The Centre encourages and supports countries in their efforts to strengthen democratic and civilian control of force structures and promotes international cooperation in this field, with an initial focus on the Euro-Atlantic area.

To implement these objectives, the Centre:

- collects information, undertakes research and engages in networking activities in order to identify problems, establish lessons learned and propose best practices in the field of democratic control of armed forces and civil-military relations;

- provides its expertise and support in a tailor-made form to all interested groups, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, academic circles.

DCAF works in close cooperation with national authorities, international and non-governmental organisations as well as relevant academic institutions and individual experts. In its operational and analytical work, DCAF relies on the support of 45 governments represented in its Foundation Council, on its International Advisory Board comprising some 60 renowned experts, its own Think Tank and its working groups. Furthermore, DCAF has established partnerships or concluded cooperation agreements with various institutions, such as research institutes, international organisations and inter-parliamentary assemblies.

Work Programme

In order to be able to thoroughly address specific topics of democratic control of armed forces, DCAF has established or plans to establish twelve dedicated working groups covering the following issues: security sector reform; parliamentary oversight of armed forces; legal dimension of the democratic control of armed forces; transparency-building in defence budgeting and procurement; civilian experts in national security policy; democratic control of police and other non-military security forces; civil-military relations in conversion and force reductions; military and society; civil society building; civil-military relations in post-conflict situations; criteria for success or failure in the democratic control of armed forces; civil-military relations in the African context. Planning, management and coordination of the working groups is centralized in the Centre's Think Tank.

DCAF is providing expertise on bilateral and multilateral levels as well as for the general public. A number of bilateral projects in the areas of security sector reform and parliamentary control of armed forces have been initiated in support of the Federal Republic of Yugoslavia, the Republic of Serbia, Bosnia and Herzegovina as well as Ukraine. At the multilateral level, DCAF implements several projects in the framework of the Stability Pact for South Eastern Europe and the Organisation for Security and

Cooperation in Europe. To reach specialized and general audiences, the Centre regularly organizes conferences, workshops and other events, produces publications and disseminates relevant information by means of information technology, including its own website (*http://www.dcaf.ch*).

Organisation and Budget

DCAF is an international foundation under Swiss law. 45 governments are represented in the Foundation Council. The International Advisory Board is composed of the world's leading experts in DCAF's areas of interests, acting in their personal capacity and entrusted with advising the Director of DCAF on the Centre's overall strategy. DCAF staff comprises 50 specialists from 30 nations, who work in four departments: Think Tank, Cooperation Programmes, Information Resources, Administration & Logistics.

The Swiss Federal Department of Defence, Civil Protection and Sports finances most of the DCAF budget. Another important contributor is the Federal Department of Foreign Affairs. Certain member States support DCAF by seconding staff members or contributing to the Centre's specific activities.

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The Center for Political and International Studies

The Center for Political and International Studies is an independent, non-profit research and consulting institution that conducts expert studies, holds conferences and seminars, and publishes analytical reports on subjects such as international security, disarmament, the political dynamics of modern societies and conflict resolution. The Center for Political and International Studies (CPIS) has been operating since 1989.

The Center finances its activities through research and consulting contracts with domestic and international institutions, grants, publishing, information services, public opinion polling, etc.

Within the framework of the CPIS international programs, Russian scholars have participated in joint studies, co-authored books and conducted research projects in cooperation with Brown University, Ohio State University, the University of Iowa (USA), Dangook University and the Korean Institute for National Reunification (South Korea), the North Atlantic Assembly, the International Pugwash Committee on Science and World Affairs and other institutions.

Between 1989 and 1993 the CPIS cooperated with other institutions in conducting a series of public opinion surveys in Russia, the Ukraine and Lithuania on security, economic and political matters.

In 1991–1992 the Center organized a series of international consultations among parliamentary representatives and experts of the CIS and Baltic States on matters of the collective security of the New Independent States.

The Center has published the following studies:

- **"Collective Security for Russia and the CIS. Based on the Results of the Series of International Consultations on Security Matters"**
- **"Russia on the Way to a Market Economy"**
- **"The Public Movement «Democratic Russia»: History, Current Status and Prospects"**

- **"National Reconciliation: Mediation Practice"**
- **"Nuclear Weapons and Security Issues in the CIS. The Policy of Russia, the Ukraine, Belarus and Kazakhstan Towards Nuclear Armaments"**
- **"Elimination of Chemical Weapons: Political and Technical Aspects"**
- **"Peace Support Operations: Concepts and Practice"**
- **"Democratic Control over the Military Sphere in Russia and the CIS"**
- **"Civil-Military Relations in Russia"**

Between 1992 and 2004, under the auspices of the Committees on International Affairs and on Defense of the Parliament of the Russian Federation, along with the Ministry for Foreign Affairs and the Council of CIS Defense Ministers, the Center for Political and International Studies organized a program of international conferences and consultations on East-West security matters with the participation of representatives and experts from NATO, the Western European Union, the North Atlantic Assembly, the European Union and international research institutions.

Among the major international projects and conferences organized by the CPIS between 1993 and 2003 are:

- **"Political and Military Integration in the CIS",**
- **"The Role of Russia in Maintaining Stability and Security on the Territory of the Former Soviet Union",**
- **"Peacekeeping Operations in the New Independent States",**
- **"European Integration and Russia",**
- **"Export Control: Political Aspects",**
- **"International Workshop on Peacekeeping in the CIS",**
- **"Preventing Ethno-Political Conflicts: Minorities in Russia and Russians as Minorities in the Former Soviet Republics",**
- **"Russia and Georgia: Status and Prospects of Relations",**
- **"Russia and the Ukraine: Framework for Partnership"**
- **"The Status and Future of Nuclear Weapons Complexes in the USA and Russia"**
- **"Russia and Estonia: In Search of a New Type of Relationship",**
- **"The Evolution of NATO and Russia's Interests''**

Between 1991 and 2004 more than 500 officials and experts from the EU, NATO, Western European Union, North Atlantic Assembly, Foreign Affairs and Defense Ministries from the USA, UK, Germany, Netherlands, Spain, Norway, Italy, Iceland, Turkey, France and other countries visited the Russian Federation as guests and participants of the CPIS conference programs.

The CPIS was the hosting organization for a series of **NATO Ambassadors' Information Lecturing Tours** to various Russian cities. Programs in Vladivostok, Khabarovsk, Yekaterinburg and Vladimir took place between 1993 and 1994. The North Atlantic Assembly Civilian Affairs Committee visit was organized by the CPIS in 1995 and again in 1999. Under the auspices of the Ministry of Defense of the Russian Federation, the Center hosted NATO Defense College visits to Russia in 1995, 1997, 1998, 2000 and 2002.

In 1993 and 1995 the Center coordinated the work of **foreign observers from European countries' Parliaments at the Parliamentary elections** in Russia. The CPIS hosted a series of seminars and briefings for international observers in connection with the presidential elections in 1996 and 2000. Currently the CPIS prepares expert reports and assists in organizing hearings for Committees for Foreign Affairs, on Defense and on the CIS Affairs of the State Duma (Parliament) of the Russian Federation. On request of the Security Council of the Russian Federation the Center, in 1996, conducted a study of peace support operations on the territory of CIS members.

Among CPIS projects organized between 1998 and 2004 the following should be mentioned:

- **"Agreements Between Russia and NATO: Consequences and Prospects"** (Analysis of the Russia-NATO Founding Act),
- **"Nuclear Complexes of the USA and Russia"** held in Moscow and Chelyabinsk-70,
- **"International Maritime Law and Peacekeeping"**
- **"Parliamentary Control over the Military Sphere in the CIS"** *attended by 60 parliamentary and independent experts from 18 states*
- **"Information Technology, Security and Conflict Resolution"** *attended by 85 experts from 16 states*
- **"Nuclear Weapons Complexes of the USA and Russia"** *held in the Russian Federal Nuclear Center Arzamas-16*

- **"Legal, Scientific and Technical Aspects of the Biological and Toxin Weapons Convention"** *attended by members from various nations' official delegations to the Geneva negotiations at the BWTC.*
- **"Democratic Control over the Military Sphere"** seminars held in Almaty (Kazakhstan), Bishkek (Kirgizstan) and Kiev (Ukraine)
- **"Development and Conversion of the Science Cities: Russian and International Experiences"** held in Moscow and Obninsk

In 2001 the CPIS authored the *CIS Model Law* **"On the Parliamentary Oversight of the Military Organization of the State"** adopted in 2002 by the CIS Inter-parliamentary Assembly for all CIS states. In 2002–2004 the CPIS authored the CIS Model Law **"On Peacekeeping Operations"** and drafted the Federal Law of the Russian Federation **"On alterations and amendments into some legislative acts of the Russian Federation aimed at the mastering of civil oversight over the Armed Forces of the Russian Federation"**.

The CPIS is ready to assist officials and experts from international and national organizations, state structures and research institutes, to get in touch with their counterparts in Russia, to organize visits, consultations and international conferences and seminars on political, security and economic matters in Moscow, as well as information missions or business visits to other cities and regions of the Russian Federation.

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