THE EMERGING ROLE OF SADC AND OTHER REGIONAL ARRANGEMENTS IN THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY: AN HISTORICAL-COMPARATIVE STUDY

BY

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A thesis submitted in fulfilment of the requirements for the degree of **DOCTOR OF PHILOSOPHY** in the **DEPARTMENT OF PUBLIC LAW AND LEGAL PHILOSOPHY** in the **FACULTY OF LAW**, at the **UNIVERSITY OF NORTH-WEST.**

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DATE SUBMITTED: **JANUARY 2001**

ABSTRACT

The research is an attempt to investigate the emerging role of regional arrangements in the maintenance of international peace and security from a time perspective and through a comparative analysis. The emphasis is on the Southern African Development Community (SADC), the Economic Community of West African States (ECOWAS), and the North Atlantic Treaty Organization (NATO). The research treats regionalism as a topical concept in present day international efforts to achieve peace and security in diverse parts of the world. Another important issue is that of the 'expansion of tasks' which has found increasing currency in the New world Order as regional arrangements broaden their concerns so as to embrace new ones that were not conceived at the time when the organizations were established. The study looks at how the UN Charter legalizes regional arrangements to help maintain international peace and security, and offers theoretical suggestions why states forego part of their sovereignty to join regional organizations. The historical perspective examines several organizations: The Organization of American States (OAS), the Arab League, the Warsaw Pact, and the Organization of African Unity (OAU). The comparative approach selects the following criteria: Treaties and their founding principles, genuflection to UN Charter principles, the presence of the hegemon, and resources for conflict management and resolution. The research treats the geopolitics of regional arrangements by selecting what may termed leading historical cases which lay the foundation for the study of regional arrangements in international law and politics. For regionalism in the New World Order, the study focuses on defining moments of the Post-Cold War era, investigating several cases which illustrate how regional arrangements have taken the promotion of international peace and security in their own hands. These are some of the recommendations of the thesis:

- The relationship between the UN and regional arrangements should not be left solely to political interpretation of the UN Charter, but should be enhanced by the determination to respect also the spirit of the UN Charter, in particular the provisions of Article 53.
- Enforcement action as mentioned in Article 53 should be interpreted in terms of the provisions of Chapter VIII, Articles 41 and 42.
- When a case involving a regional arrangement of which a permanent member of the Security Council has membership is brought before the Council, the respective member should not take a vote on the matter.
- If the principle of prior authorization cannot be fully enforced, then it should be regarded as superfluous and be expunged from the Charter.
- For SADC in particular, a clear policy should be put in place to guide decisions when and how to intervene.
- All African leaders should heed Article 3(f) of the Constitutive Act of the African Union, which declares that one of the objectives of the Union is to 'promote peace, security, and stability on the continent'.

DECLARATION BY PROMOTER

I, Professor Melvin Mbao hereby declare that this dissertation by Mr. P. B. Mosieleng for the degree of Doctor of Philosophy be accepted for examination.
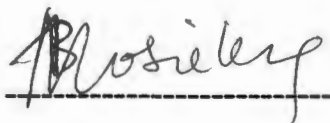
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JANUARY 2001

DECLARATION

I hereby declare that the dissertation for the degree of Doctor of Philosophy at the University of North-West hereby submitted, has not been previously submitted by me for a degree at this or any other university, that it is my work in design and execution and all the material contained herein has been duly acknowledged.

Percy Boitumelo MOSIELENG

<u>DEDICATION</u>

To all those who strive to make the world a peaceful and secure place

"Blessed are the peacemakers for they shall be called the sons of God"

The Gospel according to **St. Matthew 5: 9**

<u>ACKNOWLEDGEMENTS</u>

My thanks are due to my promoter, Professor Mbao, for his edifying guidance which steered the path of this thesis to where it is now. I sincerely appreciate his attention to detail, and his critical, but tolerant, comments on my progress throughout this research.

I also wish to thank the Research Committee of the Faculty of Human and Social Sciences at the University of North-West for their generosity in making funds available to me to pursue this research without financial stress. I also acknowledge financial assistance from the CSD in Pretoria, which couldn't have come at a more opportune time.

I want to recognize two diligent assistants in the Inter-Library section of the University of North-West: Kennedy Modise and Thabo Molelekeng. Without their efforts, this research work would not have succeeded. Many thanks and keep up the good work!

I want to thank my family: my parents, Peter and Mpho Makhoana; my sister, Pinkie; my brothers, Shadrack, and Meshack (and their families), and Bafedile. Most of all to my nieces, Seanokeng and Galaletsang, and nephew, Thulani.

To my larger family: My grand-mother, Sarah Mosieleng, and her children, my aunts and uncles: Modise; Auntie; Oupa; Kgantse; Leepile; Seapei; Kokeco; and Malebogo, and their families.

To Tony Modise, colleague and friend, for being there all the time; and Raymond Mohatle, for the good job done.

Finally, I want to say a special thank you to a very special person, Serero Mamatela, for being a solid rock for the years I was a law student. I fully appreciate the sacrifices and efforts we have made together to bring this thesis to where it is now. Be forever happy!

The Law is stated as current by February 2001

TABLE OF CONTENTS

CHAPTER ONE: INTRODUCTION

CHAPTER TWO: UN CHARTER PROVISIONS ON REGIONAL ARRANGEMENTS: A CRITICAL ANALYSIS OF THE LAW AND ITS INTERPRETATION

CHAPTER THREE: THEORETICAL PERSPECTIVES ON INTERNATIONAL RELATIONS AND REGIONAL ARRANGEMENTS: AN ANALYTICAL OVERVIEW

CHAPTER FOUR: NON-AFRICAN REGIONAL ARRANGEMENTS UNDER THE UN CHARTER: AN HISTORICAL-COMPARATIVE SURVEY, 1945 TO THE END OF THE COLD WAR.

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PAGINATION ERROR (handwritten, bracketing entries 140 and 142)

CHAPTER SIX: THE GEO-POLITICS OF REGIONAL ARRANGEMENTS: A SURVEY OF LEADING HISTORICAL CASES, 1945 TO 1990.

CHAPTER SEVEN: REGIONAL ARRANGEMENTS IN THE NEW WORLD ORDER: POST-COLD WAR DEVELOPMENTS

CHAPTER EIGHT: CONCLUSION

LIST OF ABBREVIATIONS

- ALC   African Liberation Committee
- ANC   African National congress
- BCP   Basutoland Congress Party
- BNP   Basuto National Party
- CIAS   Conference of Independent African States
- CMCA   Commission for Mediation, Conciliation, and Arbitration
- CONSAS   Constellation of Southern African States
- CSCE Conference for Security and Cooperation in Europe
- DRC   Democratic Republic of Congo
- ECOMOG   ECOWAS Monitoring Group
- ECOWAS   Economic Community of West African States
- FLN   (Algerian) *Front de Liberation Nationale*
- FLS   Front Line States
- GCC   Gulf Co-operation Council
- IAF   Inter-Africa Force
- IATRA   Inter-American Treaty of Reciprocal Assistance
- I-FOR   Implementation Force
- KLA   Kosovo Liberation Army
- LCD   Lesotho Congress for Democracy
- MPLA   Popular Movement for the Liberation of Angola
- NATO   North Atlantic Treaty Organization
- NPLF   National Patriotic Front of Liberia

- ❏ OAS   Organization of American States
- ❏ OAU   Organization of African Unity
- ❏ PAC   Pan Africanist Congress of Azania
- ❏ RENAMO   National Resistance Movement of Mozambique (*Resistencia Nacional Mocambicana*)
- ❏ SADC   Southern African Development Community
- ❏ SADCC   Southern African Development Co-ordinating Conference
- ❏ SMC   Standing Mediation Committee of ECOWAS
- ❏ SWAPO   South West African People's Organization
- ❏ UAM   Union Africaine et Malgache
- ❏ UN   United Nations
- ❏ UNCIO   United Nations Conference on International Organization
- ❏ UNFICYP United Nations Peace-keeping Force in Cyprus
- ❏ UNITA   National Union for the Total Independence of Angola
- ❏ UNOMIL   United Nations Observer Mission in Liberia
- ❏ UNPROFOR   United Nations Protection Force
- ❏ WTO   Warsaw Treaty Organization
- ❏ ZANU   Zimbabwe African National Union

SUMMARY

This research is an attempt to investigate the emerging role of regional arrangements in the maintenance of international peace and security from a time perspective and through a comparative analysis.

Chapter One treats regionalism as a topical concept in present day international efforts to achieve peace and security in diverse parts of the world. It illustrates how some regional arrangements have eclipsed superior organizations to help maintain international peace and security. In Africa in particular, several regional attempts at peace-making were done outside the framework of the continental body, the Organization of African Unity. When NATO fighter aircraft bombed Serbia in 1999, it did not deem it necessary to seek Security Council approval because, to all intents and purposes, it was acting as the *de facto* Security Council. Another important issue is that of the "expansion of tasks" which has found ever-increasing currency in the New World Order as regional arrangements broadened their concerns so as to embrace new ones that were not conceived at the time when the organizations were established.

Chapter Two looks at how the UN Charter legalizes regional arrangements to help maintain international peace and security. The discussion is limited to the constitutional relationship between the UN and regional arrangements as laid down in the Charter, without much reference to political interpretation of the provisions. The discussion also narrates the founding

process with a view to illustrating the influence of diverse blocs and pressure groups. Chief among them was the already well-established and functioning Organization of American States (OAS), which agitated for specific mention in the proposed Charter. The historical account also reveals the contentious question of the ultimate relationship between the so-called universalists and regionalists. The main provisions analysed are those of Article 51 (self-defence), Article 52 (peaceful settlement), Article 53 (enforcement action), and Article 54 (reporting clause).

Chapter Three focusses primarily on theoretical suggestions why states forego part of their sovereignty and join an organization of several states. It seeks to explain the behaviour of states on the international plane. It is linked with Chapter Two by looking at how and why regional arrangements are established within the framework of the UN Charter. The theories selected for this study are realism, institutionalism, regime theory, sociological approaches, and third world views.

Chapter Four examines four non-African regional arrangements, namely the OAS, the Arab League, NATO, and the Warsaw Pact. The examination is by way of an historical-comparative approach. The historical perspective embraces the Cold War period, and the comparative approach selects the following criteria: treaties and their founding principles, the presence of the hegemon, and the resources for conflict management and resolution.

Chapter Five deals with three African regional arrangements, namely, the OAU, ECOWAS, and SADC, and maintains the historical-comparative perspective adopted in the previous chapter but with modifications where

appropriate. The study reveals that the ultimate shape of the OAU at the Addis Ababa Summit of 1963 was largely pre-determined by African political blocs that had been crystallizing since 1958. As for ECOWAS and SADC, the main focus is on their origins as economic communities and their subsequent emergence as role players in the search for peace and security.

Chapter Six treats the geo-politics of regional arrangements from a historical perspective by selecting what may be termed leading historical cases. The historical cases lay the foundation for the study of regional arrangements in international law and politics.

Chapter Seven focusses on regionalism in the New World Order. It looks at defining moments of the post-Cold War era. Several cases are used to illustrate how regional arrangements have taken the promotion of peace and security in their own hands.

Chapter Eight is the conclusion of the research and it deals with the main findings of the study and also makes some recommendations. In the end, a future perspective of regionalism is given.

CHAPTER ONE: INTRODUCTION

1. 0   <u>STATEMENT OF THE PROBLEM</u>

This study investigates the emerging role of the Southern African Development Community (SADC) and other regional arrangements in the maintenance of international peace and security by using both the historical and comparative approaches. It argues that there have been practices on the part of regional institutions established under the United Nations Charter which, on a close analysis, are incompatible with the very principles of international law that they ostensibly desire to uphold in treaties and interpretations of Charter provisions.

The research will present a view that *de jure*, the UN Charter does not permit regionalism to be paramount over globalism or universalism, as provided for in Chapter VIII and Article 103, but that *de facto*, regionalism is a limitation of the Security Council's sphere of operation, as evidenced by the recent actions of the North Atlantic Treaty Organisation (NATO) against Serbia/Kosovo, SADC in Lesotho and the Democratic Republic of Congo (DRC), and the Economic Community of West African States (ECOWAS) in Liberia and Sierra Leone. This view attempts to validate Bennett's conclusion that "[t]he Chapter attempts to assign to the Security Council ultimate and supreme responsibility for maintaining peace and security, but it provides the Council with inadequate means for enforcement and it builds into the system the possibilities for deadlock and stalemate" (1984 : 354).

Crucial to the understanding of the complexities of regional organisations which have a high profile role in the maintenance of international peace and security is the distinction between pacts established under Article 51, and regional organisations in the nature of 'arrangements' and 'agencies' **(1)** founded on the provisions of Chapter

VIII of the UN Charter. With this distinction firmly established, this study looked at the specific actions of regional organisations in recent history to see if they were of a defensive or enforcement nature. As White puts it, "organisations designed primarily to enhance the defence and military capabilities of power blocs" do not fit the concept of regional arrangements under Chapter VIII (1993: 23). In the main, Chapter VIII regional organisations should serve peaceful and not aggressive purposes (Padelford: 1954: 205).

This study focuses to a large extent on SADC and its changing role, nature and aims in Southern Africa, *vis-à-vis* the maintenance of international peace and security. **(2)** However, by way of widening the scope of the field of study, a comparative perspective of the changing role, nature and aims of other regional arrangements with high visibility in the world and regionally, in particular NATO and ECOWAS is provided. With a view to presenting a consolidated and a more comprehensible delineation of regionalism in present-day world politics, the research offers an historical perspective of the subject-matter, looking at its genesis and development since 1945, the time of the founding of the United Nations, and its main instrument, the UN Charter.

It is imperative at this point to comment on the selection of regional arrangements or organisations for the purposes of this study. As the title of the topic indicates, the principal organisation distinguished is SADC. Nonetheless, because of its brief existence and high visibility in world and regional politics, SADC alone as a focus of study would not have provided a manageable and comprehensive material for a broad-based study of regionalism in the maintenance of international peace and security. To redress this deficiency, the study was broadened so as to embrace "other regional arrangements" without specifications. In the main, these other arrangements are ECOWAS and NATO, in recognition of their heavy (-handed)

participation in post-Cold War regional conflicts. Nonetheless, for comparative and historical reasons, and also for the principle of inclusiveness, the following arrangements are referred to: Organisation of American States (OAS), the now-defunct Warsaw Pact, the Arab League, and the Organisation of African Unity (OAU).

In terms of depth and breadth, the following case studies will form the bedrock of this research:

(1)   Liberia (ECOWAS);

(2)   The former Yugoslavia (NATO);

(3)   Lesotho and the DRC (SADC).

(4)   To a considerable degree, and mainly for historical insight, the role of the OAU in the management and resolution of conflicts that have beset the African continent will be commented upon and assessed within the parameters of regionalism.

It is also imperative to comment on the phrase "emerging role", found in the title. It is closely related to the concept of "the expansion of tasks", which is finding increasing currency in the discourse of regional arrangements activity. In essence, this refers to the situation where an organisation broadens, significantly for that matter, its aims and main concerns which, on close inspection, show a departure from those that initially formed the basis of its treaty. Clive Archer (1983: 49, 51) elaborates on this matter:

> Most international organisations ... have their aims stated usually in
> the basic document by which they have been established. This is
> not to say that an organisation has no other aim except the stated

> ones ... The proclaimed aim is the most apparent statement of the
> intentions behind the existence of an organisation [...] The aims of
> international organisations range from the general extensive to the
> specific and particular.

This phenomenon can be illustrated as follows:

The foundation of NATO is provided for in Article 5 of its Treaty, which states: "The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an attack occurs, each of them, in exercise of the right of individual or collective self defence recognised by Article 51 of the Charter of the United Nations, will [take] such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area".   It is superfluous to remark that the use of armed force, in the form of punitive air raids, against Serbia because of the Kosovo conflict, owes nothing to the provisions of Article 5 of the Atlantic Treaty.   NATO was not established to be the "enforcer" of peace-supporting operations; it was intended for "defensive" purposes.   Thus, its enforcement actions in Kosovo (without Security Council authorization) can be seen as an "emerging role" or an "expansion" of its tasks.

Founded in 1975, ECOWAS derived its *raison d'être* from the main adjective of its name, 'economic', the organization had no ambitions to be the "enforcer" of peace and security.   The organisation "expanded" its tasks to embrace, within legal bounds, security matters by energizing and mobilizing its Protocol Relating to Mutual Assistance on Defence (29 May 1981, Freetown, Sierra Leone), to establish the ECOWAS Monitoring Group (ECOMOG) in 1990. When faced with the threat of insecurity and breach of the peace precipitated by the (mainly ethnic) conflict in

Liberia, a founding member of ECOWAS, the organisation enlarged its concerns to enter the realm of security.

The case of SADC is not altogether dissimilar to that of ECOWAS. Its emerging role is a migration, also very significant, from concern with pure matters of economic co-operation and development, to complex involvement in security issues. Mark Malan niftily states this evolvement in this way: "Established for the purposes of harmonizing sub-regional policies, SADC has increasingly come to be regarded as a security arrangement of the type envisaged by Chapter VIII of the UN Charter" (1998: 90). The entry of SADC into this field was predicted by Neil MacFarlaine and Thomas Weiss in their 1992 article, "Regional Organizations and Regional Security", who wrote: "[I]n the security arena, recent research points to the emergence of such sub-regional units as the Gulf Co-operation Council (GCC) or the SADCC as significant players of the future in the Third World" (1992 : 9). The way to the 'security arena' was paved by the launch of the SADC Organ for Politics, Defence and Security (herein after referred to as the Organ, or SADC Organ) on 28 June 1996 in Gaborone, Botswana. The launch of the Organ brought to a near satisfactory close a process that began with the transformation of SADCC into SADC in 1992. (3) As Maxi van Aardt puts it, the launch "also indicated the start of a new process to build and maintain security in the region through a formal institution and the building of the structure and institution itself" (1997 : 144).

The cases of ECOWAS and SADC require further clarification in their emerging roles in the maintenance of international peace and security. The literature on regionalism consistently refers to the OAU as the principal, or at times, the sole, 'regional arrangement' with the African continent as its 'sphere of influence'. In the same vein, institutions such as ECOWAS and SADC are referred to as 'sub-regions' or 'sub-regional arrangements'. In general, this distinction is clearly a matter of

choice in more recent discourse on regionalism, owing to the reality that these 'sub-regional' arrangements, (4) in whatever guise, or for which motive, and under what auspices, have eclipsed the OAU in the arena of political/security involvement. The following recent events prove this new phenomenon: On the eve of the OAU summit in July 1999, in Algiers, Algeria, three events bearing significantly on the maintenance of international peace and security took place in Lome, Togo, Lusaka, Zambia, and Tripoli, Libya.

In Lomé, the factions involved in the fratricidal war in Sierra Leone agreed to a peace-plan brokered by ECOWAS. In Lusaka, the Zambian President, Frederick Chiluba, presided over the signing of a chequered peace plan for the termination of the war in the DRC. In Tripoli, President Gaddafi managed to call together the warring parties in Eritrea and Ethiopia. President Chiluba, although acting under the auspices of the OAU, used his charisma to achieve what the organization could not accomplish earlier, that is, to bring the warring Congolese factions to agree to a ceasefire accord. President Gaddafi effectively used his standing among the warring parties in the Horn of Africa to persuade them to attend the talks, although they did not lead to any success.

Taken out of context, these events lose their implication for they have the appearance of the run-of-the-mill attempts at peacemaking in the conflicts that are continually tarnishing the security image of the continent. However, it is a fact that these peace efforts were made a day or so before the annual gathering of African Heads of State and Government of the OAU. The undisguised inference is that the 'sub-regions' no longer defer, as tradition and protocol would have it, to the Big Brother of African regionalism. Despite being the Big Brother of African politics, the OAU has an undesirable track record in the management and resolution of both inter-state and intra-state conflicts.

Be that as it may, the sub-regions continue to acknowledge the supremacy of the OAU in their declarations. In practice, this deference is significantly absent, although it is persistently called for. Colonel T.J. Dube expresses his notion of the ideal situation: "[T]he framework of regional defence co-operation in African has to comprise the OAU as the regional co-ordinator and supervisor, with sub-regional organizations as the implementers" (1998 : 25). But, generally, the majority of writers have dismissed the OAU's effectiveness. As MacFarlane and Weiss (1992: 30) note, "with its headquarters in Addis Ababa, the OAU appeared particularly inept in helping to end the Ethiopian civil war [of the 1980s]". They add this stinging comment:

> The picture of the OAU functionaries observing through their
> office windows the final battle for Addis between the remnants of
> the Mengistu dictatorship and Tigrean guerrillas is an eloquent
> metaphor for the role of the organisation itself with regard to these
> and other conflicts in Africa (1992: 15).

It is imperative to point out at this stage that the main obstacle or stumbling block to the OAU's intervention in local conflicts, whether intra-state or inter-state, is the infamous Article 3 (2) of the OAU Charter, which affirms the principle of non-interference in the internal affairs of a state. Substantial and well-argued literature exists on this sticking point, and it would not advance this dissertation to discuss it further. (5) The call for the expungement of this provision continues loud-and-clear, and it was even suggested, though with the usual diplomacy and pussy footing, at the 1999 Algiers summit that the Charter requires revision. After the Algiers summit, the majority of OAU leaders heeded the call by President Gaddafi to meet in extraordinary session in the Libyan town of Sitre to discuss the formation of an

African Union. The Constitutive Act of the African Union was submitted for ratification at the OAU Summit in Lome in July 2000. Once the requisite majority of OAU members ratify the Act, the OAU shall be defunct.

It is submitted that the founding principle of regionalism is the inability or the unwillingness of the 'bigger body', such as the United Nations (in cases of OAS, NATO, Arab League, Warsaw Pact, and the OAU), and the OAU (in cases of ECOWAS and SADC), to purposively address local conflicts. The United Nations was set up as a global institution to maintain peace and security but, at the same time, many regional arrangements were founded to perform a similar task, although at a local level. There was built into the relationship between the universal body and the regional institutions the possibility of a conflict over jurisdiction and the use of the veto in the Security Council to thwart regional action. In terms of the relationship between the OAU and the sub-regions the problem has revolved around Article 3 (2).

The problems inherent in these relationships is explained below:

To escape the constitutional quagmire, organizations such as NATO have claimed to exercise their right under the provisions of Article 51 of the UN Charter, to avoid the veto. This escape-hatch is lucidly explained by Gerhard Bebr as follows and can be cited at length:

> Article 51 does not abolish the authority of the Security Council, it is only latent "until the Security Council has taken measures necessary to maintain international peace and security". It is evident, however, that if the Security Council takes no such measures the action of the regional organization may continue

> indefinitely; *inaction of the Security Council cannot block the*
> *action of the regional organization* [...] This is the most significant
> difference between regional organizations based on Article 51 and
> those placed within the meaning of Chapter VIII, *which can begin*
> *action only after a prior authorization by the Security Council.*
> *The Council's inaction means simultaneously the inaction of the*
> *regional organization*   (1955:174) (Emphases added).

Bebr concludes, logically, that Chapter VIII organizations, being under control of the Security Council, appear to be the veritable agencies of a world body, but on the other hand, Article 51 organizations, which are outside the direct control of the Council, are "inside the UN Charter and outside the veto" (1955: 175).   **(6)**

Both ECOWAS and SADC have utilized their Defence Protocols to negotiate away the impediments mounted by Article 3 (2) of the OAU Charter.   They have ostensibly put forward a case that these protocols and/or security clauses or provisions should be empowered to ensure that the organisation take decisive action whenever international peace and security is threatened by a violation of human rights and international law. Furthermore, the issue of peace and security is critical, and without it being put at the heart of regional organisations originally established for economic development, there can be no use of talking seriously about development. In an article brazenly critical of SADC initiatives in Lesotho and the DRC, Malan correctly observes that, over the years SADC has entered areas far removed from those of development co-ordination and facilitation and has transformed itself into a "hope of peace for Southern Africa" (1998: 90).

It is interesting to note the divergent views that each regional organization holds about the relationship between the global body and regional arrangements.   In the immediate wake of the NATO bombing of Serbia in March - June 1999, a deluge of

criticism from around the world denounced the enforcement action, expressing valid fears that the action amounted to the 'death' of the authority of the Security Council. In an article, "Is Yugoslavia so unlike Lesotho?", Peter Fabricius commented on the South African response which said; "The South African government strongly emphasizes the primary responsibility of the United Nations Security Council in the maintenance of peace and security. The erosion of the UN Charter and the authority of the Security Council cannot be tolerated by the international community". **(7)** Fabricius reported that this strong statement was not appreciated by the United States Embassy, which approached Pretoria to persuade it to dilute its criticism, pointing out that US reaction to South Africa's military intervention in Lesotho - also conducted without UN approval - had been muted. The then US Ambassador, James Joseph, made a demarche, but, it is reported, the then Foreign Minister, Mr Nzo, stood his ground. Fabricius concludes his comment by warning that South Africa must be careful in its criticism when its own actions are debatable, since it also lacked justification for invading Lesotho. Also in a hard-hitting article on South Africa's double standards, John Seiler writes:

> The South African government's intervention in Lesotho last year involved no specific authorization from the UN Security Council and the OAU; the decision involved no more than an informal consultation by acting president Buthelezi with a few SADC presidents. The Lesotho intervention should clarify the South African government's decision-making about future regional interventions and the feasibility of such action. **(8)**

He closed his argument by advising that South Africa should confine its diplomacy to countries "beyond the immediate region", such as Libya (Lockerbie-case) and East Timor, where its deeds shine, "with no hint of any military role". **(9)**

It should be noted that these two articles, both presenting a similar view and concern, do not condone the action taken by NATO against Serbia/Kosovo: the thrust of their argument is against South Africa's duplicity. While it is true that SADC did not obtain UN authorization, the main concern here is whether South Africa, as the leader of the SADC contingent, was justified to intervene militarily in the affairs of its small neighbour.

A more valid concern is the manner in which the United States and its allies (whether in NATO or elsewhere) perceive regional initiatives, for this perception logically extends to the manner in which the Security Council relates with various regional arrangements. **(10)** The United States (by extension the Security Council) displays unsettling duplicity when it comes to the "authorization" of regional arrangements to take enforcement action in terms of Article 53(1): "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority". The complication is occasioned by the subordinate clause, *where appropriate*, because it allows a Big Power to exercise its discretion in deciding whether or not a conflict should be handled by a regional organization. Such discretion, it is submitted, does not always consider carefully the ability (or lack thereof) to deal with local conflicts. For purely geo-strategic interests, a permanent member may deny a regional organization the opportunity to deal with a local dispute or situation, or it may 'encourage' it to do so.

A few illustrations can be used to clarify this selective behaviour of the Security Council:

The Security Council, spearheaded by the US and Britain, did not deem it 'appropriate' for the Gulf Co-operation Council (GCC) or the Arab League to take a

lead in addressing the Iraqi invasion of Kuwait in 1990/1. The Council, however, allowed ECOMOG to be the 'appropriate' enforcer of peace-supporting efforts in Liberia (it should not escape anyone's notice that both the Gulf and Liberian crises were raging at the same time, that is, the opening months of 1991). The Security Council did not take any decisive action in Rwanda and the DRC, but instead adopted the ancient "Try Africa First" attitude. Even if the scale of human suffering and loss of life in Liberia far exceeded that in the Gulf, the UN/US persisted in pursuing Iraq and neglected Liberia. The sensible world would have imagined, or at least assumed, that the unprecedented human catastrophe of Rwanda would at least startle the Security Council into action. That was not to be: initiatives taken by African luminaries such as (the late) Julius Nyerere and other regional leaders were sufficient as far as the Security Council was concerned. Lesotho is another example as explained earlier. Ironically, the Kosovo crisis in the view of the West (who dominate the Security Council), was not even 'appropriate' for the Security Council. Again, nor was it a matter for the pan-European body, the Organization for Security and Co-operation in Europe (OSEC). Enforcement action was taken by a regional organization, NATO, against a non-member, Serbia, which was a measure that amounted to the re-writing of the rules of international law. On this matter, Cameroun Duodo, comments:

> [A]part from the human casualties caused by NATO's saturation
> bombing of Yugoslavia, there is another seriously injured party. Its
> name is the United Nations ... The countries that are bombing
> Yugoslavia were almost all involved in drawing up the UN Charter.
> **(11)**

The scathing irony in this remark is not easy to lose for it stubbornly points to the ancient maxim - "Nobody has a more sacred obligation to obey the law than

those who make the law". The Allied Powers created the Security Council, and invested it with sweeping power as the only body in the world that could authorize the use of force, and finally, protected that power with an instrument called a veto. According to Duodo, the imperfect peace for an imperfect world is pax incognito: the world is supposed to be at peace but in many areas the so-called peace is completely unrecognizable. He then makes a jibe at the new order, or pax Natoriana which has now rendered the staff of the UN (who maintained pax incognito, at least) almost irrelevant.

The arguments over the much-hyped "authorization" should be seen against the larger background of the universalism/regionalism dichotomy, which has been at the centre of the debates on Chapter VIII of the UN Charter since the creation of the world body. **(12)** It will not profit this thesis to rehearse the arguments, but the essence of the debate will form a limited part of the next chapter. Nonetheless, as Louise Fawcett sums up the issue, "the old controversy over the relative merits of regionalism and globalism has become increasingly obsolete" (1995: 19).

In general, it is a fact of the New World Order that regionalism is on the increase, regardless of its advantages and disadvantages. As Earl Conteh-Morgan says, whatever the level of abstraction at which one may prefer to cast the increasing importance of (mainly economic) regional communities, their expanding role in domestic and regional affairs "can be baffling" (1998:3). He continues:

> The increasing turbulence, anarchy, and effervescence of
> domestic, regional and world politics are indications that the last
> years of the twentieth century are and will continue to be marked
> by regional organizations increasingly able and inclined to intrude
> into domestic, political, and military arenas of individual member

> states... Yet, despite the pervasiveness of economic communities,
> *expanding competencies and widening power bases do not*
> *necessarily result in greater peace, control and stability* (in
> Magyar & Conteh-Morgan, 1998: 3-4) (Emphasis added).

The double-edged significance of this remark would be eagerly seized by 'regional pessimists' as a case in point that regionalism was never and could never be the answer, let alone the panacea, to the trouble-spots of the world. Conversely, "the proliferation of regional arrangements raises complex and difficult questions concerning the character and maintenance of international order" (Fawcett & Hurrell, 1995: 4). The argument goes that, given the greatly increased burden placed upon the UN since the end of the cold war, it is logical to delegate a greater role to regional arrangements in the maintenance of international peace and security.

However, MacFarlane and Weiss clearly do not want to be drawn into this line of thinking. They begin their argument by noting that although there is "reason to believe that regional actors are intrinsically equipped to deal with the dynamics of regional conflicts ... the hopes placed on regional organizations are unduly optimistic, if not altogether misplaced" (1992: 7). For them, the apparent strengths of regionalism such as ambiguity of 'region' as a concept, over-stretched capacities of the UN, and better familiarity with local crises, are offset by its weaknesses such as partisanship, local rivalries, and lack of resources (1992: 8,11). In their analysis, the learned authors present case studies to illustrate their standpoint: OAU in Ethiopia and Somalia (dismal failure); ECOMOG in Liberia (obtained a pass mark in the assessment); European Union in Yugoslavia (scored only on financial and human resources), Asean in Cambodia (no certain success), the OAS in Central America (UN ultimately had to intervene). **(13)**

To conclude the discussion on regionalism as a research problem, the following recent events pertaining to the selected case studies (Kosovo, Liberia, the DRC, and Lesotho) are illustrative:

In Kosovo, NATO achieved success in halting the expulsion of Kosovo-Albanians from the province and in securing their safe return. A point which should not escape attention is that NATO did stop its air raids over Yugoslavia/Serbia before the Security Council assumed apparent supremacy. Also, the UN force, K-FOR, though 'NATO-led' as it is called in the media, is still a UN force, and this leaves 'regional pessimists' with a lingering hope that the world body is in charge of things. Nonetheless, Slobodan Milosevic continued to be President until he was removed by 'people's power' following bungled elections in September 2000 which were later given to the opposition, led by the new President, Vladislav Kostunica.

At this historical point, the Liberian crisis of the 1990s is now of interest only to scholars of international law and politics. Elections were held in May 1997, which the former rebel-leader, Charles Taylor, won by a landslide. Liberia, however, is a *locus classicus* of how partisanship, rivalries and lack of financial resources could seriously hamper well-intended missions to build peace and security.

Sierra Leone is still in a flux, exacerbated by the luke-warm reception of the July 7 1999 Peace Agreement signed in Lome. The UN, however, is unequivocal that it would not recognize any peace deal that extends amnesty to those responsible for crimes against humanity. It is considering setting up an international tribunal to try all those involved in acts of brutality which are classified as war crimes

Lesotho will hold new elections in 2001, but the present political wrangling (which

is natural in such an arena) does not emit any signs of hope that regional intervention in 1998 had a lasting effect. The main puzzles for SADC remain Angola and the DRC. It is still a wonder that SADC, as "the hope of Southern Africa", could expend such efforts towards peacemaking in a country led by Kabila who never came to power through democratic means of whatever sorts, and yet play a low-key role in a country like Angola, which at least held multiparty elections in 1994. Still on the DRC, the shuttle-diplomacy sustained in 1999 by the South African Foreign Minister, Dr Zuma, may pay dividends in the near future, but again, the spectre of partisanship and rivalry looms large over her efforts. The assassination of President Kabila on 17 January 2001, though tragic in human terms, led to dramatic changes in the prospects for peace in the country and the region. The new leader, who is the son of the slain Kabila, has already showed positive signs towards implementing the provisions of the July 1999 Lusaka Accord for inter-Congolese dialogue and peace. Also, another promising gesture is the unconditional reinstatement of the mediator in the DRC conflict, former Botswana president, Sir Ketumile Masire.

1. 1 **RATIONALE FOR THE STUDY**

The initial impetus to embark on this study is largely based on the discrepancy existing between the provisions of the UN Charter regarding regional arrangements in matters relating to the maintenance of international peace and security on the one hand, and the manner in which these regional bodies interpret their powers under the UN Charter as clearly demonstrated in their actions, on the other hand. The Charter makes it clear that the Security Council is supreme in matters relating to international peace and security but there is the somewhat inevitable or deliberate modification of the provisions of the Charter through interpretation and state practice.

As matters stand, interpretation of the principles of Chapter VIII of the UN Charter and the intermittent debate concerning the right of the Security Council to assume priority over disputes while they are under consideration by a regional body, have substantially undermined the supremacy of the United Nations. Although Chapter VIII is the most conspicuous evidence of the supremacy of the Security Council, Article 51 removes any strict differentiation between the power of the world organization on the one side and that of the regional organization on the other. This is the case despite the fact that Article 103 dispels any doubts about the supremacy of the UN over regional arrangements.

This matter is further complicated by the observation that the UN Charter "does not assume that the Security Council will address all security problems or that it will necessarily be the first recourse in case of threats to international peace and security" (Luck & Gatti, 1992: 51). Calling Chapter VIII "probably the least explored territory in the Charter", Luck and Gatti believe that, nonetheless, it addresses "the possibilities for coordinating the efforts of regional bodies and the Security Council aimed at both peace resolutions and enforcement of Council actions" (1992: 52). In practice, however, there has been minimal 'coordination', but rather rivalry. This is because, as Bowett candidly puts it, "regional arrangements are not microcosms of the UN". In general they have a professed bias (for example, during the Cold War era, against colonialism, or capitalism, and communism), or exclude other members of the UN; again, they do not guarantee the objectivity desirable in any authorization of the use of force against another state (1982: 164).

Another motivation for the study of the emerging role of regional bodies is the interest theorists and statesmen/politicians have in the variety of roles these

organizations can play in the international system, and also the widely differing interpretations which could be made of these roles. Charles Pentland (Little & Smith, 1991: 247) says they can be used as instruments of foreign policy and modifiers of state behaviour. However, writing in 1976, he remarked that there certainly existed divergent expectations regarding the future development of these arrangements.

According to Andrew Hurrell (Fawcett & Hurrell, 1995: 44), regional organizations have political significance if they can impose costs on outsiders, such as the "detrimental impact of preferential regional economic arrangements" or cause a "shift in the distribution of political power", or force outsiders "to define their policies towards individual regional states in regional terms". Advanced regional organizations such as the European Union and NATO have already acquired the kind of significance that Hurrell outlines. The newer African regional arrangements, ECOWAS, SADC, and the East Africa Community, (14) which at present are concerned with economic and political issues, still have a long way to go before their member states are addressed in "regional terms" on the international platform.

1. 2   **OBJECTIVES OF THE STUDY**

It is hoped that this research will raise, among others, the following issues:

1.   The nature, role and function of multi-purpose regional arrangements by investigating their activities. This issue will test the hackneyed saying that "actions speak louder than words" by seeking parallels between the professed

or foundational aims of the organization and its actions. Furthermore, this issue will bring to light the concept of "expansion of tasks".

2.   The existence or not of a single, hegemonic power inside a regional organization, and, if present, the manner in which this hegemon uses or abuses the organization to further its own, selfish political agenda under the cloak of legitimacy granted by Chapter VIII provisions of the UN Charter. The issue of the hegemon will be looked at from both the realist (or neo-realist) and liberal points of view.   The realists see the presence of the hegemon as beneficial only in power terms.   Its presence in an otherwise anarchical organization (reflecting the entire world) brings with it an "authoritative government that can enact and enforce rules of behaviour" (Keohane, 1984:7).   The neo-liberal view insists that there is a symbiotic relationship between the hegemon and the lesser or middle powers, which fosters co-operation.   The hegemon itself may seek to become involved actively in the construction of the regional institutions.   Yet, as the realists predict, "if the hegemon is in an extremely dominant position, the very extent of that power may make institutions, and in this case, institutionalized regionalism unnecessary, or at best marginalized" (Fawcett and Hurrell, 1995 : 52).

3.   The compatibility or incompatibility of the regional body's treaty to the principles of Chapter VIII of the UN Charter. Almost without exception, all non-Article 51 organizations refer to themselves in eloquent language that they are organization "within the meaning of Chapter VIII". This issue will be addressed more closely with the first objective.

4.   The future perspective of regionalism and universalism. This dimension can

be outlined by assessing the merits and demerits of each institution, and by assessing their impact on the maintenance of international peace and security.

1. 3   METHODOLOGY AND DATA COLLECTION

The method adopted in this thesis is the historical approach, which is concerned mainly with a time perspective. This orientation embraces three time frames, which are, the past, the present and the future. By and large, the starting point of any historical investigation is the present with its problems. As such, the past is not studied for its own sake but with a view to solving the problems of the present. It is important, however, to realize that we cannot directly apply solutions of the past, but we could discover what was sought to be accomplished and what principles led to success.

In this thesis, the historical method helped in reconstructing the history of regionalism in the field of international law and politics. It has shed light on both the genesis and development of the regional bodies falling within the scope of this study. The historical background is necessary to confirm our understanding of the present manifestation of these bodies. Nonetheless, a mere accumulation of facts will not yield solutions to the problems of the present, and looming ones of the future. As Herman Smith says, the historic scholar must give shape to events through interpretation of constellation of facts. In addition, he advises: "To build theories, the scholar must study internal variation and dynamics, which call for comparative cases and the search for patterns. The historic scholar assumes that change comes in patterns" (Smith, 1991:368-9). This approach was used in dealing with the genesis and development of regionalism, as well as the geopolitics of this institution.

The comparative method is useful in providing a wider view of regionalism, within which SADC as a regional body is located and better understood. This approach is useful further in establishing a balance on which we weigh our assessments of SADC in the exercise of its powers as a regional arrangement under Charter VIII provisions. This is consistent with Else Oyen's view: "Comparative research may have to shift its emphasis from seeking uniformity among variety to studying the preservation of enclaves of uniqueness among growing homogeneity and uniformity" (1990: 1).

A combination of the above methods results in a 'historical-comparative' or 'comparative-historical' method. Smith elucidates on the approach:

> The historical scholar is not interested in a mere collection of haphazard facts. Facts, concepts, and hypotheses must be co-ordinated, results compared, likenesses recognized, anomalies explained or rejected, and essential elements discerned (1991: 373 –4).

For Smith, the researcher adopting the historical-comparative method can adopt one or a combination of the following: individualizing, universalizing, encompassing, and variation-finding. The researcher who individualizes uses the case-study method, which treats each case as incomparable and peculiar, but as Smith notes, "scientists are trained to look for regularities, not peculiarities" (1991: 375). Case studies of regional peace-efforts in this thesis will not be made to highlight their uniqueness or 'incomparability'. As such, the case study method was combined with the universalizing method, which emphasizes search for common properties among all instances of a phenomenon, in this case, the role of regional organizations in the maintenance of international peace and security. This study also used the

variation-finding approach, which "uses multiple cases in the search for all shared instances of degrees of patterned variation" (Smith 1991: 378).

The study leaned mainly on secondary sources in the form of standard textbooks and academic journals on the subject of international law in general and regionalism in particular. Furthermore, the study made use of learned opinions and reports gleaned from current affairs publications. As far as Security Council resolutions are concerned, the study made every attempt to acquire primary sources where possible, but where these were not readily available, resort was made to secondary writings on these resolutions. With regard to regional bodies themselves, their treaties were used as main sources of reference.

1. 4 <u>DEFINITIONS OF MAJOR CONCEPTS USED</u>

This section attempts to provide an elucidation, by way of authorial comment, of the key concepts used in this thesis:

1. **Region**: Although there is universal agreement that it is a futile exercise to define a region because there is "no general agreement on any natural divisions into which the world may be clearly and conveniently divided" (Bennett, 1984: 347), some definitions do make an attempt to delineate this concept, by splicing it together with *regionalism*. As Hurrell says, "all regions are socially constructed and hence politically contested". Nonetheless, "the help of geographical proximity and contiguity is necessary, for without some geographical limits the term 'regionalism' becomes diffuse and unmanageable" (in Fawcett & Hurrell, 1995: 38).

2. **Regional organization/arrangement**: Padelford's 1954 definition of this

phenomenon can be considered the most comprehensive: "[A] regional arrangement in the sphere of international politics may be described as an association of states based upon location in a given geographical area, for the safeguarding or promotion of the participants. The terms of this type of association are fixed by a treaty or other agreement ... [It] may be designed to serve political, economic, cultural, or defensive purposes, or some combination of these" (1954: 204). It should be noted that the UN Charter does not make any attempt to define a 'regional arrangement'. Bennett (1984:348) offers a more modern definition: "A regional organization is a segment of the world bound together by a common set of objectives based on geographical, social, cultural, economic, or political ties and possessing a formal structure provided for in formal inter-governmental agreement".

3. **Security**: Mohammed Ayoob (1995: 4-5) writes: "Although the dictionary definition of the term namely, to be free from danger, anxiety, and fear, may be quiet clear, the term has been endowed with a particular content when applied to the discipline of international relations". He continues to distinguish between the Western concept and Third World concept of the term, security. The Western concept of security is based on two assumptions: one, that most threats to a state's security arise from outside its borders, and, two that these threats are primarily, if not exclusively, military in nature and usually require a military response (1995: 5). The Third World concept of security is state-centred in character, "emphasizing the primarily political connotation of the term and the major enterprise in which Third World countries have been engaged since decolonization state-building" (Ayoob, 1991:9). In general, security is viewed in terms of any threat which has political outcomes that either affect the survivability of state boundaries, institutions, or the governing elites. The Security Council is concerned mainly

with threats to the peace, breaches to the peace and acts of aggression when it decides on what UN action to take without any consideration of the type of security.

4. **Peace**: Van Aardt (1997: 155) distinguishes between 'negative peace' and 'positive peace'. The former means that peace is seen as the absence of war and is therefore in line with the traditional military-political definition of security. The latter refers to more than the absence of war; "rather, it includes aspects such as the provision of basic needs and secure climate for development and progress". It is submitted that both types of peace are preferred. The distinction arises only out of what type of peace to emphasise. The SADC position, conceivably, has moved from the emphasis on negative peace to prioritising positive peace.

5. **Peacekeeping**: In present-day discourse on international law and politics, there is a distinction between 'classical' and 'third generation' peacekeeping. Dube (1998: 24) offers the traditional or classical definition: "[It] involves the deployment of a UN or regional peacekeeping force in the field, with the consent of all parties concerned, in support of all efforts to achieve and maintain peace". Warner (1995: x) writes this about third generation peacekeeping: "Recent peacekeeping operations have increasingly ventured into an ambitious, multi-dimensional undertaking for 'failed states', intended for building new institutions for democratic self-governance, national reconciliation and nation-building ... It may involve active intervention in domestic affairs during the crucial transitional period agreed upon by the parties of the conflict". In whatever guise, peacekeeping is legally provisional, for "buying time for settlement of the underlying disputes by other means" (Warner, 1995: 4). *Peacemaking* refers to the peaceful

settlement of disputes underlying the conflict, from which peacekeeping, coming first, had to be clearly separated in order to preserve its consensual and provisional character.

6. **Hegemony**: This situation should be understood together with the 'actor' the *hegemon*. Keohane defines it as a situation in which one state is powerful enough to maintain the essential rules governing interstate relations, and willing to do so. He further remarks: "Theories of hegemony should seek not only to analyze dominant powers' decisions to engage in rule-making and rule-enforcement, but also to explore why secondary states defer to the leadership of hegemon" (1984: 34, 35, 39). Ayoob (1995: 58) defines a hegemon as "a preeminent power in a geographical area with latent or overt claims to the status of security manager of that area".

1.5   SCOPE AND LIMITATIONS OF THE STUDY

In addition to this chapter (Introduction), there are seven more chapters:

Chapter Two: The Provisions of the UN Charter on Regional Arrangements: A Critical Analysis of the Law and its Interpretation

This chapter will focus on UN Charter provisions on Regional Arrangements. It will explore Chapter VIII and how it empowers regional arrangements to deal with local disputes in a peaceful manner (Article 52), and through the use of enforcement action (Article 53). The controversial application of Article 51 to regional action will also be considered. The discussion will also provide a historical account of the founding of the United Nations and the adoption of its Charter, in particular the

vexed question of the powers of regional arrangements.

Chapter Three: Theoretical Perspectives on International Relations and Regional Arrangements: An Analytical Overview

In this chapter, the element of politics is brought to the forefront, with a view to explaining the behaviour of states on the international plane. The explanation is by way of theory, reinforced at intervals by reference to history. By and large, the chapter proposes to explain an array of reasons and principles that underlie the inclination and willingness of some states to forego part of their sovereignty to join an international organization. The main theories are: realism, institutionalism, sociological approaches, regime theories, and third world views.

Chapter Four: Non-African Regional Arrangements under the UN Charter: An Historical-Comparative Survey, 1945 to the end of the Cold War

The thrust of this chapter is to provide an historical-comparative perspective of four non-African regional organizations, namely, the OAS, the Arab League, NATO, and the Warsaw Pact. The historical perspective provided in this chapter embraces the Cold War period, which began in the wake of World War II and the founding of the United Nations and its Charter. Aspects of comparison include treaties and their founding principles, references to the UN Charter, the presence or not of the hegemon, and the availability of resources for conflict management.

Chapter Five: African Regional Arrangements under the UN Charter: the OAU, ECOWAS, and SADC: An Historical-Comparative Perspective

Attention in this chapter centres on three African regional organizations, namely, the OAU, ECOWAS, and SADC. The discussion traces their development by looking at the historical circumstances that occasioned their establishment and subsequent involvement in the search for international peace and security. Aspects of comparison used in Chapter Four are applied *mutatis mutandis* to African organizations.

Chapter Six: The Geo-politics of Regional Arrangement: A Survey of Leading Historical Cases, 1945 - 1990.

The intention of this chapter is to move away from the provisions of regionalist charters, which are essentially theoretical, to the actual behaviour of states, or state-practice on the world stage, in their presumed task of maintaining international peace and security. The cases isolated for the purpose of this chapter are what may be termed 'leading historical cases', or historically important cases. By and large, they are historical events that have laid the foundation for the study of regional arrangements in international law and politics.

Chapter Seven Regional Arrangements in the New World Order: Post-Cold War Developments and Recent Case Studies

This chapter brings the discussion on regionalism to the immediate present. It looks at the following issues: the concept of the New World Order, post-Cold War developments in regionalism, and most importantly, the vexed question of Africa in the New World Order. Recent cases isolated for study are, Liberia, (1990), Kosovo (1999), Lesotho and the DRC (1998).

Chapter Eight: Conclusion

The concluding chapter provides the highlights of the research and its findings. It also presents the recommendations of the study. Finally, it offers a future perspective of regionalism as a phenomenon in international law and politics.

1. 6 CONCLUSION

This chapter has attempted to introduce and delineate regionalism as a phenomenon in the field of international law and politics. It has illustrated how this phenomenon is non-static in a world that is dynamic. It has used recent world events to show how regional organizations have experimented with the awesome task of the maintenance of international peace and security. The chapter has also outlined the case studies and the methodology that will be followed in the analyses of these case studies.

The next chapter will be a close scrutiny of the legal provisions enshrined in the UN Charter. The discussion will primarily be an analysis of the genesis and development of regional provisions in the UN Charter.

NOTES

(1)   Chapter VIII of the UN Charter makes repeated references to "regional arrangements and agencies" without being clear about the distinction between the two. To facilitate reading, this study will refer only to "regional arrangements".

(2)   The Charter continues to use the concept "maintenance of international peace and security", even for regional arrangements although with the added qualification, "appropriate for regional action" (Article 52(1)).

(3)   The issue of the status of the Organ has been problematic for SADC and it has dogged its Summits since its inception. The notion of "near satisfactory" is used to highlight the fact that the establishment of the Organ occasioned new tensions within SADC, in particular the status of the Organ within the structures of SADC, and the status of its meetings, whether to be held at ministerial or summit level. The SADC Summit in Maputo, Mozambique, in August 1999 did not satisfactorily resolve the issue. At the 2000 Windhoek Summit, the issue was referred back to the Council of Ministers for further review.

(4)   See, for example, Fawcett & Hurrell (1995), pp.16; 50; and Garba (1997), pp. 234; 236.

(5)   See Mwagiru (c1996), "Who will Bell the Cat? Article 3(2) of the OAU Charter and the Crisis of OAU Conflict Management" for an extensive analysis of the issue.

(6)   It should be noted that Article 51 organizations are not entirely out of control or they can do their will with impunity. In the event of Security Council inaction, the General Assembly may invoke the Uniting for Peace Resolution (377) which, as Bebr explains, "might be used as an attempt to curb their independence and initiate some UN control over them (1955: 175).

(7)   *The Star*, 9 April 1999.

(8)   "Is Military Peacemaking Really Possible", *Mail & Guardian*, 1-8 April 1999.

(9)   *Ibid.*

(10)   It should be taken as given that the United States has been the only permanent member of the Security Council that has not shed its cavalier use of the veto in the post-Cold War era. The election of the Secretary-General of the UN in late 1996 is a case in point.

(11)   "A Casualty of Kosovo: the UN", *Mail & Guardian*, 7-13 May 1999.

(12)   It should be noted that some regional arrangements such as the OAS (in different guises) and the Arab League predate the United Nations.

(13)   See MacFarlane & Weiss (1992), *passim*.

(14)   The presidents of Kenya, Tanzania, and Uganda have launched a second attempt to establish the East Africa Community to boost trade within the region. The re-born EAC, which first collapsed in the mid-1970s because of deep political differences, promises to "improve co-operation in areas such as the fight against drug-trafficking and regional security" (*Africa Today*, February 2001).

CHAPTER TWO: THE PROVISIONS OF THE UN CHARTER ON REGIONAL ARRANGEMENTS: A CRITICAL ANALYSIS OF THE LAW AND ITS INTERPRETATION

2. 0   INTRODUCTION

The previous chapter attempted to introduce and explore regionalism and regional arrangements or organizations as phenomena in the field of international law and politics. Recent world events were used to illustrate how regional organizations have experimented with the awesome task of the maintenance of international peace and security.

This chapter is a close scrutiny of the legal provisions enshrined in the United Nations Charter authorizing and facilitating those regional arrangements involved in the task of maintaining international peace and security. As far as possible, the focus on legal provisions will be sustained without significant reference to the politics that habitually interrupt any discussion on problems pertaining to (or occasioned by) international organizations. The legal dimension of these problems will be carefully distinguished from political discourse, which, in turn will form the basis of the next chapter.

Separating international law and international relations in United Nations discourse is an arduous task. This is more so if we have to surrender to the weighty historical facts that tell the story of the adoption of its constituent document, the UN Charter. It is universally acknowledged that the Charter itself was never concluded as a master-piece of juristic or legal effort because it was, and still is, a document which exhibits, although ambiguously, political compromise that was reached at the San

Francisco Conference in 1945. As the late Hans Kelsen noted in his classic analysis, *The Law of the United Nations* (1951: xiii): "... separation of law from politics in the presentation of national or international problems is possible in so far as law is not an end in itself, but a means ... for the achievement of ends determined by politics". This argument holds water, in that, in dealing with legal questions, a conscious elimination of the political issues is always relative, but never absolute (Kelsen, 1951:xiii).

In order to attempt a comprehensive inquiry into the UN Charter's provisions on regional arrangements, this study will focus on these topics: First, a brief history of the founding of the UN Charter; secondly, a general assessment of the provisions of Chapter VIII of the Charter, entitled "Regional Arrangements"; thirdly, a more detailed examination of the three articles which constitute Chapter VIII, viz., Articles 52-54; and lastly, the most contentious provision, Article 51, with particular emphasis on the concept, "collective self-defence".

Regarding the first topic, that is, a brief history of the adoption of the UN Charter, the following needs to be clarified at the outset: the history to be presented in this study will not be a recitation of the whole or complete genesis and development of the UN Charter. The study will limit itself to "regional aspects" of the Charter, with a view to providing a distinct historical backdrop to our understanding of the regional arrangements section. On the same topic, once more, the study will not provide an exhaustive account of the perennial, but futile, argument between the self-styled regionalists and the universalists. Nonetheless, standard reference to the general character of their standpoints *vis-à-vis* the maintenance of international peace and security will be made in conformity with the historical method adopted for this thesis. As far as the discussion on Article 53 is concerned, the topic omitted

from this study is that of the "Enemy States" clause. In the words of Michael Akehurst, "[t]he provisions about enemy states raise excruciating problems of interpretation, which have already received as much elucidation from other commentators as they can ever hope to obtain" (1967:184). Furthermore, Akehurst is of the firm conviction that "a state which invoked those provisions today, a generation after the end of hostilities, when the world situation has profoundly altered, would surely be regarded as acting in bad faith" (1967:185). Be that as it may, occasional mention will be made of the enemy state clause where appropriate.

Any historical survey of the provisions on regional arrangements in the UN Charter cannot escape the customary contention between regional and universal forces during the adoption of the UN Charter. Francis Wilcox seems to be resigned to this phenomenon: "[T]he controversy over the relative merits of regional and globalism in international organization will ever be with us" (1966 : 789). He, nonetheless, posits their viewpoints thus: regionalists argue that "regional arrangements are a natural outgrowth of international co-operation and desirable stepping-stone toward world organization". Conversely, for the universalists, regional arrangements "are little more than old-fashioned military alliances that foment great power rivalries, weaken the effectiveness of the United Nations, and undermine the principle of collective security" (1965:789). Minerva Etzioni presents what she calls two views of the regionalists. First, regionalists regard regional arrangements as a permanent feature of international relations, which, by extension, means that regionalism is a substitute for universalism. The second, somewhat moderate, view echoes Wilcox: regional arrangements are an intermediate stage, a preliminary, and "a stepping-stone towards an effective global organization in a politically more propitious future" (1970: 16).

The challenge that the universalists mount against the two views presented above is, mainly, that the world cannot be neatly divided into regional units, owing to the inevitable shifting of regional boundaries. Furthermore, the universalists believe, rather idealistically, that "world peace is indivisible and that the major problems concerning peace and security are of *world-wide* importance". (Etzioni, 1970: 16-17; also Akindele, 1976: 3). The rebuttal of the universalists' case by the regionalists is that universalism or globalism is premature, abstract and doctrinaire, too general, too ambitious and, more importantly, "it fails to consider the heterogeneity of political, economic, social, and geographical circumstances of the modern world" (Etzioni, 1970 : 16).

It will not profit the purpose of this study to declare any preference between the positions of the regionalists and the universalists. It is sufficient to point out that the preceding discussion is important primarily in setting the stage for the momentous debate at the United Nations Conference on International Organization (UNICO) in San Francisco. As Akindele neatly puts it, "the formulation of the Charter law of universal regional relationship in Articles 51-54 was one of the most tedious assignments tackled by the draftsmen of the UN Charter" (1976:47). This view is in line with Akehurst's conclusion that this relationship "was second only to the question of voting procedure in the Security Council as a source of bitter argument at the San Francisco Conference, which indeed at one time came close to breaking up over regional arrangements" (1967:175). Before the presentation of a brief historical account of the forces that were intensely instrumental in forging out regional sections of the UN Charter, it is logical to provide here the essence of their perspectives:

Regionalists hold that:

1. There is a natural tendency toward regionalism based on homogeneity of interests, traditions, and values within small groups of neighbouring states;

2. Local threats to the peace are more willingly and promptly dealt with by the governments of that area; and,

3. The world is not ready to establish global authority sufficient to maintain world peace and promote global welfare.

Universalists are of the conviction that:

1. Regional resources are often inadequate to resolve the problems of states within the region;

2. Since peace is indivisible only a world organization can deal effectively with threats to the peace that may, if unchecked, spread beyond local or regional limits; and

3. Regions are imprecise and impermanent.
    (From Bennett, 1984: 348-349).

In conclusion, it is advisable to borrow Etzioni's pragmatic distinction between "compatible regionalism" and "incompatible regionalism". In the case of

compatibility, the relationship between regional and universal organizations is such that "the activities of one do not undermine those of the other and vice-versa". There exist expectations that regional organizations may be strengthened without undermining the universal organization. On the other hand, incompatible regional organizations tend to emphasize independence of regional action and oppose any control by the universal body (1970: 18).

2. 1   A BRIEF HISTORY OF REGIONALISM   (1)

The history of regionalism as a phenomenon in the maintenance of international peace and security is, to a very large extent, incorporated in the genesis of the UN Charter itself. The UN Charter, according to G.W. Grewe (Simma, 1995 : 2) "was conceived, negotiated, drafted, signed and ratified in four phases, corresponding closely with events of the war". It should be noted that the United States, which was vastly superior in influencing the direction and outcome of the UN Charter, entered World War II on the side of Britain and its Allies only after the Pearl Harbour incident, in December 1941. Thereafter, the European War was extended into a World War, and discussions were set in motion on how the post-war situation would impact on the international plane and on far-reaching measures to prevent new wars.

The four phases that Grewe refers to are: (1) December 1941; (2) The Dumbarton Oaks Proposals of 1944; (3) Diplomatic exchanges between principal Allies culminating in the Yalta Conference of February 1945; and (4) the San Francisco Conference on 25 April 1945. The UN Charter was ready for signing on 26 June 1945, and entered into effect on 24 October 1945 on ratification by the Soviet Union, Byelorussia, the Ukraine and Poland.

Respecting the divisive issue of regionalism, the following phases can be distinguished: the early planning stage leading to the Dumbarton Oaks Proposals; the short period between Dumbarton Oaks and San Francisco, and, the UNICO itself. These developments are the subject of the following sub-sections:

2. 1. 1 <u>Early Planning Stage to Dumbarton Oaks : 1941-1944</u>

The seeds of the UN Charter as we know it today were planted rather inconsequentially, to say the least. To carry the metaphor further, the seeds "soon became dormant" (Simma, 1995:4). Before the United States had entered the war, a Committee on Problems on War and Peace was created by Secretary of State, Cordell Hull, on 8 January 1940, to study problems posed by post-war conditions. It was only after December 1941 that this Committee became the hub of United States Policy on the war and its aftermath. Until 1943, however, it was under the influence of Under-Secretary of State, Summer Welles.

Welles's views were unequivocal: they were intensely regionalist in bias and they were universally known. They also struck a cord with other influential world leaders such as Winston Churchill, the British Prime Minister, and Joseph Stalin, the leader of the USSR; further, and, as events turned out, unwavering support of those views was given by the Latin American governments. Above all, Welles had the proverbial ear of the US President, Franklin D. Roosevelt. As Etzioni puts it, "... the regionalist bias of the initial plans was basically consonant with Roosevelt's views of international organization" (1970: 35).

What was envisaged was a loose regional system, composed of several regional

organizations, each headed by one of the Big Powers (China, UK, USA, and USSR; France was not yet a member of this group). The Big Powers were to be granted the primary responsibility for the maintenance of international peace and security, but, as Etzioni correctly interprets it, "the allied powers maintained that a universal council should have the authority to deal with those problems which the regional councils failed to solve" (1970: 34). In such a system, regional subordination to the universal council would be more nominal than real.

The Welles blueprint introduced, inadvertently, two new concepts in the discourse of international relations, namely, *compatibility* and *subordination*. This occurrence can be explained in the following manner: Prior to the modern times (World War II), the political reality was that 'political units' were limited to a defined area, and these coalitions and alliances generally confined themselves to a coherent region. But with the formation of a new global system and the establishment of a universal organization, the question pressing for a solution was: how should these regional political units correlate within the global system? Should they be subordinate in terms of the new hierarchical structure, or should they prefer an independent course which would continue to strengthen the alliances at the expense of the universal organization? (Simma, 1995 : 84). As Etzioni explains the political reality of the time, pre-UN regional organizations were "developed to satisfy the political and security needs of various groups of nations as a result of the shortcomings of the League of Nations" (1970 : 32).

Prime Minister Churchill, who favoured "the preservation of the British Commonwealth, as well as the creation of some sort of autonomous European organization" (Etzioni, 1970 : 35), put great emphasis on regional councils, seeing them "as vehicles for the leadership of the great powers and appeared to assign

distinctly secondary importance to a world organization" (Claude, 1964:4-5). The Prime Minister himself reasoned thus: "Only the countries whose interests were directly affected by a dispute could be expected to apply themselves with sufficient vigour to secure settlement". (Cited in Etzioni, 1970: 35).

The Soviet Union also stressed the independence of regional councils from universal control, with the obvious result of maintaining Russia's predominance in the areas under its sphere of influence.

The next crucial step before Dumbarton Oaks was what Etzioni summarizes as "the rise of universalism". During this period, the US Secretary of State Hull asserted his authority on US foreign policy with devastating vigour and efficacy. At the outset, he was firmly opposed to Welles's incompatible regional approach. Etzioni notes that he began an unprecedented move of holding State Department meetings at the White House, with all his senior officials. The deliberate sidelining of Welles was detrimental to the cause of regionalism. Wells finally resigned, and the move was a devastating blow to incompatible regionalism (1970:37).

Hull's counteraction to the regionalist cause was swift. He revised radically a paper entitled "Draft Constitution of an International Organization", prepared under the stewardship of Welles, and in August 1943 presented to President Roosevelt what was re-named, "Charter of the UN". As Grewe (Simma, 1995 : 5) observes, for the first time, "the term 'Charter' appeared as the label of the constitutional document of the future world organization".

In essence, Hull's objections to incompatible regionalism according to Welles and Latin American governments were premised on the following considerations: First,

the universal organization would be forced to deal with groups of states rather than with individual states, and secondly, in this situation, there would always be the danger of regional groupings uniting in opposition to the universal organizations. Further, regional organizations would put small countries at the mercy of the regional hegemons, which in his own view, would not display self-restraint which the United States had exercised in the Western Hemisphere (Etzioni, 1970 : 38-39). The Secretary of State himself said:

> "When a house catches fire, the nearest neighbors hasten there with
> the common objective of putting out or preventing the fire until the
> Fire Department, which has been instantly notified, can arrive on
> the scene". (Cited in Etzioni, 1970:39)

Hull's neighbourhood analogy is an uncomplicated conceptualization of how regional organizations would relate with the UN in general, and in particular, exemplifies the application of Article 51, with reference to 'instant notification to the Fire Department'.

President Roosevelt took Hull's plans with him to the Moscow conference of October 1943 and, as it is universally known, US preparatory drafts were generally accepted by other powers with only minor amendments made after some negotiations. Both Churchill and Stalin accepted universalism, so long as Britain and the USSR were at the core of the functioning of the universal body. As for Roosevelt's *volte face*, it can be explained as follows: Welles's plans occurred long before the war ended, "when matters of international organization were largely peripheral to the president's main interests" (Etzioni, 1970:41; Simma, 1995:5-6). The primary task was the conduct of war, and visions of the future were pushed to

the background. Therefore, it is safe to infer that the President was not fully committed to Welles's plan. Perhaps the most significant fact in the sudden change of view was what Roosevelt (and Hull for that matter) feared most: the spectre of extending US responsibilities to Europe, envisaged in Churchill's plan for US commitment in the European Council (Etzioni, 1970:42). On 3 February 1944, Hull was given formal authorization by Roosevelt to plan the UN Charter on the basis of his universalist views.

The Dumbarton Oaks conference of the Four Super Powers took place between 21 August and 7 October 1944. There, the universalist approach prevailed, to the greatest extent, because for the first time the primary responsibility of the permanent members of the Security Council was conceived, and it left almost no room for regional groupings. Nonetheless, the Big Powers had to take into account the reality of the regional components (Simma, 1995:685).

In the preliminary version of the Charter, regional organizations were accommodated under Chapter VIII entitled "Arrangements for the Maintenance of International peace and Security Including Prevention and Suppression of Aggression" - Section C: Regional Arrangements, composed of three articles. Article 1 provided that "Nothing in the Charter should preclude the existence of regional arrangements ... for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action". There was a proviso for consistency with the purposes and principles of the universal organization. Then there was what Claude (1964 : 6) calls the "positive provision" which stated that the "Security Council should encourage settlement of local disputes through such regional arrangements". Article 2 referred to enforcement actions under Security Council authorization (the present Article 53(1)) and Article

3 was a predecessor of the present Article 54.

2. 1. 2   **Between Dumbarton Oaks and San Francisco**

The period between the preparatory conference in Dumbarton Oaks and the founding conference in San Francisco can be called, without controversy, "The Reassertion of Regional Forces". That was because at that time it was apparent beyond doubt that the attitude of the US government towards regionalism had crystalized, and found expression in the Dumbarton Oaks Proposals (Claude, 1964:6).

There is general consensus among scholars of the UN Charter that the most decisive, and ultimately successful push for modification of the universalist principle emanated from Latin American states. The Inter-American System of political organization was the most developed and coherent at the time of the founding of the Charter. The influence of the Latin American states rested on three indisputable facts: the numerical strength of twenty votes; cohesiveness and unified action; and, successful experience. As matters stood, they "were not ready to give up what they already possessed for something not yet within their grasp" (Etzioni, 1970:45; Wilcox, 1965:790).

To a considerable degree, the Arab League, which was formed on 22 March 1944 as a regional arrangement along the lines of the Inter-American System, made its presence on the international scene felt by insisting on similar demands as the Latin American states were making on the envisaged international organization. The Latin American governments insisted that the veto must not be permitted to block regional

action in the Americas (Wilcox, 1965 : 790).

Perhaps the definitive political act that characterized the reassertion of regional forces was the Act of Chapultepec, signed in Mexico on 3 March 1944 by Latin American states and the United States. The significance of the Act is best interpreted in the following citations:

> The United States, in signing the Act, virtually acknowledged its responsibility for helping to secure the alteration of the Dumbarton Oaks draft in a pro-regionalist direction, and accepted the necessity of collaborating to some degree with its Latin neighbours in their projected campaign to make the Nations safe for regionalism. (Claude, 1964:7);

> The Act of Chapultepec established not only the obligation of the contracting parties to consult each other in cases of aggression or the threat of aggression, but also the intention of the American states to conclude a regional agreement after the war for the purposes of maintaining this system   (Simma, 1995: 686).

As events turned out, the campaign projected in the Act of Chapultepec culminated in the signing of the Rio Treaty on 30 August 1947. As such, the Act, with its declaration on 'reciprocal assistance and American solidarity', formed the basis for later alliances between American states.

In conclusion, it is possible to infer that the Latin American states had full knowledge of their demand. They wanted exemption from Security Council control over enforcement action taken by the organization, and insisted that such exclusion

be entrenched in the constituent document of the universal organization. Another safe inference is that it was the United States which was caught in a dilemma because, although it grudgingly supported strong regionalism in the western hemisphere, it "faced the disturbing possibilities of similar autonomous security system in other parts of the world" (Etzioni, 1970:54). At the time, the clearest danger was Soviet expansion and domination in Eastern Europe, raising the fears of the possibility of exempting Eastern European countries from the jurisdiction of the new Security Council.

2. 1. 3   The San Francisco Conference: 1945

The United Nations Conference on International Organization (UNCIO) was held at San Francisco from 25 April to 25 June 1945. It was sponsored by the United Kingdom, the USA, the Soviet Union, and the Republic of China. France, although she refused an invitation to become a sponsor, participated in all meetings of the sponsoring powers on a basis of full equality, forming one of the so-called "Big Five". The two most controversial issues discussed at the conference were: First, the question of the veto power of the "Big Five" and voting procedure in the Security Council, and, secondly, the question of the integration of regional pacts and arrangements into the general framework of world security.

As mentioned earlier, the Big Powers were united in their reiteration of the universalist approach, entrenched by the Yalta voting formula, an issue which did not fail to unsettle the so-called middle and smaller countries. It is mentioned that seventy-two per cent of the fifty representatives at the conference advocated a regionalist approach but they exerted negligible changes to the Dumbarton Oaks Proposals (Simma, 1995:685).

However, given the untenable situation in which the United States found itself, there were some significant pro-regionalist amendments to assuage Latin American and Arab states. These amendments transformed Chapter VIII: Section C of the Dumbarton Oaks Proposals into an autonomous Chapter in the UN Charter devoted solely to regional arrangements, Chapter VIII, entitled, "Regional Arrangements".

Three political issues forced the hand of the US delegation during negotiations to accede to regionalist demands without betraying the universalist principle of the Sponsoring Powers. First, Senator Arthur H. Vandenberg supported the Latin American objectives. Secondly, there were new Soviet demands, and thirdly, there was the question of the membership of Argentina. Up to a point, these issues were inter-related.

Given the division of views among US delegates, the chairman of the Senate Committee on Foreign Relations, Arthur Vandenberg, threatened to introduce a Republican reservation in the US Senate if Latin American regional demands were not at least partially satisfied (Etzioni, 1970 : 75-76). The threat had an effect in that the scales were tipped slightly to the side of the regionalist faction, which laboured to accommodate Latin American States, in view of a new development: Soviet demands that all its constituent Republics accede to membership of the UN. As the war plodded towards the end, it was clear that the Soviet Union was beginning to hold quite different views from those agreed upon by the Big Powers and consequently, the US was certain it was going to need Latin American voting support to conquer new Soviet demands (Etzioni, 1970 : 53). The Argentine question was somewhat curious. Argentina had followed an independent foreign policy, out of step, as it were, with its neighbours, and had maintained neutrality

while the rest of the continent declared war against Axis Powers. What complicated the matter was that Argentina did not heed US demands for all "peace-loving" nations to declare war against "enemy states" before joining the United Nations. When membership of the UN was counted, Latin American states persuaded the US to "bend the rules" and admit Argentina, then the most powerful Latin American state. The voting process on the admission of Argentina, Byelorussia, and the Ukraine turned into "the crystalization of two rival blocs" in the UN (Etzioni, 1970 : 58).

In the end, amendments to the Dumbarton Oaks Proposals on Regional Arrangements became Chapter VIII.

2. 2   CHAPTER VIII PROVISIONS: A GENERAL ASSESSMENT   (2)

In the struggle between regionalists and universalists at the UNCIO, the outcome was that "hope was tempered with reality as three fundamental concessions were made in the direction of regionalism" (Wilcox, 1965:791). The first amendments were designed to encourage states involved in local disputes to utilize regional arrangements in their attempts to work out an amicable adjustment before turning to the Security Council for help: (Article 52). The second amendment dealt with the problem created by the existence of mutual assistance pacts by inserting Article 53 into the Charter, which provided for the utilization, where appropriate, of regional arrangements by the Security Council for enforcement action. The third amendment (but outside Chapter VIII) was the most important, for it recognized the right of individual and collective self-defence against armed attack (Article 51) (Wilcox, 1965:791-792).

Quoting Napoleon, who once declared that "a constitution should be short and ambiguous", Etzioni writes that the drafters of the UN Charter took this counsel too far when it came to Chapter VIII (1970 : 59). Regional arrangements are provided for in four articles (including Article 51). As for ambiguity, Etzioni says:

> ...instead of channelling the activities of regional organizations so that they are clearly compatible with the universal principle, contradictions can be found among the provisions in the regional chapter, and in some instances even within the same article. (1970 : 59)

The ambiguities pointed out above will be made evident in individual discussions of the articles themselves. It is sufficient to support this observation with that made earlier by Claude:

> The outcome of the battle at San Francisco between the regionalists and the universalist, as reflected in the UN Charter, was ambiguity [...]. The original concept of regional agencies operating under UN supervision and control has been emptied of content. (1965 :1)

For all that, Chapter VIII of the Charter aims to guarantee certain autonomy for regional organizations and a limitation of the powers of the United Nations. Its purpose is to grant certain international organizations powers to resolve local disputes, within their own jurisdiction, and to serve thereby the purposes of international peace and security (Simma, 1995:731, 686). It is appropriate to conclude this general assessment in the words of Akindele:

> ...a proper interpretation of Articles 51-54 demands recognition

and appreciation of the fact that the UN Charter differentiates regional organizations and determine their relationship to the UN *on the basis of the particular function they are performing at a given time* (1976 : 48) (Emphasis added).

This approach is aptly called 'functional interpretation', because, for each of the functions posited under Articles 51-54, the Charter prescribes some essential rules of behaviour for regional organizations:

Article 51: Self-defence;

Article 52: Pacific settlement;

Article 53: Enforcement action;

Article 54: Reporting of activities. (See Akindele, 1976:48-49).

2. 3 ARTICLE 52: REGIONALISM AND PEACEFUL SETTLEMENTS OF DISPUTES

Article 52 provides as follows:

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to maintenance of international peace and security as appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations.

2. The members of the United Nations entering into such

arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes though such regional arrangements or by such regional agencies before referring them to the Security Council.

3.   The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4.   This Article in no way impairs the application of Articles 34 and 35.

An initial reading of Article 52 reveals built-in contradictions because the first three paragraphs point towards significant regionalist emphasis and the fourth (and last) guarantees the supremacy of the universalist organization. According to Etzioni (1970 : 64), the net-effect of the first three paragraphs is the "infringement upon the UN's monopoly over the mechanisms for the maintenance of international peace and security". On the surface, they allow for the strongest degree of regionalism that would be compatible with a universal organization. As Wilcox observes,

> [r]egional agencies ... were not given exclusive jurisdiction over regional disputes, they were given elbowroom to deal with local disputes in the first instance [...] The Charter reserved the basic right of the Council to deal with *any* dispute, whether regional, inter-regional or global in character, whenever it needed to do so to discharge its primary responsibility for the maintenance of inter-

national peace and security (1965 : 791) (Emphasis in the original)

The 'basic right' referred to above is provided for in Articles 34 and 35(1) which read, respectively:

> (34)   The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security; and,
>
> (35)(1)   Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

As an attempt to reconcile the apparent discord between Article 52 and Articles 34 and 35, Etzioni offers two suppositions. First, she suggests, regional mechanisms would be preferable in "disputes which exclusively involve states which are parties to such regional arrangements". Second, regional institutions were to predominate only in the case of "disputes" and not in "situations" over which the Security Council had complete jurisdiction (1970:66, 67). A valid assessment of Etzioni's suppositions is that the first would evidently satisfy the demands of the regionalists and the second would quell the suspicions of the universalists.

Etzioni, evidently favouring compatible regionalism in her magisterial analysis of this topic, interprets Article 52 (2), which is a mini-triumph for the incompatible regionalists, as "merely a procedure through which the universal organization might remind the parties to a dispute of the available terms of settlement" (1970:67). She

reiterates the universalist view that the Security Council cannot transfer its competence by forcibly referring a case to a regional organization for settlement.

Be that as it may, regionalists are ever eager to seize the opportunity offered by the provisions of Article 33 (1):

> *The parties to any dispute,* the outcome of which is likely to endanger the maintenance of international peace and Security, *shall, first of all, seek a solution* by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, *resort to regional agencies or arrangements,* or other peaceful means of their own choice (Emphasis added).

On the surface, Article 33 (1) offers the regional method as one of the several options available to the parties to a dispute, with no particular order of preference. For the regionalists, however, Article 33 (1) includes resort to regional arrangements as a method which the parties must use, "first of all" before having recourse to the Security Council (Bowett, 1982 : 162). Furthermore, as believed by Padelford (1954:213), both Articles 33 (1) and 52 (2) fortify the principle that the members of regional arrangements shall make every effort to use regional mechanisms to solve disputes before referring them to the Security Council.

It is imperative to discuss what the nature of "dispute" or "local disputes" is, with reference to pacific settlement through regional mechanisms. A dispute "exists when parties raise claims against each other which both reject and when the concessions of one party is not expected" (Simma, 1995:696). The Charter itself is silent on what a dispute is, but the pressing question is whether "disputes" are soluble by pacific means only. What is even more disturbing to the regionalist

interpretation of Article 52 is that it does not mention the competence of regional organizations to handle "situations" in contrast to Article 34, 35, and 36.

No discussion on Article 52 would be complete without adequate attention to paragraph (4), which is the so-called "universalist provision" of the article. By tapping succour from Articles 34 and 35 (and by extension Article 36), this provision reserves the Security Council's own right to investigate a dispute (or situation), and also defends the Member states' rights to appeal to the Security Council (Bowett, 1984:162; Etzioni, 1970:69).

2. 4   ARTICLE 53: REGIONALISM AND ENFORCEMENT ACTION

The part of Article 53 that is relevant to this study reads as follows:

> 53 (1) The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council ...

Article 53 governs and limits the permissibility of enforcement measures by regional arrangements. In terms of Article 53 (1) only the Security Council is entitled to carry out enforcement measures. Nonetheless, it may empower regional organizations to adopt enforcement measures but still retain the authority for the execution of the enforcement action itself and for its authorization (Simma, 1995 : 730). The utilization of regional arrangements by the Security Council means to utilize the state parties to a regional arrangement.

The empowerment of regional arrangements to carry out enforcement measures, under the authority of the Security Council, was the second radical, and far - reaching, amendment to the Dumbarton Oaks Proposals. It was a clear manifestation of the UN Charter's recognition that the Security Council alone could not deal directly with aggressors. By providing for enforcement action through the medium of regional agencies, where appropriate, the Charter, to a significant extent, diluted the monopoly of the Council in such matters. Nevertheless, the express condition was that such enforcement action shall be utilized by the Security Council and under its authority. As Padelford puts it: "These provisions are designed to ensure that the Security Council shall have full control of enforcement activity wherever it may be undertaken in order to safeguard the general interests of peace and security" (1954:213).

The positive provisions of Article 53 (1) are ostensibly a victory for regionalists and existing mutual assistance pacts, but the proviso, or limitation, is for all intents and purposes a telling reminder of the residual influence of the universalist principle. The proviso should be understood against the background of the Yalta Conference of February 1945. The Sponsoring Powers approved the Dumbarton Oaks Proposals that regional enforcement action should not be undertaken without the approval of the Security Council, and that the Council should be kept informed of regional action relating to peace and security (Simma, 1995:732). In essence, and without equivocation, Article 53 (1) is an embodiment of the principle that the adoption of enforcement action was to be monopolized exclusively by the universal organization because regional organizations were prevented from adopting enforcement action, unless specifically authorized by the Security Council (Etzioni, 1970 : 70, 71). The limitation, for obvious reasons, did not satisfy the demands of

the intransigent regionalists, who were ever mindful of the operation of Article 27 (3):

> [S]ecurity Council authorization required by Article 53 (1) was subject to the veto : thus a permanent member could veto action of a regional organization of which it was not a member even if the parties of such a regional organization approved (Etzioni, 1970 : 71).

At this stage of the discussion, it is imperative to define, or elucidate on, the concept "Enforcement Action". As a prelude to this exercise, we may do well to heed Kelsen's invaluable advice:

> Since [the Charter] does not contain any provision concerning its interpretation, the organs and Members of the United Nations competent to apply the Charter are free to interpret the provisions to be applied by them according to their own discretion. Any meaning a provision of the Charter might possibly have can become the law in a particular case   (1950: xvi).

In the absence of any express definition, interpretation or meaning of enforcement action, two views exist which interpret the concept diversely although both refer to Articles 41 and 42 of the Charter for guidance and persuasion. One view holds that enforcement action, in particular as understood in Article 53 (1), should be made with reference to both Articles 41 and 42 while the other believes that enforcement measures refer to those listed under Article 42 only. (It should be noted that "enforcement action" or "measures" is referred to, also in Article 2(5), 5, and 50).

Article 41 measures are traditionally known as "non-military sanctions" namely, interruption of economic relations; and of rail, sea, air, postal, telegraphic; and breaking of diplomatic ties. Article 42 measures are 'military' in nature. According to the first view, all measures under chapter VII, without exception, are enforcement measures. Arguing in support of this view, Akindele suggests:

> The authors of the Charter, for good reason, considered it superfluous to define what enforcement action means under Article 53 when the term has already been amply illustrated in Articles 41 and 42 of the immediately preceding chapter of the charter. It is reasonable to suggest that if a restrictive interpretation was intended for the term 'enforcement action' in the context of Article 53, the UN Charter would have said so   (1976: 56).

On the other hand, the more 'restrictive' view stresses that enforcement action under Article 53 includes only those measures contemplated under Article 42, since, if they have to take "such action by sea, air, or land forces as may be necessary to maintain or restore international peace and security", they are impelled to seek authority from the Security Council. The advocates of this view, in addition, insist that 'measures' under Article 41, realistically, do not require express authority from the Security Council if taken against a recalcitrant state (See Simma, 1995:732).

The contentious interpretation of 'enforcement action' is inextricably linked with two others: "prior authorization" and "third-party states". The division of powers between the Security Council and regional arrangements under Article 53 depends on the existence of enforcement action, which, if it is absolutely necessary to execute, must be under the authority of the Security Council. This is a crucial requirement to manifest the effective control of the Security Council. As it is, "such

control is only guaranteed by clear and prior authorization, since *the mechanisms of control consists of the possibility of preventing enforcement action*" (Simma, 1995 : 733) (Emphasis added). The Security Council, lest it be forgotten, is granted, under Article 39, the power to determine the existence of a threat to the peace, a breach of the peace, or an act of aggression. With this power, it can decide on the granting of authorization, or may withhold such authorization on a number of grounds, depending on individual cases.

Incompatible regionalists believe strongly that "retroactive authorizations" is possible under Article 53 provisions, and thus would choose to overlook or ignore "prior authorisation". Retroactive decision or authorization means that the Security Council is denied, by the regional arrangement taking enforcement action, its supremacy in such matters. To advocate retroactive authority "would be to encourage illegal acts, because regional agencies would be tempted to initiate enforcement action in the hope that the Security Council would give its authorization afterwards" (Simma, 1995:734; also, Akehurst, 1967:214). Be that as it may, Akehurst suggests that "authorization can ... be inferred from the Security Council failure to pass a resolution condemning the enforcement action" (1967:214). Again, authorization exists not only when a question is not put to the vote, but also when it is put to the vote and is vetoed or fails to secure the requisite majority (Akehurst, 1967:217).

There is also the vexed question of "third-party states" being targets of enforcement action in terms of Article 53. As it is asked in Simma (1995:734): "The question that arises is whether regional enforcement actions against states which are not members of that given regional organization are compatible with the provision of Article 53". Two possible answers emerge. One is that the primary function of a

regional organization is to keep peace within the organization and therefore, "a regional organization can only take measures within the regional community, that is to say, not against third states" (Simma, 1995 :731). The counter-argument would be that under Article 39, the Security Council may adopt resolutions that are binding on all UN members without regard to whether or not the dispute is of a regional nature. **(3)**

2.5 ARTICLE 54: REGIONALISM AND THE OBLIGATION TO REPORT ACTIVITIES

Article 54 states:

> The Security Council shall at all times be kept fully informed of
> activities undertaken or in contemplation under regional
> arrangements or by regional agencies for the maintenance of
> international peace and security.

Article 54 guaranteed the effective control of regional organizations by the Security Council through the duty to inform the Council of regional activities. It is the so-called 'reporting clause' provisions on regional arrangement but it is by no means the only reporting clause in the Charter. There is always the irresistible practice of comparing the regulations of Article 54 to those of Article 51. Essentially, there is the general obligation to inform under Article 54, and only partial obligation under Article 51. This fine distinction is explained by Hummer and Schweitzer:

> In practice, a sensible delimitation will only be possible in so far as
> the securing of 'internal' peace typical for regional arrangements
> must be fully submitted to the extended obligation to inform under

Article 54, whereas the preparation of defence against expected
armed aggression from states 'outside' the regional arrangement
does not yet necessitate reporting to the [Security Council] under
Article 51 (Simma, 1995:754).

After providing these distinguishing features between the two 'reporting clauses', the authors conclude that the far- reaching obligation to inform under Article 54 "would have to find its limits where such information would deprive a preventive self-defence measure [by regional agencies] of its effect or purpose" (Simma, 1995:755). It is possible to infer that this conclusion seeks to obliterate, somewhat unconsciously, reporting of measures under Chapter VIII and Article 51 on its emphasis on a "self-defence measure". This is so because under Article 51, disclosure of plans for the exercise of self-defence against third parties would be counterproductive. Suffice it to say that the authors of the Charter intended Article 54 to refer only to measures undertaken under Article 52 and 53, and not to those under Article 51, for the main (and perhaps sole) reason that Article 51 did not yet exist in the Dumbarton Oaks Proposals (Simma, 1995:754).

To conclude, it is important to note the following about the Security Council practice regarding the obligation to report the entire range of activities of regional agencies, both pacific (Article 52) and coercive (Article 53): The Security Council has never protested against a regional arrangement for not fulfilling its obligations under Article 54 and therefore, compliance has become virtually optional in practice (Akehurst, 1967 : 183). Hummer and Schweitzer write:

As the [Security Council] has never admonished a regional agency
for not fulfilling its reporting obligation under Article 54, it has so
far been left to the regional agency alone to determine which type

of information to direct to the [Council]. (Simma, 1995:757)

In these uncertainties, Security Council practice has provided unusable guidance for distinguishing between regional and non-regional measures.

2.6 ARTICLE 51: REGIONALISM AND THE RIGHT OF COLLECTIVE SELF-DEFENCE

These are the provisions of Article 51:

1.   Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations until the Security Council has taken the measures necessary to maintain international peace and security.

2.   Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such actions as it deems necessary in order to maintain or restore international peace and security.

To facilitate the presentation of the ensuing discussion on Article 51, it is essential to provide at this point the provisions of Article 2 (4):

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the

purpose of the United Nations.

This discussion will isolate two issues which are pertinent to regional arrangements: "collective self-defence" and "armed attack". The choice is guided by the desire to achieve relevance by focussing narrowly on 'regional aspects' of this crucial article without doing injustice to the complex issue of the "inherent right of self-defence" in both customary and positive international law.

It is a trite remark that Article 51 is the most vexatious of all UN Charter provisions. It was conceived in moments of burning controversies at the UNICO and was, in the end, inserted into the Charter as a political compromise between the irreconcilable standpoints of the regionalists and the universalist, only to transform itself into the epicentre of post-1945 superpower blocs. Furthermore, it has been the most abused provision in the Charter, with both aggressor and victim calling it up in defence, mainly because, as a legal entanglement, it is open to multiple interpretations.

The history of Article 51 did not begin at the Dumbarton Oaks conversations unlike that of other provisions dealing with the maintenance of international peace and security. It began when the established regional arrangements, the Latin American States and the Arab League, agitated for the same exemptions granted many European powers in terms of Article 53. These exemptions, self-styled "Enemy clause", expressly removed from Security Council control all European countries which had existing mutual assistance pacts against Axis powers during the war (1939 - 1945), by stating that they did not have to seek Security Council authorization for enforcement measures against "Enemy states".

The United States, caught in the crossfire between the Latin American States and the other sponsoring powers, had to walk the tightrope during the negotiations. Within its delegation, there was on the one hand the looming threat of Senator Vandenberg, seeking to satisfy the Latin American governments, and the new Secretary of State Stettinius, who "was willing to sacrifice the defence of pan - Americanism in order to assuage the demands of Soviet universalism" (Etzioni, 1970 : 76). Both delegates presented their views to the new US leader, President Truman who

> ...instructed the delegates to keep on looking for a formula that would reconcile both views, a formula that would recognise the paramount authority of the universal organization in all enforcement action and yet would permit independent regional action in case of undue delay or ineffectiveness (Etzioni, 1970:76).

That formula turned out to be Article 51, a completely new article inserted into the Charter that was never discussed or negotiated at the Proposals. There was no particular reference to any regional arrangement, because, evidently, the Arab League would have pressed for equal mention had the Act of Chapultepec been specifically named. By and large, the language used to conceptualize the compromise was capacious enough to please both universalists and regionalists. As Etzioni puts it: "The American delegation could then approve the resolution and interpret it in ways that would minimize the Senate's objections. *Everybody could give the formula the most convenient interpretation*" (1970:77) (Emphasis added). As subsequent state practice evolved after 1945, that turned out to be the case.

Following the agreement on the formula, the next dispute arose out of the question

of where to locate the new article. Within Chapter VIII, since it bore strong relationship to issues of regional organizations? What prevailed was the view that the "inherent right" of collective self-defence should be excluded from the regulatory mechanism under Chapter VIII which did not accord with the aspirations of the established regional organizations.

There is general agreement that Article 51, together with Article 42, is an express violation of the principle laid down in Article 2(4), which makes war illegal and unnecessary. In their article entitled "UN Police Action in Lieu of War" Thomas Franck and Faiza Patel provide an interesting distinction between the use of force under Article 51 and Article 42 in patent violation of Article 2 (4). They say that Article 51 represents "the old war system" of self-defence, whereas Article 42 - force signifies "the new police action". For them, Article 51 "merely recognizes that the old war system may still be needed until the new system of global policing can secure the peace for all" (1991 : 63).

According to Schachter (1989:259), self-defence on the international level is generally regarded as a legal right defined and legitimated by international law. In practice, when governments have used force, they more often than not claimed self-defence as their legal justification whilst governments opposing such claims have argued that the legal conditions of self-defence were not met in particular cases. This practice has led Schachter to conclude that the concept of self-defence as an "inherent right" is open to doubt. In particular, he questions US policy on this matter, which still clings to the belief of former Secretary of State Dean Acheson's belief in the subordination of law to power: "Law simply does not deal with questions of ultimate power ... The survival of a state is not a matter of law" (Quoted in Schachter, 1989:260). This school of thought believes that the

preservation of the state has precedence over positive law and as such, it is only practical that it must be left to each state to decide what is necessary for its self-defence.

This view is, most evidently, given authoritative support by state practice following the coming into effect of the General Treaty for the Renunciation of War 1928 (the so-called Kellogg-Briand Pact or the Paris Pact of 1928). In no uncertain terms, the treaty outlawed war as a solution of international controversies, and renounced it as an instrument of national policy. Nonetheless interpretation was that the treaty did not restrict or impair in any way the right of self-defence. **(4)**

The issue of self-defence in international law is clear enough, it only acquires a new complexion when the adjective "collective" is attached thereto. But as Kelsen plainly puts it, "[t]here can be no doubt that the organization of collective self-defence is a matter relating to the maintenance of international peace and security" (195:163)

Collective self-defence was a coinage of the UNCIO to allow established regional organization the same escape hatch bestowed upon the European powers under Article 53. For the majority of international law scholars, it is an anomaly, on the main ground that self-defence is granted as an inherent right to the victim of an "armed attack". It is stretching the point a little too far to talk of an ally acting in "self-defence" against an aggressor. D.W. Greig, in his meticulous analysis of this provision, "Security Defence and the Security Council: What Does Article 51 Require?" offers illuminating interpretations. He is of the opinion that Article 51 was not meant to safeguard the right of individual self-defence, but to preserve the efficacy of collective security arrangements such as the one provided for in the Act

of Chapultepec. As for the concept "inherent right of collective self-defence", Greig says: this means the right of states to enter into alliances with whatever other states they wished and thus form a "collective". As he continues, "it could hardly have been suggested that self-defence as a collective measure was established in customary international law" (1991:370; 371). In this regard, states using force against an aggressor, claiming "self defence" as justification for violating Article 2 (4) may do well to heed Kelsen: the other states "which assist the attacked state act in defence of the latter, but not in self-defence" (1948:792).

As Brownlie (1963:278) says, the drafters of the UN Charter did not deem it necessary to define "armed attack" because the words were sufficiently clear. But as events turned out, "the definition of armed attack was left to be decided by the state attacked and other states willing to assist it in its defence" (Etzioni, 1970:81).

Kelsen describes the situation in this way:

> The framers of the Charter did not anticipate that the system of
> collective security laid down in the Charter will not work at all, and
> they certainly did not intend collective self-defence as a substitute
> for collective security (1951:164).

In the end, state practice in the post-1945 world has made Article 51 the most contentious provision in the UN Charter because political interpretation or expedience has rendered Charter law more murky.

2.7 <u>CONCLUSION</u>

The foregoing discussion helped to elucidate the provisions in the UN Charter which regulate the constitutional relationship between regional arrangements and the universal organization in matters of the maintenance of international peace and security. The exposition revealed that the UN Charter was envisaged in a historical moment of high importance: the Second World War, and as such, it was chiefly designed as a political tool to deal with the war and its problems. Inevitably, the political tool was given legal colour but the success was limited by the conflicting demands made at the founding conference. Although history bears out that the outcome of the San Francisco Conference was to assign predominance to the general international body, the correct approach to the perennial question of regionalism versus universalism is not which one of the two to adopt, but which one to emphasize in particular cases. It is submitted that regional arrangements possess a potential that should be utilized in serving the functions of preventive diplomacy, peace-keeping, peace-making, and post-conflict peace-building (Simma, 1995:735).

The next chapter will offer a survey of theoretical perspectives on international relations and regional arrangements. It will be an analytic overview of philosophical explanations on why, on various occasions, states make a partial surrender of their sovereignty with a view to strengthening that very sovereignty on the international plane.

NOTES

1) Most standard textbooks and journals on this topic habitually include a history of regional-universal forces at the founding of the UN Charter. In addition to all references cited here, this study relied somewhat inordinately on two indispensable works: Etzioni (1970) *The Majority of One*, Chapters 2 and 3; and Simma (Ed) (1995) *The Charter of the United Nations*, pp. 1-25, 679-758.

2) Although Article 51 falls outside Chapter VIII, there is universal practice to include it as an integral component of the provisions on regional arrangements. Hence, there are "four" articles which deal with regionalism : Articles 51 - 54. This study will follow the same practice.

3) Recently, Security Council Resolution 816 (31 March 1993) expressly called upon NATO to enforce the no-flying zone over Bosnia-Herzegovina, during the Yugoslav crises of the early 1990s.

4) Schachter notes, correctly, that, at the Nuremberg International Military Tribunal (1946), the court rejected the German contention that it had acted in self-defence, the irony being that such argument accorded with US position on the Paris Pact.
See also, D.J. Harris (1991) *Cases and Materials on International Law*:

> The treaty does not mention self-defence. In a reply to a communication
> from a United States spokesman during the drafting of the treaty, the British
> Foreign Secretary stated:

> > 'I am entirely in accord with the views expressed by Mr Kellogg
> > in his speech of April 28 that the proposed treaty does not restrict
> > or impair in any way the right of self-defence' (p.820)

CHAPTER THREE: THEORETICAL PERSPECTIVES ON INTERNATIONAL RELATIONS AND REGIONAL ARRANGEMENTS: AN ANALYTICAL OVERVIEW

3.0 INTRODUCTION

In the previous chapter, we focussed on the constitutional relationship between the United Nations and all the regional arrangements established under the authority and provisions of the United Nations Charter. The main thrust of the discussion was primarily legal, in that, although embracing the political history of the founding of both the United Nations and its Charter, the main theme sought to illustrate how international law and norms could have a force of their own without recourse to the self-interest of power politics. The discussion attempted to slough off the habitual references to politics that attend international discourse. In the end, what was presented was an idealised, normative constitutional structure, the main purpose of which was to elevate the rule of law over political interests on the international plane, and to enhance the debilitated perception that law is stronger than might. Be that as it may, even the most zealous advocate of the supremacy of international law would concede, without hesitation, that the UN Charter is not a role model of constitutional law, and that it falls far short of being the standard of perfection the founders and draftsmen had conceived it to be.

In this chapter, the element of politics is brought into play, with a view to explaining the behaviour of states on the international plane. The explanation is by way of theory, reinforced periodically by reference to

history. *The World Book Dictionary* defines theory as: "An explanation based on observation and reasoning, especially one that has been tested and confirmed as a general principle explaining a large number of facts". On the problematics of the concept "facts", it is sufficient to point out that a revisionist approach would demonstrate that "facts" are actually constructions based on our own theorizing, language, culture and power. In the words of Ngaire Woods: "International relations involves the study of a great number of "facts" about the world. Yet the facts are only relevant when there is a framework to put them in ... Different theories call upon facts in different ways. The same facts tell a number of stories and lead to any one of a variety of conclusions" (1996: 9). By and large, it is essential that in the exercise of conceptually mapping the international landscape, the discussion should state what the theories set out to do, and what their limitations are.
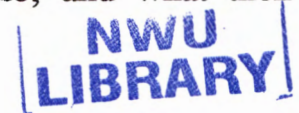
The twentieth-century sustained two world wars (1914-1918 and 1939-1945) and following each outbreak, there were international attempts to set up, on universal principles, legal frameworks which would remove the scourge of war from succeeding generations: These are the League of Nations and its Covenant (1919), and the United Nations and its Charter (1945). A historical enquiry into the reasons why the League of Nations failed to live up to its own ideals will not arrive at similar or corresponding conclusions, although the same set of facts was assembled to facilitate judgement. The answer would not be elusive, since it would be apparent that whatever conclusions the enquiry would reach, the point of departure, direction, and path taken, would bear considerably thereon. On the same enquiry, some analysts would contend strenuously that the League of Nations did not fail to

achieve its grand designs, but that it was the selective behaviour of its most powerful members, namely, Britain and France, which led to the lack of success. **(1)** Furthermore, in the contemporary post-Cold War, investigations into the inability of the United Nations to realise the lofty ideals of the Charter would reveal diverse answers. What all this amounts to is that any analysis of the international system requires explicit theoretical standpoints to steer the path through a myriad of "facts".

Apart from, or (in fact) in addition to, the two universal frameworks following the wars, another characteristic of the twentieth century was the rapid proliferation of regional international organisations authorised by bilateral and multilateral treaties, in particular security agreements in the form of non-aggression pacts and mutual-defence arrangements. International organizations (both universal and regional) have a common, important feature in that they are inter-state, thereby limiting, to various degrees, the traditional concept of state sovereignty on the international stage.

What this chapter proposes to explain is the assortment of reasons and principles which underlines the inclination and willingness of sovereign states to "go beyond the state" and associate themselves with an international organization. The international organization may be function-specific (for example, an economic union, such as the European Union), or it may be multi-purpose (for example, a political union, such as the Organization of African Unity). The international organization may possess a high level of homogeneity, such as the Arab League, or may be heterogeneous in terms of language, culture, and history, such as the Commonwealth of Nations. The

end result of affiliation to an international organization is that, in one way or the other, depending mostly on the commitment and competence of the organization, sovereignty of the state is impinged upon. By and large, as Paul Tharp observes, regional international organizations "collectively represent one of the most significant and unheralded changes in international politics since 1945" (1971:v). The wide expanse of these trans-national associations collectively embraces every continent, major cultures, every ideological position, and every status of economic development. It is this radical transformation in world politics that is clarified in this discussion.

This clarification will take the following course: At the outset, the major theories of international relations will be presented and outlined. Those pertinent to this thesis are: Realism, Institutionalism, Regime Theory, Sociological approaches, and the self-styled Third World views. The rationale for the terminology adopted in this chapter will be advanced where appropriate. The main section of the discussion will dwell on the principal tenets, assumptions, advantages and disadvantages of each theory. The concepts mostly associated with each theory will also be examined. What this exercise amounts to is an analytical overview of the perspectives that assist us in reading the world political map. There will be no attempt to provide statements of preference.

The core problem of theoretical perspectives on international relations is the discussion: why do states enter into a supranational union? Is it to achieve gains and capabilities, or to prevent other states from doing so within the relationship? According to David Baldwin, "... the sensitivity of states to the relative gains of other states is significantly influenced by perceptions of the

intentions of such states. Thus states worry more about relative gains of enemies than of allies" (1993:7). In this case, capabilities become emergent sources of insecurity. To take a crude example: during the Cold War, British nuclear capability was a different fact for the United States, as compared to the nuclear capability of the former Soviet Union. This observation is consonant with the perception of power politics, which is that "the fundamental goal of states in any relationship is to prevent others from achieving advances in their relative capabilities" (1993: 6). As matters stand, the current situation in international affairs reveals that international co-operation is more likely in economic issues than in those concerning military security. A random head count of existing regional international organizations would show a plurality of economic unions over military and/or political unions.

In addition to the concept of "relative gains and capabilities" in either economic or military/political matters, states may be predisposed towards an international union (in particular a regional arrangement) because of the phenomenon of "externalization". This process is elucidated by Haas and Rowe in their article, "Regional Organizations in the United Nations" (1973), in which they show at length how it was documented. In their explanation, they say: "Externalization is the process whereby a regional organization achieves the recognition of non-members and of other international organizations as having the status of a full and equal partner in the international system, especially in shaping the rules which govern that system" (1973: 4-5). For Haas and Rowe, "externalization" is a process of transforming the members of the regional organization, from dependence

(political and economic) on non-members to relative equality of status. They conclude that

> [r]egional strength is seen as a way of overcoming status inferiority, of warding off actual or expected hostile reactions from the rest of the world [...] Externalization leads to new powers for regional organizations, an increase in policy scope, new organs for making collective decisions - in short, an increase in institutionalization.

Four factors, essentially interrelated, were isolated by Haas and Rowe as having significant influence on externalization:

1. Functional specificity;
2. Homogeneity;
3. Commitment and competence;
4. The cumulative effect of specificity and homogeneity.

As for functional specificity, **(2)** the character of the task entrusted by the members to a regional organization will significantly determine how much unity among themselves in relation to the outside world will come about. In due course, regional organizations with a specific task, or issue domain, display greater increases in cohesiveness, than do oganizations with multiple tasks. However, there always exists room for "spill-over" into domains that are not part of the specific task (Haas & Rowe, 1973: 9). ECOWAS and SADC are prime examples in that they started off as economic unions which were functionally specific but in due course their tasks 'spilled over' into other domains.

The factor of homogeneity considers size, power, and cultural variables inside the regional organization. Where there are high incidences of comparability among the members, the regional organization is deemed to be homogeneous, therefore predisposing it towards greater unity. Also, political institutions and political culture are important variables to take into account (Haas & Rowe, 1973:9). Regional organizations, such as the European Union, with established political institutions and culture embracing respect for the rule of law, human rights, and democratic processes, best illustrate this issue. The OAU would certainly not score very high on this issue, owing to the eclectic nature of its membership: its members do not share similar political institutions and they come from diverse political cultures.

On the twin factors of commitment and competence, Haas and Rowe maintain that there must be "initial commitment toward achieving unity toward non-members" and that the organization must be "equipped with a set of reasonably autonomous central organs, able to prepare policy decisions and to execute them with a minimum of vetoing by national governments" (1973:10). The issue of the veto is crucial. Once a member state realises that its rejection of a proposal would scupper the wishes of the whole organization, it may tend to entertain nationalist interests which are out of joint with the others.

A careful consideration of the externalization phenomenon as detailed by Ernst Haas and Edward Rowe shows that it would be more applicable to the so-called weak or small states, rather than to the superpowers, in explaining the predisposition of states to join in a regional international union. The

truth is that it is frequently those very small states that critically require to amplify their international stature and to heighten their world profile, and the only available, and viable, option is to climb on the bandwagon of regionalism. It is also true that international relations are shaped primarily by those states known as the Big Powers, whose interests and capabilities transcend their own self-defence or region: these are, the USA, Britain, France, Peoples Republic of China, and the Russian Federation. By and large, these countries become members of regional organizations out of ideological reasons rather than exclusively on grounds of survival. As far as the cohesiveness of regional organizations is demonstrated in the General Assembly of the United Nations as bloc voting, Haas and Rowe reject it as a trend which "subordinates the virtue of universalism to regional selfishness" and a "tendency toward a global party system constructed on regional building-blocks" (1973: 39).

At this stage, before considering the different perspectives on international relations and organizations, it is appropriate to explain, by way of authorial comment, a few concepts which bear significantly on international relations discourse:

1.   International system;
2.   International society;
3.   Alliances; and,
4.   Collective security system.

The rationale for this clarification is that almost all regional organizations are perceived within an understanding of one or more of these concepts.

According to Woods, an *international system* comprises "two or more states which have sufficient contact between them and sufficient impact on one another's decisions to cause them to behave as part of a whole" (1996: 10). In this situation, states behave strategically, making their decisions while always alert to what they presume the other state will do. Such contacts need not be formalised but they might compel states to behave in ways that would not adversely affect other states, for example, the regulation of cross-border trade and travel.

An *international society*, as defined by Woods, "is a group of states which share common interests and values and conceive themselves to be bound by a common set of rules in their relation with one another and share in the working of common institutions" (1996: 19). **(3)** In this situation, inter-states behaviour is regulated by regional arrangements, the institutions of which are observed by the constituent national governments. This concept forms the basis of both institutional and sociological perspectives of international relations.

Alexander Wendt defines *alliances* as "temporary coalitions of self-interested states who come together for instrumental reasons in response to a specific threat" (1994:385). For him, once the threat is gone, the coalition loses its rationale and should therefore disband. As it were, alliances are for the "joint control of organized violence potential in a trans-national space" (1994:392). It is submitted that Wendt's usage of the concept is illustrative of allied forces in the two world wars and UN allied forces against Iraq in 1991. It should be pointed out that there are no regional arrangements of this

nature. Essentially, such alliances find correspondence with the realist theory, which focuses on power in world politics.

In contrast, in *collective security systems*, states make commitments to multilateral action against non-specific threats, and in such a multilateral institution, the element of permanence is reinforced by absence of any specific issue domain or task (Wendt, 1994: 392). Generally, the majority of present-day regional organizations are of this type, in that their treaties do not name a particular potential aggressor or threat. Their security systems are put in place as insurance against an unforeseen eventuality.

The next discussion serves as a general introduction to the following perspectives: Realism, Neo-Realism and Neo-Liberalism, Institutionalism, Regime Theory, Sociological Perspective, and, Constructivism. The introduction will be by way of the views of different practitioners in this discourse:

(1) "Political *realism* believes that politics, like society in general, is governed by objective laws that have their roots in human nature [...] The main sign post that helps political realism to find its way through the landscape of international politics is the concept of interest defined in terms of power" (Morgenthau, 1978: 4-5).

(2) *Neo-realists* tend to study security issues and *neo-liberals* tend to study political economy, and their differing estimates of the ease with which states enter international organizations may be related to the issues they study. According to Baldwin, "neorealists are more likely to emphasize

conflict and neoliberals are more likely to emphasize co-operation, but both theorists have moved beyond the 'simple dichotomy' between co-operation and conflict that characterized earlier debates" (1993:7,9).

Baldwin calls the terms realism and liberalism "unfortunate labels" because the connotation of realism is one of looking at the world as it really is, and "the term liberalism has been largely confined to the discussion of economic aspects of international relations". Nonetheless, he seems resigned to this condition: "Despite such objections, the terms neorealism are so deeply embedded in the literature that little can be done" (1993:10).

(3) "*Institutionalist theories* ...concentrate on the ways in which strategic interaction may lead to the emergence of co-operation in a given area of international relations", such as security (Fawcett & Hurrell, 1995:62).

(4) "The central problem for *regime theorists* and international lawyers is to establish that laws and norms exercise a compliance pull of their own, at least partially independent of their power and interests which underpinned them and which were often responsible for their creation" (Rittberger, 1993:53).

(5) In the opinion of Evan Luard, "*Sociology* has a part to play in the study of international relations ... The approach is founded on the belief that such societies of states possess many characteristics of smaller human societies, and are governed by many similar forces" (1976:vii).

(6) "*Constructivists* are interested in the construction of identities and interests and, as such, take a more sociological approach [to the international system]. On this basis, they have argued that states are not structurally or exogenously given but constructed by historically contingent interaction" (Wendt, 1994:385).

The preceding views capture the essence of the theories that will form the bedrock of this chapter. Further elucidation will be attempted under individual discussions of the theories and their related concepts.

3.1 <u>REALIST THEORIES OF INTERNATIONAL RELATIONS</u>

Realist theory (realism) and its advocates see international relations as a struggle among states for power. Sometimes called the "power politics school", realists have their intellectual roots in the 1930s (during the declining years of the League of Nations), the aftermath of World War II, and the Cold War. There is universal agreement that the founding fathers of the realist school are Hans Morgenthau (1904-1980) and Edward Hallet (E.H.) Carr (1892-1982). Morgenthau, a German-born U.S. political scientist and historian, is noted as a leading analyst of the role of power in international politics. The publication of his *Politics Among Nations* in 1948, a *locus classicus* in this field of study, was widely interpreted as inaugurating a new school of thought in modern international relations. Carr himself was a Cambridge-educated historian and political scientist. As Baldwin (1993:9-10) explains: For Carr, realism focussed on "what was and what is" in contrast to utopianism, which focussed on what could and should be. For Morgenthau, realism concentrated on "human nature as it actually is"

and on "historic processes as they actually take place". Baldwin further cites H. E. Carr: International law "cannot be understood independently of the political foundation on which it rests and the political interest which it serves" (1993: 270). By and large, both Morgenthau and Carr interpret international relations from an historical rather than legal point of view and thus recognize the primacy of power over law in world politics. As Clive Archer puts it:

> Their starting point was the existence of the present state system in which there is no common authority over and above the sovereign state and where there is anarchy in the sense of a lack of government at international level (1983:75).

Morgenthau opens the argument for the realists in the following manner, which is worthy to be cited at length:

> The history of modern political thought is the story of a contest between two schools that differ fundamentally in their conceptions of the nature of man, society, and politics....
>
> One [school] believes that a rational and moral political order, derives from universally valid abstract principles, can be achieved [...] The other school believes that the world imperfect as it is from the rational point of view, is the result of forces inherent in human nature[...] This theoretical concern with human nature as it actually is, and with the

> historic processes as they actually take place, has earned for
> the theory presented here the name of realism (1978: 3-4).

Further,

> Realism maintains that universal moral principles cannot be
> applied to the actions of states in their abstract universal
> formulations, but that they must be filtered through the
> concrete circumstances of time and place (1978: 10).

In these statements, Morgenthau appeals to historic precedent rather than to abstract principles to interpret the world political map, and argues for a theory that consists in ascertaining facts and endowing them with meaning through reason. He says: "Thus we can find out what statesmen have done, from the foreseeable consequences of their acts, we can surmise what their objectives might have been" (1978: 5).

It should be noted that though Morgenthau's theory exalted the principle of "interest defined as power", he reserved criticism for its moral implications: "Political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe... All nations are tempted to clothe their own particular aspirations and actions in the moral purpose of the universe" (1978:11). An interesting illustration to validate this principle is presented by Evan Luard and it is what he says is a twentieth-century phenomenon: "increasingly, statesmen tend to demand a wider cause than patriotism or national glory to guide their actions, in particular the waging of wars" (1976: 101). For example, during World War I, the Western allies "felt it was necessary to insist that they were not

fighting for Britain, France, but for respect for treaties, for the integrity of small nations, for self-determination, against autocracy, against militarism, against aggression". Furthermore, Luard, correctly calling the United States "a nation especially disposed to [seeking] a moral justification for its actions", quotes President Wilson's sermonizing speech before entering the war on the side of the Western Allies:

> We shall fight for the things we have always carried nearest
> to our hearts - for the right of those who submit to authority
> to have a voice in their own government, for the universal
> dominance of right by such a concert of free peoples as shall
> bring peace and safety and make the world itself at last free.

For Morgenthau, such high-principled rhetoric serves merely to camouflage what the realists perceive all the time: statesmen think and act in terms of interest defined as power. As far as the post-1945 world politics were concerned, Morgenthau's attack was reserved for the "utopians", who were wrong in conceiving the United Nations as the foundation of a new world order; and the "legalists", who were wrong in assuming that the UN could be a foundation of international law (Woods, 1996:18).

As for Carr, there is general acceptance that his theories were profoundly affected by his disillusionment with the League of Nations in the 1930s. In particular, he was discouraged by the failure of the League (or rather its members) to prevent the invasions of Abyssinia (present day Ethiopia) by Italy, and Manchuria by Japan, and with the conquests by the Nazi and Fascist states in Europe (Archer, 1983:75). He came to the conclusion that

the League was only as strong as those countries willing to support it, namely France and the UK. With Germany, Japan, and Italy aligned against it, the USA outside of it, and the USSR neutral in its attitude, the League was not as strong as it should have been. As such, Carr felt that " supporters of the League or of free trade were simply clothing their national interest (as 'satisfied powers') in international rhetoric " (Woods, 1996:18).

According to Carr, there were two major shortcomings in the international morality as exemplified by the League: First, there was discrimination in the way in which the cases of certain countries were trusted. There was, for example, a different attitude by the British and French governments to Greece and Abyssinia being attacked - the former was unacceptable, the latter case only regrettable. Secondly, there was the failure to secure general acceptance of the principle that the good of the whole takes precedence over the good of the part (Archer, 1983:75). League members evidently put national interests over those of the organization in their conduct of world affairs.

Carr was probably one of the few commentators of note who hailed the Munich Agreement of September 1938, concluded by Adolf Hitler and Neville Chamberlain, as, in typical realist thinking, "the nearest approach in recent years to the settlement of a major international issue by a procedure of peaceful change and a recognition of the preponderance of German power in Central Europe " (Archer, 1983:75). As for bilateral and other treaties established during the existence of the League, such as the Little Entente between Czechoslovakia, Yugoslavia and Romania, and the Locarno Security System involving major European powers, Carr observed that that

they were proof enough that League members either assumed that the system of the Covenant would be inadequate to be of use, or that other members would not honour their obligations under the Covenant (Archer, 1983:76).

In conclusion, the following observations can serve as a critique of the contributions of Morgenthau and Carr to the study of international relations: First, from a moral point of view, the realist school does not allow international organizations a positive role in creating a better world. Secondly, the school is rooted in the reaction to the weakness of the western powers when faced by Hitler and Mussolini in the 1930s and found its feet in the immediate post-1945 Cold War. (Archer, 1983:81;82).

The following discussion will look at the concepts mostly associated with the realist school in international relations discourse:

1. Systemic theory;
2. Power politics; and,
3. Hegemony.

3.1.1 Systematic Theory

Systemic theory considers primarily the processes or dynamics in the external context of state action or behaviour; that is, it places the actor, whether an individual state or regional arrangement, within the world context, and observes its behaviour *vis-à-vis* external influences.   It reinforces the realist thought that behaviour on the international plane is determined by power. As Andrew Hurrell notes (with particular reference to

regional arrangements), systemics "underlines the importance of the broader political and economic structures within which regionalist schemes are embedded and the impact of outside pressures working on the region" (Fawcett & Hurrell, 1995:46). In such a case, the realist view would stress the parameters of the anarchical international system and the importance of power-political competition. Regional arrangements should be understood by looking at the region from the outside because "regional groupings form in response to external challenges" (Fawcett & Hurrell, 1995:47). In essence, systemic theory desires to understand regions by analysing their place in the broader international system.

3.1.2   Power Politics

On the topic of power politics, Archer makes the following observation: "All politics, domestic and international, reveals three basic patterns: A political policy seeks either to keep power, to increase power, or to demonstrate power". (1983 :78). The first pattern he calls the " politics of status quo", the second the "politics of imperialism", and the third, "the politics of prestige". **(4)** International relations is pre-dominantly about the struggle for power, whether in the political or economic or military domain, therefore, all behaviour on the international stage is assessed with a critical eye on the power equation of gains and losses. As such, the realists see the politics of regionalism and the emergence of regionalist alignment as having much in common with the politics of alliance formation (Fawcett & Hurrell, 1995:46). In the end, there is no essential difference between economic and political unions, since they both desire to increase bargaining power on the international plane.

3.1.3   Hegemony

In ordinary sense, hegemony refers to political domination, especially the leadership or domination of one state over others in a (regional) group. In world politics, hegemony is evidenced by "the presence of a local pre-eminent power in a geographical area with latent or overt claims to the status of security manager in the area" (Ayoob, 1995:58).   Within a regional organization, especially, a hegemonic state can usually be assured of sufficient small power backing to permit it to manage the organization towards "acceptable decisions" (Little & Smith, 1991:242).   Obviously, such decisions have to be acceptable first to the hegemonic power at all times. According to Charles Pentland, in hegemonic calculations, focus will be on the relative virtues of multilateral and unilateral actions. Therefore, as a shield against charges of unilateralism, the hegemon "will have ready-made majorities of its clientele to determine the outcome of all decisions it considers important" (Little and Smith, 1991:243).

In realist politics, there exists an ambivalent attitude towards hegemonies: regional arrangements can either coalesce *around* a hegemon for obvious security reasons (centripetal forces), or they can coalesce *against* a perceived hegemon (centrifugal forces).   For example, NATO and the OAS revolve around the US as their hegemon as evidence of centripetal forces that the hegemon discharges.   The latter case of a centrifugal force is exemplified by the following regional arrangements and their perceived enemy: ASEAN (Vietnam), Gulf Co-operation Council (Iran), and SADCC (South Africa). It should be noted that the perceptions about the existence or not of a hegemon

in a region are affected by changing ideology and history. For example, in the end, South Africa became a member of SADC, thereby emitting a centripetal force within the organization. The same could be said about NATO in relation to the then West Germany: in 1949, West Germany was enemy number one for Western Europe but since 1954 grown into a pivotal state in the region.

Nonetheless, if the hegemon is in an inordinately dominant position, the very extent of that power may render institutions (institutionalized regionalism) unnecessary, or even marginalized (Fawcett & Hurrell, 1995:52). In such scenarios, the dominant state's support for, and demands on, the organization will far exceed those of any other member and "the actions of the organization will amount to putting a multilateral gloss on a unilateral interest" (Little and Smith 1991:243). This is what is known as the "fig leaf" situation: the hegemon is well aware that in modern-day international relations, unilateralism is viewed with disfavour, and therefore regional arrangements might be used as the "fig leaf" to hide the naked ambitions and interests of the superpower. As an illustration, in the now-defunct Warsaw Pact, the USSR maintained Soviet missiles on the soils of all member states, but it did not permit, for example, Hungarian weaponry on Polish territory. For the USSR and other hegemons, regional arrangements restrain all states but the hegemon. The issue of the hegemon will be demonstrated further in subsequent chapters.

3.2 INSTITUTIONALIST THEORIES ON INTERNATIONAL RELATIONS.

Earlier criticism of realism was that it often cast the debate as one between 'altruistic moralists' and 'egoistic power calculators', the former being misguided in the belief that a more rational, and more moral mode of conducting interstate relations would necessarily lead to a more satisfying world order (Archer, 1983:75; Baldwin, 1993:8). What new thinkers sought to do was to highlight the need to distinguish between the independent decision-making that characterises anarchy, and the joint decision-making in the international regimes. Further, they argued that "it is the self-interest of autonomous states in a state of anarchy that leads them to create international regimes " (Baldwin, 1993:4).

The term "institutional" has been adopted here to refer to a number of theoretical standpoints that, in essence, oppose the anarchic view of international relations held by the realists. These are liberalism, functionalism, institutionalism, transactionalism, economic inter-dependence, and globalism. The choice of "institutional" was informed by the realization that diverse writers on this topic use a variety of labels to refer to the "anti-realist" groupings, all resolved to establish that the world is not as the realists make it out to be. In so doing, these thinkers seek to promote the idea that the international scene is not anarchical, but there exist a number of institutions vested with legal powers to facilitate co-operation and communication among the states. As Wendt puts it: "In contrast to the realists' Darwinian view of world politics as an asocial system, institutionalists emphasize the norms and shared understandings that

constitute international society" (1994:388). Two of the common institutions thereby created are economic unions and political unions.

The ensuing discussion will explain the main contributions of liberalism and functionalism, interdependence theory, and globalism, to our understanding of international organizations. The main tenets of the contributions are interconnected.

3.2.1 <u>Liberalism and Functionalism.</u>

Both liberalism and functionalism focus on how states respond to and promote co-operation on the international scene, in particular at the regional level. As Andrew Hurrell explains, liberal-functionalism "sees regionalism as a functional response by states to the problems created by regional inter-dependence and stresses the critical role of institutions in fostering and developing regional cohesion" (Fawcett & Hurrell, 1995:58). He mentions also the "liberal views" of this approach to inter-state relations: *rationality*, *welfare goals*, *scientific* and *technological knowledge*. The following are the core arguments advanced by the liberal-functional school:

1. Increasing levels of inter-dependence generate demand for international co-operation;

2. Institutions are viewed as purposively-generated solutions to different kinds of collective- action problems;

3. Norms, rules, and institutions are generated because they help states deal with common problems and because they enhance welfare; and,

4. Supranational institutions begin with solving technical and non-controversial issues, but later spill over into the realm of high politics and lead to a re-definition of group identity around the regional unit. (Fawcett & Hurrell, 1995:59,61,63).

To illustrate Hurrell's argument number (4) above, one need not look further than the transformation from SADCC to SADC in the Southern African region. Today, the issue domains that SADC traverses are a far cry from the specific tasks that the erstwhile SADCC performed in the 1980s. Further afield, mention could also be made of the present European Union, which is the unsurpassed non-military regional organization in the world today. It has travelled a long way from the humble beginnings of the Schumann Plan of May 1950, which was later transformed into the European Coal and Steel Commission by the Treaty of Paris in April 1951. On the issue of security matters, Hurrell cautions that regional security regimes viewed from an institutionalist standpoint should not be seen as "alliance formations". Rather, he suggests,

> [t]hey have been created and will survive because of the benefits they provide: by facilitating communication, information, transparency, by reducing mutual threat perceptions and worst-case thinking, and by undercutting the self-fulfilling prophecies that lie at the heart of the security dilemma (Fawcett & Hurrell, 1995:64).

What Hurrell is implying is that the "security issue" is but one of the many institutions that regional organizations can establish to facilitate co-operation amongst states.

3.2.2   Interdependence Theory

Interdependence theory (sometimes called the *economic* interdependence theory owing to the paramountcy of this issue domain), is thoroughly interconnected with liberal-functionalism, to the extent that to discuss them under separate heads is to split hairs. Focus here will be on the economic issue domain.

Economic interdependence has its roots in pre-1914 mercantilism, according to its adherents. They hold that economic interdependence had reduced the likelihood of war by reducing the gains to be made from war. Any government seeking to start a war for gain or conquest faced severe pressure from bankers and businessmen not to do so (Woods, 1996:13). For the capitalist elite, domestic interests, such as the fear of a financial collapse, were enough to dissuade statesmen from embarking on imprudent action. Their antidote was that state interaction maximized economic gain. In the words of Robert Keohane and Joseph Nye, latter- day apostles of this belief, "growing interdependence would alter the agenda and behaviour of states…and the utility of military power among states would be reduced". (cited in Woods, 1996:14)

By and large, the purpose of this view is to search for forces that might lead states away from war and into more co-operative relations. According to

Keohane and Nye, the main characteristics of the ideal type of complex interdependence are:

1. It allows for multiple channels connecting states;
2. There is an absence of hierarchy among the many questions at issue between states, with military security no longer dominating any agenda; and,
3. Military force is not used by governments against other governments within a region where complex interdependence prevails (cited in Archer, 1983:98).

As these salient features indicate, the aspiration is towards co-operative inter-state behaviour, with the military aspects down-played significantly. One of the suggestions to achieve complex inter-dependence is to consider what resources of a state in a regional organisation are most relevant, without factoring in the state's military strength. In this instance, it is not unreasonable to point towards the "sector" policy of SADC, whereby the organisation apportions economic sectors to the various members, for example: Botswana (agricultural research), Lesotho (water resources), South Africa (finance and investment), and Zambia (employment and labour).

3.2.3 Globalism

In ordinary meaning, globalism refers to "the principle of the interdependence of the entire world and its peoples; it shows concern for the rest of the world at the expense of national self-development and self-interest" (*World Book Dictionary*). Globalise has developed into an

important theme of post-Cold War discussions of international order. As a powerful metaphor, Hurrell notes, the "increasingly common image is of global flood of money, people, images, values, and ideas overflowing the old system of national barriers that sought to preserve state autonomy " (Fawcett & Hurrell, 1995:54). Globalism signifies "the end of geography", by reducing the importance of boundaries, sovereignty, and regionalism.

The following are the main arguments for globalism:

- There is a dramatic increase in density and depth of economic interdependence;
- Both information technology and information revolution (the Internet Age) play a critical role in diffusing knowledge, technology, and ideas; and,
- There is the creation of the material infrastructure for the strengthening of societal interdependence, because global problems create a human community (from Fawcett & Hurrell, 1995:55).

On the issue of international relations, globalism, as a "necessary level of intrusive management", is acceptable to most states, in terms of standard-setting, regulation, and enforcement of policies to tackle world problems, such as pollution, AIDS, conservation, and others. The critique that is reserved for globalism is that though there are indeed global issues, their effects are likely to be felt most directly within a particular region, which would press regional organizations into action, rather than the entire world itself (Fawcett & Hurrell, 1995:56). To this can be added the criticism that globalism as it is understood today refers fundamentally to the presumed commonality of Western culture, history, social systems and values to the

entire world. This misconception has resulted in world organizations such as the IMF, World Bank, CITES (Conference on International Treaty on Endangered Species), and others imposing western values on other peoples and regions.

3.3   REGIME THEORY ON INTERNATIONAL RELATIONS

Of all the theories discussing the world political stage, regime theory is the one that espouses the primacy of law, norms, and rules, and thus is seen as the voice of international law among political discussants. **(5)**

Regimes are "implicit or explicit principles, norms, rules, and decision-making procedures around which actors' [states or regional arrangements] expectations converge in a given area of international relations" (p.54). All actors on the international stage are aware that rules exist and they are created and obeyed primarily out of self- interest or expediency, but also they are followed even in cases when a state's self-interest seems to suggest otherwise (p. 53).

Regime theorists seek to rehabilitate the credibility of international law, in particular classical international law. There existed criticism of the role of custom and practice in the creation of legal rules, and the acceptance of almost all of what the state actually did (the "state practice" doctrine). Examples quoted by Hurrell are:

□   Treaties under duress were valid;

□   No restraint on the right to wage war;

□ Successful conquest was accepted as legitimate; and,

□ The definition of sovereignty gave no place to self-determination and the right of citizens (p. 51).

Hurrell carries the criticism further, and writes that the realists attacked Grotius and other classical international lawyers as "sorry comforters" who legitimized, in their writings, the immoral and aggressive actions of states. Furthermore, he says that Marxists view international law as a reflection of the class interests of a particular group or group of states (pp. 51-52). Therefore, regime theorists had much to answer for. As Hurrell states: "If their political impact is to be significant, international norms cannot be the automatic and immediate reflection of self-interest. There has to be some notion of being bound by a particular rule despite countervailing self-interest" (p. 53).

Fundamentally, regime theory is all about the discussion of the normative dimension of international co-operation. The main question is: how is it possible for states to co-operate while at the same time they claim sovereignty and compete for power and influence in an anarchical world? Regime theorists are quick to point out, up-front, that it was perhaps the extreme nature of post-1945 realism that engendered "a situation in which co-operation came to seen as an 'anomaly' in need of an explanation" (p. 50).

In the first place, regime theorists concede that in an anarchical situation emphasizing a state's relative power and economic position, states would be deterred from entering co-operative arrangements if co-operation is likely to

impact negatively on their relative power on the world stage. As far as weak states are concerned, it is frequently in their interest to recognize the international legal order because it bolsters "their very ability to maintain themselves as states". The rich and powerful states observe the international norms and rules for two reasons: first, they need to maintain the status quo, from which they clearly benefit, and second, they are the ones who have a disproportionate influence over the content and application of these norms (pp. 58-60). States discern the long-term interest in these norms and rules, and in the end the law "can acquire a degree of distance from the immediate interests or preference of states" (p. 60). Finally, Hurrell offers a caution: "Being a political system, states will seek to interpret obligation to their own advantage" (p. 61)

3.4 SOCIOLOGICAL APPROACHES TO INTERNATIONAL RELATIONS.

Luard defines international society as a "relatively permanent association of nations, linked together by ties of intercourse, trade, and diplomatic relations...possessing some common customs and traditions, common expectations concerning the relationships and behaviour to be expected among its members, even, in many cases, *common institutions for discussing common problems*" (1976: viii) (Emphasis added).

It is this definition which informs the basis of a discussion of international relations in sociological terms. At the outset, social scientists acknowledge that, just as human societies possess certain belief systems (traditions and

customs), so do members of the international society. There exists a prevailing set of beliefs which largely determines the actions of states.

The following analysis represents key-points from Luard's seminal work, *Types of International_Societies* in which (chapter five) he meticulously deliberates on the influence of "Ideology" as a factor which regulates state-action on the international stage. Luard sees ideology as one of the beliefs that bind diverse states together. He clarifies that in international society, just as in domestic societies, the prevailing ideology is that of the dominant elites within the member states.

Luard draws interesting parallels between the exportation of capitalism by the USA, and communism by the Soviet Union, following the 1914-1918 war, and the Russian Revolution of 1917. The American case is embodied in President Wilson's universal attempts to set up a universal framework, the League of Nations. After the Russian Revolution, the "government, for a time, became more devoted to the promotion of ideological ends than to national goals. It was willing to denounce secret agreements and unequal treaties of nationalism; it gave away Finland and other areas. Instead it sought to export revolution" (p. 101).

What is interesting in Luard's observation is that the two superpowers withdrew from the world stage (the so-called period of the League of Nations) only to re-emerge after the war in 1945 as the two great ideologies that were to contest the world for the next four decades. Ideological contest brought with it new international language: the US was not denouncing the USSR, but "communism", likewise, the USSR and its allies were not

fighting the US, but "capitalism", or "imperialism". Luard writes that after the Kellogg-Briand Pact of 1928, motives for alliance-formation were no longer territorial, concerned with defeating or destroying enemy states, *but political*, concerned with the type of government established in existing states (p. 103). Thus, in many parts of the world, the two major powers competed to bring to power governments favourable to their own cause, with the US preventing the coming into power of Communist regimes, and the Soviet Union promoting them. Such ideological warfare left in its wake untold misery to the majority of humanity, in particular the Third World, Africa deserving special mention. Luard correctly observes that ideological warfare resulted in the *increase in external stability* mirrored by an *increase in internal instability*. Thus, on the international plane there were fewer wars, but civil wars increased tremendously.

In addition to ideology as a sociological factor in international relations, the concepts of "sense of community, "constructivism" and "democratization" also shed light on how states behave on the international level.

3.4.1 <u>Sense of Community</u>

This concept begins by asserting that the international society could not be understood principally on the interest of power. It proposes that focus should narrow on cultural and historical forces that had fashioned the consciousness of society, and had moulded perceptions of common values and common purposes (Rittberger, 1993:63). This historical and sociological emphasis on common-cultural tradition contributes to international society in three ways:

- Communication is facilitated by common epistemology, language, and cultural tradition;

- Common culture reinforces the bonds of common interest by adding a sense of moral obligation; and,

- Common value systems ensure similar valuation of objectives such as order, justice, peace, and democracy (Rittberger, 1993: 63-64).

It is safe to remark that the above factors are highly possible in homogeneous regional organization such as the EU, NATO, and the Arab League, but it is also safe to predict that if an organization such as SADC strives towards a "sense of community", it would be a shining example in Africa of what benefits exist in a society that emphasizes "commonality" rather than divisiveness.

3.4.2 Collective Identity and Constructivism

These twin concepts are difficult to distinguish from that of "sense of community" except that here there is less emphasis on the cultural-traditional factor. However, both stress the "we-ness" that citizens of a particular region may cultivate among themselves, despite existing linguistic and cultural barriers. For Andrew Hurrell, *constructivist* theories "focus on regional awareness and regional identity, on the shared sense of belonging to a particular regional community, and on what has been called cognitive regionalism or interdependence "(Fawcett & Hurrell, 1995: 64). Factors that significantly create a propitious condition for regional cohesion are: sustained and lasting sense of community anchored on mutual responsiveness, trust, and high levels of 'cognitive interdependence'. Instead

of stressing material motives, constructivists recognize the importance of shared knowledge, learning, identical forces, and normative institutional structures. On this matter, Andrew Hurrell says: "whilst perceptions of a non-regional 'other can indeed reinforce regional identity, it is constructivism's analysis of strategic interaction and cognitive interdependence within the region that gives it purpose under any discussion of regionalism" (Fawcett & Hurrell, 1995; 65).

According to Wendt (1994: 387), collective identity is essential to the meaningful formation of multilateral institutions. Identification can be measured along a continuum, with the extremes occupied by egoistic members on the one side, and solidaristic members on the other. In any organization, member states occupy different positions on the continuum (probably depending on the issue domain). For example, in the EU, Britain has remained in 'splendid isolation' on the issue of monetary union, while its strong support for EU expansion is strongly opposed by poorer members who fear substantial loss of benefits to prospective members from Eastern Europe. The desired effect of collective identity is to reduce heterogeneity, (or to increase homogeneity) among states most of the time.

3.4.3 Democratization

This concept is classified as one of the "domestic level" theories, for it focuses on the role of shared domestic characteristics within an international society. (The other concepts, though not necessarily 'sociological' are state coherence and regime type.) **(6)**

Democratization reinforces the argument that "democracies rarely go to war with each other". According to Maoz and Russett (1993: 624), "[t]here is something in the internal make-up of democratic states that prevents them from fighting one another *despite the fact that they are not less conflict-prone than non-democracies*" (Emphasis in the original). They continue that a salient image that democratic states communicate to their external community is a sense of political stability and likewise instability is an image conveyed by non-democratic states (1993: 625). Democratization emphasizes the importance of domestic factors and the impact of democracy, and it is concerned with the general propositions about the behaviour of liberal states (a recent illustration is the reaction of the European Union to the election results and the subsequent government in Austria, which included a far-right coalition partner).

A further observation is that when two democracies are caught up in a conflict "they are able effectively to apply democratic norms in their interaction" (Maoz and Russett, 1993: 625). In such a scenario, conflicts are prevented from escalating into a militarised level. For example, in the SADC region, two members, Botswana and Namibia, were locked in a conflict over the disputed island of Sedudu, situated along the common border of the two neighbours. The conflict was not resolved militarily but through one of the traditional methods of peaceful settlement, *arbitration* in the International Court of Justice. In contrast, two members of the Arab League, both symbolizing non-democratic states, found themselves in a military conflict over territorial claims. It is submitted that regional groupings which have a majority of democratic states as members will tend to deal with intra-bloc disputes in a peaceful manner.

Another notable example that is of importance to Africa is how the IMF and the World Bank respond to appeals for financial assistance. The two institutions have set conditionalities such as good governance, democracy, respect for human rights, proper accountability, anti-corruption measures, and free political activity before they could offer assistance to stricken countries.

3.5   Third World views on International Relations

Third World views, representing the views of the majority of nations, adopted from the beginning a marxist framework. They are particularly concerned about how some international institutions could be used as tools of exploitation of the third world, and how some could be used as agents of liberation (Archer, 1983: 117).

Archer describes, following the Brazilian scientist, Yves Tandon, three Third World perspectives on international organizations: (1) Those of the 'Bourgeois nationalists' who are in power following decolonization, but are "reactionary to the extent that they would sooner make peace with imperialism than surrender to the [demands] of the masses and peasants" (1983: 117).   For them, the UN and other international fora are an opportunity to "parley with their erstwhile imperial masters at a presumed level of equality".   The second perspective is that of the "really backward regimes", for whom international organizations are of marginal significance for they prefer to deal with (western) imperialists and capitalists directly.

The third perspective, according to Tandon, is that of the "masses of the third world " for whom international organizations are of little importance for as long as they continue to reflect the class struggle in favour of imperialism (Archer, 1983:117).

With particular reference to Africa, the former Ghanaian president, Kwame Nkrumah, believed that a United States of Africa, subject to a single government, provided an effective means of ending both neo-colonial relationships and minority racist regimes in Africa (at the time) (Tordoff, 1984:224). For him, regional blocs were incompatible with African unity, for they would sap its strength, once it was achieved.

However, the reality is that there have been many attempts to create a political union in Africa (all since having collapsed) for reducing tensions between states divided by artificial, colonially-imposed borders; promoting political stability; and, to show that supra-state unity is an historic value of the African nationalist movement. As Tordoff puts it: "African leaders do not question the desirability of African unity in principle. The issues are how closely unified they should be and what forms should the unity take" (1984:225).

As far as SADC is concerned, it is sufficient to point out that liberation movements which were taken under its wing (as SADCC and the Frontline States) are today full member states of the organization. In the dark days of the reign of Ian Smith in Rhodesia, and apartheid South Africa, Robert Mugabe (Patriotic Front), Oliver Tambo (ANC), and Sam Nujoma (SWAPO) were invited as observers to the Southern African meetings.

3. 6   <u>CONCLUSION</u>

The preceding discussion sought to focus on the most widely accepted theories on international relations: realism, institutionalism, regime theory, sociological approaches, and third world views. The main aim was to explain that the world political map does not reflect the geography of the physical world, but the map takes different alignments whenever diverse theories are adopted to interpret the international stage. Neither does it reflect the geography of the human world because innumerable political forces are at play, which can, for example, make the USA become inextricably linked to the fate of a small country like Israel, located thousand of miles away, and yet desire fervently the destruction of a small country, Cuba, which lies only a few hundred miles away. But such is the nature of international relations. Finally, the discussion sought to explain some of the reasons, implicit and explicit, which encourage co-operation among states, and also to enter into formal agreements.

The next two chapters will focus on these formal arrangements, in the form of regional arrangements established under the UN Charter. The main aspects of the discussion are the treaties themselves, founding principles and objectives, and resources for conflict management and resolution.

NOTES

1.   See Bennett, (1984), pp.24 - 31.

2.   Functionally specific organizations have a manifest purpose, for example to provide for collective self-defence against an enemy previously identified. Functionally defuse organizations are devoted to a variety of purposes, including the collective security of the members and their defence against non-members (Haas & Rowe, 1973: 11).

3.   See also Andrew Hurrell's citation of Hendly Bull in Rittberger (1993:61).

4.   The third pattern could be illustrated by the oft-repeated question put forward by the former US Secretary of State, Madeleine Albright, to the Chairman of the Joint Chiefs of Staff: "If you say the US is the most powerful force in the world, what is its use if we can't show it" (*Time*, 5 April 1999).

5.   The following discussion is a synthesis of the main ideas gleaned from Andrew Hurrell's chapter, "International Society and the Study of Regimes" in Rittberger (1993), pp. 49 - 72.

6.   *State coherence* as a factor in regionalism can be explained this way: the absence of viable states (both in terms of effective state apparatus and mutually accepted territorial boundaries) makes the process of regional-building difficult, if not impossible. *Regime type* as a factor is instrumental in this way: "The instability of regimes, their intolerance of all opposition, and the erosion of all economic development work powerfully to undermine sustained cooperation" (Fawcett & Hurrell, 1995: 67)

CHAPTER FOUR: NON-AFRICAN REGIONAL ARRANGEMENTS UNDER THE UN CHARTER: AN HISTORICAL-COMPARATIVE SURVEY, 1945 TO THE END OF THE COLD WAR

4. 0   INTRODUCTION

Chapter Two of this thesis focussed on United Nations Charter provisions on regional arrangements and attempted a critical analysis of the law of the UN Charter and its interpretation(s) by practitioners in the field international law and politics. Emphasis, however, was laid more on legal interpretations because the general aim was a close scrutiny of the legal provisions contained in the UN Charter. Chapter Three took up the contentious aspects of political interpretations of the formation of regional arrangements under the UN charter provisions, reaching a conclusion that there existed considerable non-legal factors which brought to bear on the reasons why certain states chose to seek security assurances outside the universal body. In the main, it could be reasonable to observe that Chapter Two put forward the case of the international lawyers in explaining the behaviour of states on the international plane by relying on the provisions of the UN Charter, in particular Articles 51 to 54, whilst Chapter Three advanced the argument of political scientists by enumerating and analysing certain theories which also purport to explain state practice on the international stage.

The thrust of this chapter is to investigate actual state practice or behaviour from an historical/comparative perspective. The historical aspect of the study will be a geo-political analysis of established alliances and arrangements for the purpose of maintaining international peace and security, at the same time

when the United Nations Organization was established for the same purpose. In terms of time, the period under study will be from 1945 to the end of the Cold War, tentatively dated 1990. In terms of regional arrangements established during this period, the study will focus on the following non-African organisations: the Organization of American States (OAS); the League of Arab States (Arab League); the North Atlantic Treaty Organization (NATO); and, the Warsaw Treaty Organization (WTO) popularly known as the Warsaw Pact.

These two limitations require clarification. The period from 1945 to 1990 is important in twentieth century history and international relations for a number of reasons. Among them could be cited the following: 1945 represents or marks two major events, the end of the Second World War (WWII) with victory on the side of the Allied Powers – Britain (UK); France; the Republic of China; the United States of America (USA), and the Soviet Union (USSR), and the founding of the United Nations Organization and its constitutional document, the UN Charter. The UN was established on universalist principles, raising and perpetuating the euphoria and hope illuminated by the concert of Allied forces in defeating nazism and fascism, ostensibly in the name of "all freedom-loving-nations". It is now a truism that the euphoria and hope were both misplaced and ill-conceived: the concert of World War II was to be transformed overnight into a stark ideological bipolarity as soon as (permanent) members of the Security Council, charged under the UN Charter with the primary responsibility of maintaining international peace and security, took their seats.

That ideological bipolarity was to plunge the world into a Cold War for the next forty-five years, diving the universal body between the communist or socialist bloc, led by the USSR, and the capitalist or so-called "free-world" bloc, with the USA at its helm. It should be mentioned that the "third-way" in that ideological dichotomy, the Non-Aligned Movement (NAM), did not in any substantial measure affect or dilute the partisanship that paralysed the Security Council during the Cold War period. It was during that ideological warfare that various regional arrangements and alliances were established. With the obvious exception of NATO, regional arrangements selected for this study still retain valuable historical significance, as shall be borne out in the ensuing discussion. Even the now-defunct Warsaw Pact bears import in any discussion of regional arrangements today because it was an important organisation during the Cold War (which, in basic terms, was between NATO and the Warsaw Pact).

The comparative aspect of this chapter will explore the four regional organizations in terms of the following, among others:

☐ Treaties and founding principles, which will encompass issues such as the nature, role, and function of the organisation, as well as its 'admission criterion';

☐ References to Article 51 and Chapter VIII in their treaties, which reveal whether the organisation is more of an 'alliance' than a mechanism for setting local disputes, or vice versa;

☐ Compatibility with UN principles, in the so-called 'Charter homiage" clauses of the treaty;

☐ The existence or otherwise of a hegemony within the organization;

- Available resources for conflict   control;
- Methods for the peaceful settlement of disputes;
- Security provisions in the treaty; and, lastly
- A general critique and update of the organizations.

It should be mentioned at this stage that since this chapter limits its scope to the four non-African regional organisations, the next chapter will focus exclusively on three African regional organisations that have a high profile in the field of the maintenance of international peace and security under the provisions of the UN Charter. These will be: the Organization of African Unity (OAU), the ECOWAS Monitoring Group (ECOMOG) and the Southern African Development Community (SADC).

At this point, the discussion will distinguish between the general characteristics of regional arrangements established under Chapter VIII, and military alliances or defence-pacts set up under the provisions of Article 51 of the UN Charter. Some multi-purpose organizations are established under the provisions of both Chapter VIII and Article 51 of the UN Charter.

4. 1   A GENERAL DISCUSSION OF ALLIANCES AND REGIONAL ARRANGEMENTS

Post-1945 world politics had a bifurcate effect on the promotion of international peace and security. First, the effectiveness of the universal body, in particular the Security Council, was debilitated, resulting in a dramatic reduction in stature as the primary custodian of the responsibility to search for

world security and peace. Second, and in parallel, was the re-assertion of the regionalist argument that world security and peace should be left primarily to regional organisations. Closely related to these developments is the issue of dividing the task of maintaining international peace and security between "collective security", which falls on the UN, and "collective defence", which is the responsibility of regional arrangements. However, owing to ideological opposition:

> The United Nations [could not] guarantee collective security against aggression, because any permanent member of the Security Council [might] prevent, by its single veto, the application of sanctions against itself or any other state guilty of aggression. *This important gap in the Charter has been filled in by agreements negotiated outside the organization* (Kulski, 1950: 453) (Emphasis added).

In support of this view, Halderman writes:

> Later, as the United Nations proved unable to provide collective security in the fact of Cold-War developments, the concept of 'collective self-defense' was developed in such important forms as the North Atlantic Treaty Organization and other regional defense arrangements (1963: 93).

In his article, "Some Aspects of Shared Power in International Organizations", Lawrence Finkelstein characterises this dual division of tasks between 'collective security' and 'collective self-defense' as the dilemma of shared

power, when it comes to the authority   to deal with world peace and security issues.   In concert with many commentators on the matter, he ascribes the dilemma to the "considerable ambiguity at the beginning [of the UN in 1945] as to how responsibilities were intended to be divided between the United Nations and regional organizations [...] That makes it exceptionally difficult to know how much the practice as it has developed over the years represents conformity with or departure from the original expectations" (in Bryson & Einsweiler, 1991: 318).

According to Finkelstein, the replacement of collective security, which the United Nations failed to supply during the Cold War, by collective defense, means emphasis was on 'second best' alternative. For him, the new emphasis represents a "changed understanding of the functions to be performed rather than a new allocation of previously agreed upon functions" (Bryson & Einsweiler, 1991: 318). He arrives at the conclusion that because of the new developments, "the Cold War has prevailed over the Charter", since the intended sub-ordination of regional mechanisms to the UN Security Council ultimately yielded to variable political exigencies. (1991: 319)

The variable political exigencies to which Finkelstein refers to are the self-serving interpretations of UN Charter provisions whenever national interests are at stake. Member states would then resort to the ever-available political interpretations of the provisions, thereby giving credibility to the arguments of the realists that international relations are informed by the inevitable notion of 'power interests'. However, international lawyers, or their allies, the regime theorists, would find sympathy in the words of Jorge Castenada on this matter:

"Collective defence was never conceived of as a substitute for the collective security system of the United Nations, *nor was it thought that a right granted to the states for emergency cases would become a duty through treaties*" (cited in Akindele, 1976: 76) (Emphasis added).

The emergency cases referred to are termed "an armed attack" in the UN Charter, and the 'right granted' is provided for in Article 51. Mention here should be made that one of the hallmarks of twentieth century international law is the world-wide restriction on the use of force as an instrument of national policy. Three noteworthy international documents unequivocal on this issue are the Covenant of the League of Nations, the Kellogg-Briand Pact of 1928, and the UN Charter. **(1)** However, the framers of these documents maintained a realistic attitude which made them recognize that in some clearly- defined situations, the use of force may be deemed legitimate. In terms of the UN Charter, that defined situation is self-defence in the event of an armed attack. As Akindele says, "The principle of self-defence has come to mark the dividing line between legal and illegal resort to war in defence of the national interest" (1976: 74).

What deserves clarification at this point is that the issue of the right of self-defence is not problematic at all, hence the adjective 'inherent' in Article 51, in recognition of the customary nature of this right. What is indeed problematic is the establishment of regional organizations to perform the task of self-defence against an armed attack on a member state. As such, the issue has a "great bearing on the question of the compatibility of defence-oriented regional treaties with the UN Charter" (Akindele, 1976: 75). Bennett calls these 'self-

defence' arrangements, 'alliance-type organizations', and arrives at this pessimistic conclusion: "By dividing the world into hostile camps, the alliance-type organizations undermine the charter purposes of developing friendly relations among nations and harmonizing their actions within a universal framework" (1984:366). Taking into account the realism that the two most powerful alliances during the Cold War were led and affiliated to by four of the Permanent Members of the Security Council (China excepted), Bennett sums up what many a commentator has known for a long time: "The spirit of the Charter was never taken seriously by the world's political leaders" (1984: 366).

At this stage, the discussion will focus on what type of regional organizations or arrangements could be established within the provisions of the UN Charter. The UN charter provides for three possibilities:

❑   Regional arrangements established under the provisions of Article 51;

❑   Regional arrangements established under the provisions of Chapter VIII, in particular Article 52;

❑   Regional arrangements established under the provisions of both Article 51 and Chapter VIII (that is, Articles 51-54).

Consequently, Article 51 organizations are the alliance-type, the founding principle of which is to provide collective self-defence against aggression (in most cases, external to the organization). Article 52 arrangements are established primarily to deal with 'local disputes'. Finally, those that combine the two provisions are essentially multi-purpose in outlook. **(2)**

Kelsen justifies the existence of Article 51 organizations in this way: "In view of the fact that the system of collective security established by Chapter VII of the Charter did not work, collective self-defence was the only means for the maintenance of international security provided by the Charter" (1951: 920-921). The provisions of the treaties constituting these alliances refer categorically to 'the right of individual or collective self-defense' in Article 51 of the Charter, and as such, the organizations operate within the spirit and purposes of the Charter (Bennett, 1984: 366).

To the general charge that alliance type organizations misinterpret the provisions of Article 51 for narrow political and ideological interests which undermine the United Nations, Kelsen defends them thus: "Regional collective self-defence organizations have been established in preparation for, and not in the exercise of the right of, self-defence" (1951: 915). His assessment amounts to regarding preparation as not being in violation of the provisions of Article 51.

As far as Article 52 arrangements are concerned, the following requirements, as laid down in Article 52 (1), are applicable:

1. They must be concerned with the maintenance of international peace and security;
2. They must be consistent with the purposes and principles of the United Nations; and,
3. They must, in some way, be regional (Akehurst, 1967: 177). **(3)**

A noteworthy remark is that, in his seminal article, published in 1951, "Is the North Atlantic Treaty a Regional Arrangement", Hans Kelsen, answering in the affirmative, based his claim thus: Article 51 organizations have the same characteristics as those listed under Article 52 (1). To add to the confusion caused by the splitting of hairs, the following definition of a regional arrangement is offered by Kulski: "When several states consider that they have a joint interest in the maintenance of international peace in a defined area, they form potentially a region and are free to conclude special arrangements by virtue of Article 52" (1950: 453). Needless to say, this statement can be effortlessly applied to Article 51 treaties as well.

Purists who insist on recognizing the distinction between Article 51 arrangements and Chapter VIII arrangements would find a possible support from the provisions of Article 52 (2): "The Members of the United Nations entering into such arrangements ... shall make every effort to achieve peaceful settlement of local disputes through such regional arrangements". And, Article 52 (3); "The Security Council should encourage the development of peaceful settlement of local disputes through such regional arrangements". The possible support that emerges from these provisions centres on the all-important phrase: 'peaceful settlement of local disputes'.

The possibilities of a clear-cut distinction between alliances and regional arrangements may be explained in some ways.
According to Kelsen,

> Settlement of local disputes 'through' a regional
> arrangement may be interpreted to mean that the arrangement
> must contain provisions concerning a special procedure for the
> settlement of local disputes by the regional organization
> constituted by the arrangements (1951: 924).

It is submitted that Kelsen may be carrying the implicit meaning to an extreme point, because some recognized regional arrangements, such as the Arab League, do not contain, in their constituent documents, 'special procedure for the settlement of local disputes'. Be that as it may, advocates of Article 51 organization would concur with Bennett's observation (although not made in approval) that Article 51 organizations are a united military responses to deter aggression". Potential aggressors are envisioned as being states outside the membership of the alliance, and it is assumed that members of the alliance will not initiate armed attacks against each other" (1984: 366). The thrust of this argument is that alliances are not established to settle local disputes through peaceful means; alliances are meant to use force to repel aggression. On this matter, Akindele elaborates:

> Established primarily to defend member states from unprovoked
> attack from non-members, NATO ... and WTO made no
> provision for rules, procedures and machinery for the pacific
> settlement of disputes arising among their members, although
> the treaties under which those regional organizations have been
> organized impose upon members the obligation to refrain from
> the use of force in the settlement of their international disputes.
> (1976: 73)

It is submitted that the claims of the advocates of Article 51 organizations could be weakened by stating the implied rule which result from 'the obligation to refrain from the use of force in the settlement of disputes': Settle your local (or membership) disputes peacefully. It is further submitted that Akehurst's attempt to settle the complexity of the issue is appropriate and worthy to be cited at length:

> However, this is not to exclude possibility that an organization like NATO might assume subsidiary functions which could be regarded as subject to chapter VIII, such as settling disputes among its members; the question is not whether an Organization is a regional agency, but whether it is *functioning* as one *in a given situation*; some of its functions may fall under Article 51 and others perhaps under chapter VIII. (1967: 180. Emphasis in the original)

It is important to mention that the requirement to report the purported use of force by the regional arrangement to the Security Council for authorization under Article 53 has proved to be the source of disquiet for alliances to be regarded as Chapter VIII arrangements. This issue was dealt with in Chapter Two of this thesis where it was pointed out that the practice of alliances was to plead immunity from the provisions of Article 53, in fact, those of Chapter VIII in its entirety.

The final issue to explore under this general discussion of regional arrangements under the UN Charter is the contentious one of jurisdiction. Tied closely to the vexed question of the supremacy of either the regional or the

universal body during a dispute, jurisdiction deals with 'forum shopping': "states involved in contretemps with each other often shop for the forum in which they expect to find the friendliest, or least unfriendly, reception" (Bryson & Einswiler, 1991: 3118). Under the head of jurisdiction, the following questions are pertinent:

1. To extent are States obliged to submit local conflicts to regional organizations of which they are members before appealing to the UN organs?

2. To what degree should the UN defer to regional organizations as forums of first resort and refrain from interfering with regional action in the first instance? (Andemicael, 1979: 152-3)

It is submitted that the vexed question of jurisdiction finds its origin in the ambiguous, and almost contradictory, provisions of Article 52, in paragraphs (3) and (4). Article 52 (3) stipulates that the Security Council should encourage the development of peaceful settlement of local disputes through regional organizations, whilst Article 52 (4) declares that the application of Articles 34 and 35 remain unimpaired. As an attempt to overcome the complexities of jurisdictional priority, Levin proposes that the following criteria be applied, which, it is submitted, are appropriate:

1. Preferences of disputing parties, especially between a small and a big power.

2. Nature of the issues and interests at stake (whether they are primarily regional or could affect the whole community of nations)

3. Effectiveness of the regional machinery as a tool of conflict management.

4. Consistency of regional policies and actions vis-à-vis UN principles.

5. States' expectations regarding the probability that different outcomes may result from regional and universal decision-processes. (Andemicael, 1979: 159)

These criteria, and their usefulness, will become more apparent in the ensuing discussion on the behaviour of regional organizations on the international plane in Chapter Six. From this general discussion of pertinent issues arising from the establishment of regional arrangements under the UN Charter provisions, the focus of the enquiry will shift to those aspects under which the four regional organizations will be compared.

4. 2 ASPECTS OF COMPARISON OF REGIONAL ARRANGEMENTS

The points of comparison selected in this study are intended to provide a wider view of regionalism in practice, which would be useful in assessing the extent to which the four regional arrangements display uniformity and divergence. In conformity with the historical – comparative approach adopted for this thesis,

facts and concepts must be co- ordinated, similarities recognized, and divergences explained, by discerning essential elements.

4. 2. 1 **Treaties and their Founding Principles**

Treaties for international or regional organizations are the constituent documents that establish them either as regional arrangements or self-defence alliances. These organizations are then distinguished by their major or formal function, whether military security, political diplomacy, economic development, etc, and by the number of their functions in practice, whether they intend to be mono-functional or multi-functional, or multi-purpose (Nye, 1987:5).

It is customary that the treaty should state expressly the founding principle(s). Therefore, it should not be ambiguous whether the organization was founded to deal with matters relating to the maintenance of international peace and security, for it to be recognized as such. Furthermore, the treaty should be resolute in terms of whether it is based on Article 51 provisions, on Article 52 provisions, or a combination of both. As such, some regional treaties do define their relationship to the UN Chapter in specific terms. For example, both NATO and the Warsaw Pact justify their existence expressly under Article 51 of the UN Charter, whilst the authors of the OAS Charter and the Arab League Pact placed their respective organizations within the context of both Article 51, and Articles 52-54. But as Akindele clarifies the position: "relations of a regional organization to the United Nations are determined and defined not by

the character of the regional organization, *but by the function it is performing at a particular time"*. (1976: 63) (Emphasis in the original).

Another essential of a treaty is the question of admission to membership, which is a crucial indicator as to whether the organization intends, in its founding principles, to perpetuate the division of the world into power blocs, or it purports to reflect the inclusive character of the United Nations. In the words of Akindele:

> If the principle of regionalism is to be deemed consonant with universality, it is essential that the legal framework of regional organizations reflect those common legal values, principles, processes, and institutions which form the core of the United Nations system (1976: 62).

In this regard, the provisions dealing with admissions to membership into the organization have generally been based upon the principle of selectivity, and this in turn reflects the interest and goals of a particular regional organization (Akindele, 1976:64). To illustrate this salient element, Akindele cites the following: In view of the series of anti-communist declarations since the 1954 Caracas Declaration, it would appear that an independent communist American state could not become a member of the OAS; the Pact of the League of Arab States makes membership open only to independent Arab States; **(4)** also, "there would seem to be no room for a non-socialist state in the WTO", since such an admission would radically transform the character of the organization (1976: 65; 66; 67). A similar analogy may be applied to NATO membership: a European communist state would likewise alter the nature of that organization

if admitted. Finally, irrespective of the selectivity of membership, "principles of international law like sovereign equality, self-defence, non-interference in the domestic affairs of any state, good faith, and peaceful settlement of disputes are as much enshrined in the UN Charter as they are in regional treaties" (Akindele, 1976: 67).

The recognition of these enshrined principles find amplified expression in the next aspect of comparison, namely, acknowledgement of Charter principles as a founding principle of regionalist treaties.

4. 2. 2   Acknowledgement of UN Charter Principles

In essence, this aspect focuses on the legal question: Are regional treaties for the maintenance of international peace and security compatible with the UN Charter? Without exception, all regional arrangement treaties respond to this question in the affirmative, by reason of a conception which originates in a theoretical superiority of the principle of universality over regionalism in international law, as provided for in Article 103 of the UN Charter. Consequently, as Akindele broadly explains,

> It has been common practice to include in the preamble or in the operative part of regional treaties statements declaring that none of the provisions of the particular treaty are to be construed as impairing the rights and obligations of UN membership, and reaffirming the commitments of members to the purposes and principles of the UN Charter (1976: 63).

Wilcox, it would appear, is more realistic and explains this mandatory paying of homage to the UN Charter in this way: "*To reassure the sceptics* (against regionalism), the regional and other security arrangements concluded since 1947 have traditionally contained repeated reference to the United Nations" (1965: 792; emphasis added). It is one of the objectives of this study to illustrate and explain the extent to which, in practice, regional arrangements are compatible with the principles of the UN Charter to which they ostensibly genuflect. **(5)**

4. 2. 3   The Presence of the Hegemon

The concept of the hegemon, or a hegemonic state, was dealt with in Chapters One and Three. The importance of this concept as an aspect of comparison derives from two considerations: First, what is the net effect of the absence or presence of a hegemonic state in a regional organization? Secondly, in what light, negative or positive, does the international community view the presence (if any) of such a hegemon? As an illustration, Joseph Nye comments:

> Those organizations which, like the OAS, appear well-off in
> terms of material resources because of the membership of a
> great power tend, as a result of the same fact, to be worse off in
> terms of their reputation for impartiality. (1987: 17)

Mark Kramer explains, in general terms, a hegemonic relationship:

126

> The preponderant state exercises a loose control over locals and usually abides by norms of international law, but still seeks – if necessary through the use of force - to ensure that the internal and external orientation of the subordinate state is in accord with its own preferences (Woods, 1996: 100).

Under the discussions (in Chapter Six) of the behaviour of regional arrangements on the international stage, the impact of this aspect will become apparent, taking into account Kramer's parenthesis above, "if necessary through the use of force".

4. 2. 4 Resources for Conflict Resolution (6)

Advocates of regionalism found their claims on the recognition of the capacity of regional organizations to reduce the burden of the United Nations by fractionalizing conflicts. In this regard, Nye says: "Conflict control is among their major stated functions. In 1945 the belief that this type of regional organization could relieve the burden on the global organization was written into the eighth chapter of the United Nations Charter" (1987: 129). Those who hold this belief true argue that by "making peace divisible", regional arrangements "isolate conflicts and prevent solvable local issues from becoming tangled with irrelevant problems and thus changing into insolvable global issues" (Nye, 1987: 129).

Nonetheless, the counterview is to raise a vital limitation of regional capacity: neighbours are not always impartial. As Nye correctly puts it, "neighboring states may have such stakes in a dispute that impartiality may be easily found

among the 'extraneous actors' in the global organizations" (1987:130). In addition, the detractors of regionalism cite the enshrinement of sovereignty in their charters as compelling evidence that regional arrangements "do not possess a powerful capacity to deal with those conflicts which are primarily internal to members" (1987: 131).

Nye categorizes resources for control or resolution of conflicts between the *material* and the *ideal*. Material resources include personnel, physical resources and the capacity to mobilize them. Ideal resources entail basic qualities of impartiality and organizational independence from veto powers or national self-interests of member states. In explaining the independent role of the organization, Nye cites the following:

1. It must serve as a forum or place to meet and debate;
2. It must have an executive role in carrying out operations pursuant to its resolutions; and,
3. It must not be a 'fig leaf', where a hegemon uses it to help legitimize its unilateral actions after the fact (1987: 135).

In his work, Nye compares three regional arrangements, the OAS, the OAU, and the Arab League, in terms of these resources for conflict control. He illustrates the dynamics of material and ideal resources in this way: "The OAS has paid for its material advantage with something of a debit in its 'ideal' resources. The disproportionate wealth and power of its largest member

diminished its reputation for independence and impartiality" (1987: 134). In the forthcoming discussion on the OAS, the validity of this conclusion will be examined.

4. 2. 5   **Peaceful Settlement of Disputes**

Peaceful settlement of disputes is the subject of Chapter VI of the UN Charter. Article 33(1) catalogues the methods as (but without ranking order as generally interpreted): negotiation, inquiry, mediation, conciliation arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. As a rule reflecting compliance with UN Charter principles, regional organizations have also imposed on their members the obligation to settle their disputes in a peaceful manner. In the individual exploration of the selected regional arrangements, it will be inquired whether the treaties spell out with sufficient detail the procedures to follow and the organs to execute the function of the settlement of disputes by peaceful means. For Akindele, "the dominant feature of regional peace treaties is the great extent to which they have endeavoured to capture the spirit of the UN Charter with regard to principles, processes, and machinery for peaceful adjustment of disputes" (1976: 74).

The foregoing discussion merely restates the theoretical position, which is essentially idealistic, to say the most obvious. In this regard, the assessment by Wilcox paints a more realistic picture: "The regional agencies have been far less active in the peaceful settlement of disputes than the framers of the Charter anticipated" (1965: 795). Nonetheless, he ascribes such lack of initiative to the

perception held by member states about what would be the consequences of violating, wilfully or otherwise, the rule of peaceful settlement of disputes. He observes:

> Peaceful settlement has a very intimate relationship with collective measures to keep the peace. The certainty of punitive action against those who disturbed the peace increases considerably the probability that states will resolve their differences by peaceful means (1965: 795).

It should be noted that the aspect of pacific adjustment of disputes is closely related to that of jurisdiction priority, where disputants choose between the United Nations and regional arrangements, as discussed earlier. Some treaties are resolute on this matter in that they prefer the provisions of Article 33(1), especially the wording, "The parties to any dispute... shall, *first of all*, seek a solution by resort to regional agencies or arrangements". (Emphasis added) The framers of these regionalist treaties would certainly find comfort in the following expression:

> The Charter does not urge Member States to dump all their problems on the United Nations doorstep; to the contrary, it enjoins them to make every effort to settle their disputes elsewhere, resorting to the United Nations only if other methods of peaceful settlement prove unsatisfactory (Wilcox, 1965: 806).

Advocates of regionalism would also concur with Wilcox's assessment that "regionalism is a half-way house at a time when single nations are no longer

viable and the world is not ready to become one" (1965: 811). Be that as it may, when members belonging to a regional organization elect to use it as a forum of first instance, such a choice should not be construed as diminishing the ultimate responsibility of the United Nations, and the rights of its member states under its Charter. It will be borne out in subsequent discussions that this aspect is the prime site of controversy and opposition between the universal body and the regional ones.

4. 2. 6   Security Provisions in the Treaties

This aspect deals with the manner in which regional organizations frame in their treaties the rights and obligations they derive from the provisions of Article 51 of the UN Charter.   In this respect, the security provisions of regional treaties. have an *external orientation* in that they are directed at possible aggression from outside its ranks.   The wording of the security provisions are nearly always similar in the treaties selected: In the event of an armed attack against any of its members, the regional treaty generally demands an obligation from other members to come to the assistance of the victim of the armed attack.   Akindele expands on this matter:

> On the theory that an armed attack against one is an armed
> attack against all, the North Atlantic Treaty, the Rio Treaty, the
> Warsaw Pact, and the Collective Self-Defence Pact of the Arab
> League create a legal duty for their signatory states to go to the
> defence of a state which has been attacked and which has
> requested assistance (1976: 77).

An important distinction to recall when dealing with these security provisions is whether they are exclusively designed for external aggression, or whether they contemplate application against an aggressor who is signatory to the treaty. The pattern is that regional organizations of the alliance-type do not contemplate aggression from one of its members. This is more apparent when we have to recall the ideological formations of such organizations, especially NATO and the Warsaw Pact. Multi-purpose organizations, such as the OAS, do envisage the use of the regional defence system against one of their own. Nonetheless, it is crucial to observe that once the regional defence system is used against a member state, the action may derive from the provisions of Article 53, thus displacing it from the realm of Article 51. In such situations, prior approval of the Security Council has to be sought and obtained.

The next section of this chapter discusses the above aspects of comparison with reference to individual regional arrangements: the OAS, the Arab League, NATO, and the Warsaw Pact. This is in keeping with the comparative method which seeks to highlight both universalism and individualism in the research subject.

4. 3   THE ORGANIZATION OF AMERICAN STATES

The origins of the Organization of American States (OAS) as it is known today go as far back as the Monroe Doctrine, the result of which was that the United States established a hegemony over the western hemisphere by precluding European powers from political influence in the hemisphere. The doctrine was

proclaimed by US President James Monroe in a Message to Congress delivered on 2 December 1823: "We would not view any interposition for the purpose of oppressing the former colonies in the Americas or controlling in any other manner their destiny by any European power in any other light than as manifestation of an unfriendly disposition towards the United States" (cited in Degenhardt, 1986: 340). The doctrine was restated by successive US Presidents and probably reached its high point in the pronouncements of President Theodore Roosevelt in May 1904: "In the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or interference, *to the exercise of an international police power*" (cited in Degenhardt, 1986:341; emphasis added). The net effect was that for nearly two centuries, the United States established its hegemonic status within the hemisphere. But as Bowett notes, the "status prevented any real political co-operation from developing" (1982: 215).

The next major step towards shaping the future of an American regional system was the inception of the Great Neighbour Policy which effectively diluted, up to a point, the stringency of the Monroe Doctrine. At the Montevideo Conference of the Union of the Republics of the American Continents in 1933, the United States joined other states in signing a declaration on Rights and Duties of States, stating: "No state has the right to intervene in the internal or external affairs of another". The Montevideo Declaration thereby established the second of the main principles of the OAS: *non-intervention in the internal affairs of the member states*.

The third monumental stage was reached at the Buenos Aires Conference in December 1936, which established the "principle of consultation between American States as an alternative to unilateral United States action affecting the peace of the continent" (Bowett, 1984:215). By and large, the Pan American Peace Pact was a precursor to the Organ for Consultation, which is at the heart of the security system of the OAS.

In many respects, it is submitted, it was the Act of Chapultepec of 1945, signed in Mexico City on 3 March 1945, which laid the foundation of the OAS as it is known today. The Act was referred to in Chapter Two of this thesis but it is important to restate that its main thrust was the declaration on reciprocal assistance and American solidarity. It is also submitted that if ever there was a document which substantially agitated for the creation of Chapter VIII of the UN Charter, the Act of Chapultepec could be considered as one. At the conclusion of the United Nations Conference on International Organization (UNCIO) at San Francisco, twenty American States considered themselves a regional bloc by virtue of the Act. These were: Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the USA, Uruguay, and Venezuela. (Argentina signed the Act on 4 April 1945, following failed US attempts to prevent it because of independent wartime policy of the Argentineans).

The Act of Chapultepec was subsequently incorporated into treaty form (concerning the security system) in the Rio Treaty of Reciprocal Assistance (IATRA).

4. 3. 1   <u>Treaty and Founding Principles</u>

The OAS was established in April 1948 as a regional alliance, under the United Nations, to foster mutual understanding and co-operation among the American States. The regional organization is constituted by the treaty known as the Charter of Bogota, named after the host-city of the ninth Inter-American Conference. As Degenhardt clarifies, "the Charter gave permanent legal form to the hitherto loosely and indefinitely organized pan-American system" (1986: 344). In addition to the Charter of Bogota, the Conference also, in fulfilment of Article 23 of the Bogota Charter, adopted an American Treaty on Pacific Settlement, popularly known as the Pact of Bogota. All in all, the three principal documents underpinning the Inter-American System (as sometimes the OAS is called) are:

(1)   Rio Treaty of 1947 on Reciprocal assistance

(2)   Charter of Bogota of 1948 founding the OAS

(3)   Pact of Bogota of 1948 on Pacific Settlement of Disputes

The Rio Treaty will be discussed below under the section on security provisions, and the Pact of Bogota will likewise be discussed under pacific settlement of disputes. What follows is a consideration of the main principles of the Charter of Bogota which relate to the maintenance of international peace and security as provided for in the UN Charter. These principles are contained in Part One of the Treaty under the following headings:

☐ Chapter One: Nature and Purposes (Articles 1 to 2)

☐ Chapter Two: Principles (Article 4   (a) – (g))

☐ Chapter Three: Pacific Settlement of Disputes (Article 23 to 26)

☐ Chapter Four: Collective Security (Article 27 and 28)

Article 1 states categorically: "Within the United Nations, the Organization of American States is a regional agency". The legal consequence of this article is that the OAS is subject to the provisions of Chapter VIII of the UN Charter. For many commentators, the OAS is "the prime example of a regional agency despite disagreement in the literature as to the conformity of the Inter-American system within the UN Charter" (Simma, 1995: 699).

Article 2 proclaims the essential purposes of the OAS:

- To strengthen the peace and security of the continent;
- To ensure the pacific settlement of disputes;
- To provide for common action in the event of aggression;
- To seek the solution of political, judicial, and economical problems that may arise among them;
- To promote, by co-operate action, their economic, social and cultural development.

Alejandro Orfila observes the following about the purposes of the OAS: "The United States has tended to emphasize the political and geostrategic side of the regional association, whereas the Latin American nations consistently have urged that the OAS give equal weight and force to co-operative action for economic development" (Henrikson, 1996: 140). Hence, as diverse writers

have noted, in the 1970s, attention was given to the Peruvian-led initiative to give the principle of "collective economic security" equal stature with the geopolitical principles found in the Rio Treaty and the OAS Charter.

Of the twelve principles catalogued under Article 3, the following are pertinent to the maintenance of international peace and security:

(a) International law is the standard of conduct of states in their reciprocal relations;

(b) International order consists essentially of respect for the personality, sovereignty, and independence of States;

(c) The American States condemn wars of aggression; victory does not give rights;

(d) An act of aggression against one American States is an act of aggression against all the other American States;

(e) Controversies of an international character arising between two or more American States shall be settled by peaceful procedures.

A logical, and obvious, conclusion to be drawn is that both the purposes and principles of the OAS do not differ substantially from those of the United Nations. As far as the letter and spirit of the OAS treaty is concerned, there exists compatibility with the UN Charter.

As for membership, Article 4 simply states: "All American States that ratify the present Charter are Members of the Organization" However, judging from a series of resolutions against communism in the 1950s, which climaxed with the Caracas Declaration, American states which democratically see a communist government in power would not be accommodated in the OAS. The Caracas Declaration is formally called "The Declaration of Solidarity for Preservation of the Political Integrity of the American States Against International Communist Intervention". As the tortuous title indicates, the declaration officially outlaws communist governments in the Western Hemisphere. The declaration was used against Guatemala in July 1954 by the OAS, and was resorted to in the expulsion of Cuba from the OAS during the series of crises from 1960 to 1964. Some writers are of the opinion that, technically, Cuba is still a member of the OAS since what was suspended and finally expelled from the organization was "the government of Cuba" (Degenhardt, 1984: 349). If the present government were to be removed from office, Cuba would automatically be rehabilitated within the Inter-American system. In the forthcoming chapter on case studies of historical importance, these issues will be explored.

4. 3. 2   Acknowledgement of UN Charter Principles

On the issue of how the OAS Treaty pays homage or genuflects to superior law of the UN Charter, Bennett makes this observation: The OAS Charter is technically compatible with the UN Charter and it contains more references to the role of the OAS as regional organization under Articles 52 – 54 of the UN

Charter than found in the basic documents of any other regional organization (1984: 360).

Gerhard Bebr, writing nearly thirty years before Bennett, comments: "The intention of the framers to relate the organization closely to the United Nations is obvious to the scrupulous compliance with the requirements of Chapter VIII" (1955: 176). Bebr also notes that as a stress on close ties with the UN, the then UN Secretary-General, Trygve Lie, was invited to the Rio Conference of 1947 and delivered a speech there, "a noteworthy contrast to his silence on the occasion of receiving a copy of the North Atlantic Treaty" (1955: 176).

As far as the principles of international law are concerned, the OAS Charter makes numerous references thereto, in Articles 3, 9, 18, 21, 23 – 26. The Unites Nations rewarded the OAS by recognizing it as a regional arrangement within the UN Charter and by inviting its representative to its sessions as an observer in Resolution GA 253 (III), 16 October1948.

4. 3. 3   The Presence of the Hegemon

Judging from the literature on the OAS during the Cold War period, there remains little doubt that the Unites States, as the hegemonic power within the OAS, used the organization for its own purposes, and insulated those actions from effective UN control and responsibility (Bennett, 1984: 360). The relationship between the OAS and the United States is a classic case of an organization being used as a "fig leaf", to cover, proverbially, the naked unilateralism of the predominant power.

There is validity in the statement of the Soviet representative during Security Council debate on the first of the Cuban crises: "whether the matter was to be dealt with in the Council, and therefore subject to the veto, or whether it was to be examined in the veto-free OAS and thus exposed to the controlling influence of the United States" (cited in Macdonald, 1964: 33). The telling point about the statement is that the United States intended, and succeeded, in having the Council refer OAS disputes to the regional body, where the United States exercised its hegemony unfettered by Security Council control.

What is even more unsettling about United States predominance in the OAS is the fact that all the now historically-significant cases centering on the OAS in the United Nations involved the small states of Central America and the Caribbean, namely Guatemala (1954); Dominican Republic (1960 and 1965); Cuba (1960 – 1964), and Grenada (1983). In this regard, Nye recognizes duplicity or selective morality on the part of the larger Latin American states:

> In general, [these] states are reluctant to admit the legitimacy of interventions in their affairs by an organization which includes not only the North American giant but also the small states of Central America. At the same time that they are unwilling to be subject to OAS intervention, the larger Latin American states have been willing to be actors in joining the United States in controlling conflict among the smaller states (1987: 150).

As such, the middle powers of the OAS are willing partners in promoting the hegemonic behaviour of the United States, thereby increasing the suspicion of

the international community that the OAS is a smokescreen, a façade, as it were, to shield the USA from charges of unilateralism.

4. 3. 4   <u>Resources for Conflict Resolution</u>

The Meeting of Consultation of the Ministers of Foreign Affairs, which takes place as is necessary, or when requested, is the key resource for the resolution of conflicts within the OAS. It should be mentioned that at times, as is the general experience with other regional arrangements, conflicts may be controlled, or managed, rather than resolved. The major task of the Meetings of Consultation is to consider problems of an urgent nature, such as characterizing an action as aggression, and as such, in crisis situations, a Meeting of Consultation may be convoked at the request of member states.

Two of the historically important Meetings of Consultation were: the 6th Meeting in August 1960 where Members of the OAS decided collectively to apply economic sanctions on the Dominican Republic on the grounds of complicity of that Government in the attempted assassination of the President of Venezuela (Akindele, 1976: 107). The noteworthiness of the meeting, it should be recalled, rested on the whole question of the meaning of 'enforcement action' under Chapter VIII of the UN Charter, where it was debated on political rather than legal terms in the Security Council. At the 7th Meeting, held in August 1960, San Jose, Costa Rica, the OAS denounced and deplored the attempts made by the Sino-Soviet powers to intervene in political, economic and social structures of Cuba (Cassese, 1986:226). In essence, the meeting set the stage for the eventual expulsion of the Castro Government from

the Inter-American system, at the Punta del Este (Uruguay) meeting on 31 January 1962. **(7)**

As far as material resources are concerned, there exists little doubt that the OAS scores high on this point, thanks largely to the membership of the USA, which pays more than 65% of the total budget of the organization. It is what the OAS pays in return that should be scrutinized: has the organization sold or sacrificed its independence at the altar of US hegemony? It is submitted that there is general concurrence that the OAS, during the Cold War period, did not display any organizational independence. Thus, the absence of ideal resources detracts from the value of the material resources. To use Nye's categories to assess the organization's independence (discussed under 4.1.4 above), the following answers are deemed appropriate:

- Does the OAS serve as a forum or place to meet and debate? The unequivocal response is in the affirmative. During the Cold War era, almost without exception, members of the OAS took recourse to the organization, given the Latin American bloc's undisguised suspicion of the universal body.

- Is there, or are there mechanisms through which the OAS carries out its own resolutions? The answer is also undoubtedly positive: the material resources of the OAS allow it to play an executive role in enforcing its resolutions.

❑ Does the OAS function more as a 'fig leaf' than an impartial and credible organization? Needless to say, the prevailing view is that, on the authority of the literature consulted for this thesis, the OAS, during the Cold War, was used by the USA to legitimize its actions. The organization, 'played a supporting role to that of the US in the interventions into the situations in Guatemala(1954) and the Dominican Republic (1965). In more ways than one, the OAS members were what could be interpreted as 'willing partners' or 'convenient tools' in legalizing unilateral US action.

4. 3. 5   Peaceful Settlement of Disputes

The OAS, as Akindele notes, "provides the most comprehensive set of rules and procedures governing the pacific settlement of disputes among its members", encompassing mediation, conciliation, arbitration, good offices, and judicial processes (1976:72). The rules and procedures providing for the peaceful settlement of disputes within the OAS are enshrined in the Pact of Bogota (American Treaty on Pacific Settlement) which is the embodiment of the centrality of Article 23 of OAS Charter: "All international disputes that may arise between American States shall be submitted to the peaceful procedures set forth in this Charter, *before being referred to the Security Council of the United Nations*" (emphasis added). Articles 24 to 26 lay down procedures for the peaceful settlement of disputes and provide for the drafting of a special treaty to establish 'adequate procedures' for such settlement which resulted in the founding of the Pact of Bogota.

The "Try OAS first" principle, or obligation, involves limitation of the OAS members to their rights under Article 35(1) of the UN Charter. During the first of the Cuban cases in the Security Council, this obligation was denounced by those who held that in such an untenable situation, the logical inference would be that states which belonged to a regional organization had one recourse less, and not one more. According to the Cuban Representative: "We [are] obliged to reach the sad conclusion that the American states, upon forming a regional agency, suffered an impairment of their rights, that they renounced their rights under the UN Charter with those which they enjoy under the regional agency" (cited in MacDonald, 1964:33).

Proponents of the "Try the OAS first" principle hold a view that in general, there was a harmonious OAS-UN relationship during most of the Cold War. Aida Luisa Levin puts forward this claim:

> For instance during the 1948-1960 period, with one exception, namely, Guatemala (1954), there was no United Nations involvement in inter-American conflicts. The OAS acting alone and independently of the United Nations performed a variety of pacifying functions that put an end to outbreaks of violence, and while the organization was not always able to resolve underlying conflicts it helped to keep them in a state of 'pacific non-settlement' (in Andemicael, 1979:151-152).

Levin bases her argument on the fact that academic writing on the OAS during the Cold War era focussed disproportionately on two main issues of

jurisdictional priority whenever there was controversy, namely: the maintenance of US dominance in the western hemisphere, and the exclusion of communism which might threaten regional solidarity by identifying with extra-continental powers (1979:154). When those controversies arose, they led to the inevitable collision between the OAS, which would then invoke Article 23 of the OAS Charter, and the United Nations, which, in its turn, would recall the provisions of Article 35(1) and Article 52(4), to hear the dispute accordingly. As Bennett observes, "the OAS has played a much larger role in maintaining peace and promoting the pacific settlement of disputes among states within the hemisphere than it has as a collective defense agency against outside aggression"(1984:359). In this regard, he cites the following disputes which were dealt with, in large measure, successfully, by the OAS: Costa Rica-Nicaragua (1948-1949), (1955-1956), and (1959), Honduras-Nicaragua (1957); Venezuela-Dominican Republic (1960-1961); Venezuela-Cuba (1963-1964), (1967); Dominican Republic-Haiti (1950, 1963-5), Panama-USA (1964).

4. 3. 6   Security Provisions in the Treaty

In addition to the provisions on pacific settlement of disputes among its members, "the OAS operates in part as an alliance for collective defense" (Bennett, 1984:358), and the legal basis for this hemispheric security is the Rio Treaty of 1947. The Rio Treaty was incorporated into the OAS Charter as Chapter VI, Article 27 and 28. Article 27 provides: "Every act of aggression by a state against the territorial integrity…or against the sovereignty or political independence of an American State shall be considered an act of aggression against other American States". Upon the occurrence of such an

aggression, which may or may not include 'armed attack', Article 28 declares, "the American States, in furtherance of the principles of continental solidarity, or collective defense, shall apply the measures and procedures established in the special treaties on the subject". The principal treaty on the subject is the Rio Treaty, the salient provisions of which are:

> **Article 6**, which provides for the meeting of the organ of consultation (habitually the meeting of foreign ministers), "immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the continent"

> **Article 8**, which lists measures possible under Article 6; and these include: breaking of diplomatic relations, complete or partial interruption of economic relations, all forms of communication, and the use of armed force. (The taking of such sanctions, it should be mentioned, require a two-thirds majority)

> **Article 20**, which states that: "Decisions which require the application of the measures specified in Art.8 shall be binding upon all the signatory states...except that no state shall be required to use armed force without its consent".

The economic and diplomatic sanctions against the Dominican Republic (1960), and Cuba (1962 and 1964), and the action taken in the Cuban missile crisis were based on Articles 6 and 8 of the Rio Treaty. In the Dominican crisis of 1965 the Rio Treaty was not invoked.

The obligation of all members to assist the victim state arises automatically, but it is diluted to a large extent by the provisions of Article 20. However, as Bennett sums up, "the collective defense features of the OAS have served more as a warning against potential external aggression that might threaten states within the hemisphere than as a defense against military attack"(1984:358). This assessment derives credibility from an official statement of the Government of Ecuador on 22 August 1967, which concluded: "No state of the Western hemisphere has been assailed from outside the continent, however, many of them have been victims of armed interventions made by the USA" (quoted in Degenhardt, 1986:343). In Chapter Six, the following cases will be investigated: Cuban Missile Crisis (1962), Dominican Republic(1965), The Falklands/Malvinas (1982).

4. 3. 7   A General Assessment of the OAS

For the purposes of this study, the critique of all regional arrangements will be based on their effectiveness in preventing wars and containing conflicts. When the Inter-American system was formally established in 1948, it brought together a number of treaties and declarations which were meant to strengthen the hemisphere's security. It was only in the 1950s that the security concerns of the OAS were overwhelmed by a paranoid fear of international communism.

The organization began to make a series of declarations against Communism and its support in the region. Hence, it is not surprising that in all the historical cases involving the OAS, the common factor was the charge that Communism

had infiltrated a particular country. In Guatemala (1954), the Caracas Declaration was used as justification to interfere in the internal affairs of the small state. Cuba was punished by the organization for its communist government. In 1965, the US intervened militarily in the Dominican Republic out of fear of a possible communist take over. In Grenada (1983) the Reagan Administration likewise intervened. What all this amounts to is that the US did not consider issues such as the violation of human rights, overthrow of elected governments, ruthless dictatorships, and other nefarious practices, so long as there was no communist take over. The prestige of the OAS was seriously tarnished by this behaviour.

After the Falklands/Malvinas war of 1982 when the US supported Britain against OAS support for Argentina, there was a definite parting of ways between the hegemon and the organization. The OAS was never again used as a fig leaf to legitimize US interventions. The Grenada debacle is a case in point: the OAS was not involved in the intervention. In the 1980s when the US re-asserted its hegemony as manifested in its interference in El Salvador and Nicaragua, the OAS stood by the wayside. That state of affairs culminated in the US invasion of Panama in December 1989 to remove President Manuel Noriega from power and then abducted him. He is still languishing in an American prison.

The demise of the Soviet Union in the early 1990s ushered in an era of capital globalism and, as a consequence, economic issues superseded security concerns. United States hegemony in the region was propelled by the dictates

of capitalism, and international institutions such as the IMF and World Bank were US imperialism in camouflage.

Be that as it may, the OAS regained respect in its quest to restore civilian rule in most of its member states in the so-called "democratic wave" in the 1980s: for example, in Peru (1980 May), Argentina (1983 October), Brazil (1985 March), Chile (1989 December). During the Haiti crisis of 1991 - 1994, the OAS found itself a willing and useful partner with the UN in the search for a peaceful solution. Following the military coup in September 1991 that removed President Aristide from power, the OAS condemned the act and called for his immediate reinstatement. In the aftermath there was a joint OAS and UN International Civilian Mission in Haiti to monitor human rights situations there (Ryan, 2000: 121).

Chapter Six, which discusses instances of action involving the OAS, will reflect on the negative points of the inter-American system, in particular the purported obligation to refer disputes to the regional body before turning to the UN. It is submitted that the salient negative aspect of the OAS is the comprehensive machinery put in place to deal with hemispheric security which actually transforms the regional body into its own 'United Nations'. The forthcoming discussion will also outline the relationship between the OAS and the UN with illustrations from the historically important cases during the Cold War period. The stance taken by the UN on occasions when the USA acted unilaterally in blatant breach of the OAS Charter, as in the Cuban and the Dominican (1965) cases will also be explained.

4. 4   <u>THE LEAGUE OF ARAB STATES</u>

The League of Arab States is a result of developments towards the unity of the Arab peoples that was envisaged during and after World War I (1914-1918). Following the Arab revolt against Turkish rule in their territories, the Peace Treaty of 1919 split the Arab-populated former Turkish territories into separate states. With the exception of the Hedjaz and Yemen, all were placed under British or French mandate. The Hedjaz was subsequently conquered in 1925 by King Ibn Saud, ruler of Nejd, and his enlarged kingdom was renamed Saudi Arabia in 1932. Between 1932 and 1946, the British (Iraq and Transjordan) and French (Lebanon and Syria) mandated territories succeeded in gaining de facto independence. During World War II (1939-1945), a series of bilateral meetings on the formation of an Arab union took place between the various Arab states. As Degenhardt puts it, "this revival of Pan Arabism differed in its aims from the movements against the Turks during World War I in that it envisaged the mutual co-operation of individual Arab states rather than the formation of a single Arab realm"(1986:397-398). A reasonable conclusion to be drawn is that the League is, in a sense, the product of two conflicting movements in the Arab world: the quest for Arab unity and the centrifugal forces favouring Arab separatism into diverse sovereign states (Zacher, 1979:161).

There is a prevailing view that one of the key factors in the creation of the League, the constituent members of which will be sovereign states, was the British initiative to see the establishment of Arab unity, mainly for political and military proposes during World War II. The defeat of French forces in Syria

and Lebanon, and the growing prestige of the Axis States (Germany and Italy) in the Middle East " led Britain, as the only Allied power remaining in the area, to increasingly regard Pan-Arabism as a means of securing Arab co-operation in the Allied war effort" (Zacher, 1979:162). As noted in Al-Kadhem's article, "The Role of the League of Arab States in Settling Inter-Arab Disputes", Britain was "the silent partner in setting up the Arab League"(1976:4). Here it is observed that the primary reason was to enable London to deal with a larger part of the Middle East through a single agency.

The Arab League, as it is known today, began in August 1943 when the Egyptian Government invited representatives from the seven original members (Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan, Yemen) to meet in Cairo for an exchange of views on the subject of Arab unity. The next significant meeting, called the Preparatory Committee for a General Arab Conference, was held in Alexandria, in September 1944. By 7 October 1944, the Alexandria Protocol, in many ways a precursor of the Pact of the League of Arab States, was ready for signing by the seven governments. As Al-Kadhem notes: "The protocol, itself a product of a compromise between rival Arab blocs, envisaged the creation of a League of Arab states, composed of those independent Arab States willing to join it" (1976:6). On 22 March 1945, the Pact of the League of Arab States was approved by the seven founding members.

4. 4. 1   Treaty and Founding Principles

The Arab League, regarded as the oldest post-WWII international organization, is a regional, political organization of comprehensive aims. The principal aims of the League can be summarized as follows (Article II):

- To strengthen relations between member states,
- To co-ordinate their policies so as to achieve mutual co-operation,
- To preserve their independence, and
- To protect the interest of all Arabic States.

According to Al-Kadhem, "the aims of the League were outlined so as to draw closer the relations between member states and co-ordinate their policies with the aim of affecting a collaboration between them and protecting their independence and sovereignty against any encroachment" (1976:6). What is interesting about the general provisions of Articles II and III is that despite the emphasis on "independence and sovereignty", the treaty is silent on the question of the borders inherited from colonial rule. What is also interesting and ironic too, is that history was to bear out that many of the disputes between Arab States were to be attributed to alleged intervention by one state or another (1976:9).

The other treaty of the League is the Collective Security Pact of 17 June 1950 which came into force on 22 August 1952 when the requisite number of states acceded to it. The treaty will be the subject of security provisions below.

The principles of international law are enshrined in Articles 2, 5, and 8. Article 2 safeguards the independence and sovereignty of the member States; Article 5 entrenches the principle of the pacific settlement of disputes between members; and, Article 8 binds each Member State to respect the system of government established in the other member states as exclusive concern of those states. In essence, member states must refrain from any action aimed at changing these systems.

Though founded before the establishment of the UN Charter, the League has earned itself recognition as a regional arrangement under the UN Charter, based on the following:

(1)   It has reported its activities under Article 54;

(2)   On a number of occasions, the Security Council has referred disputes back to the League for regional dispute-settlement (for example the Lebanon crisis of 1958);

(3)   In terms of General Assembly Resolution 477(V) of 1 November 1950, the Secretary-General of the League is invited to attend UN General Assembly Sessions in observer status. (Simma, 1995:689).

It is noted in Simma, nonetheless, that Israel has opposed the view that the League is a regional arrangement under Chapter VIII of the UN Charter because the League "pursued the liberation of Palestine by any means, and so did not have a peaceful aim, thereby violating the principles of the UN Charter" (1995:701). The Israeli view, it should be stated, has never prevailed in the UN General Assembly.

4. 4. 2 **Acknowledgement of UN Charter Principles**

As mentioned earlier, the League and its Pact pre-date the United Nations and its Charter. In this regard, it is not reasonable to expect any traditional genuflection towards the universal body and its Charter in the provisions of the Pact of the League of Arab states, as found in other treaties discussed in this study. Commenting on this situation, Boutros Boutros-Ghali, the former Secretary-General of the UN, writes:

> Paradoxically, the formation of the Arab group in the UN preceded, in a sense, the creation of the world organization, since the founding members of the League took part in the San Francisco Conference as a closely associated group, and defended the Arab position on several issues (1969: 100).

One of the issues on which the League agitated as a bloc was to be granted the same recognition as the Act of Chapultepec signatories within the Charter system. It is submitted that it is reasonable to regard the claims of the League as a prime factor which denied the Act of Chapultepec specific mention in the UN Charter.

The Collective Security Pact, however, does refer to the UN Charter, since it was established five years after the universal body. The single reference is to Article 51, dealing with collective self-defence and armed attack.

4. 4. 3 <u>The Presence of the Hegemon</u>

Historians of the League have noted, correctly, the bipolar division within the League, between the so-called traditionalists/conservatives and revolutionaries/radicals. These divisions are built on shifting sand because, depending on the type of government in office, one member state could be regarded as traditional during one summit and as radical in the next. For example, until the coup in Iraq in 1958, that member state, owing to its monarchical or dynastic government, tended to be conservative like other Arab monarchies. The same is true with Libya until the coup in 1969 (Zacher, 1979: 178).

Consequently, there has been no predominant power within the League. If there has to be a discussion of a hegemon, the probable candidate or culprit would be Egypt, because of its relatively dominant role in the League since its founding; and also, rather negatively, the fact that it was a common party in many of the conflicts. **(8)** Egypt was expelled from the League in March 1979 following its peace treaty and diplomatic relations with Israel, the arch-enemy of the Arab world. The Headquarters of the League was then transferred to Tunisia. The rehabilitation of Egypt and its re-acceptance into the League were signalled in 1987 when diplomatic ties were resumed. Egypt was re-

admitted into the Arab League in 1989, and in 1991, the Headquarters of the League was relocated in Cairo. In the same year, the former Egyptian Foreign Minister, Dr. Ahmat Esmat Abdul-Maguid was elected Secretary-General of the Arab League, a position that he still holds today but would relinquish on 15th May when his second term in office expires. To further express the pivotal role of Egypt in the Arab world, the current Egyptian Foreign Minister, Amr Moussa, has been nominated as the sole candidate for the position of Secretary-General, to be confirmed in May by the League Council.

4. 4. 4 <u>Resources for Conflict Resolution</u>

One of the main features of the Pact of Arab States is that "it is a contract among states which are bound from time immemorial by language and cultural unity" (Al-Kadhem, 1976: 3). Bennett also supports this view: "The elements contributing to basic unity among the measures include common religion, language and culture" (1984: 364).

Despite these positive, unifying qualities that characterize the League, its track record as a forum for the resolution or management of conflicts between members is relatively uninspiring. Two monumental failures that are regularly cited by historians are the Lebanon crisis of 1958 and the Algerian-Moroccan border dispute of 1963. In both cases the League was incapable of adjudicating the disputes through its machinery.

In 1958, Lebanon turned to the UN Security Council, while in 1963 the two African states turned to the newly-established continental regional body, the Organization of African Unity. In the words of Boutros Boutros-Ghali:

> The fact that two Arab states turned to a newly constituted regional organization, when the League should normally have been the framework within which to settle the conflict was an evidence of the League's inadequacy, a much more serious failure than the intervention of a universal organization such as the United Nations (1969: 85).

In explaining the reluctance of Arab states to use the framework of the League, Boutros-Ghali says that the problem does not lie with the League but "profound contradictions which lead Arab states to prefer intervention by a non-Arab third party" (1965: 85). Al-Kadhem, however, believes that the reluctance is "attributed to a lack of confidence in the League as a whole" (1976: 23). He explains further: "[The League's] success or failure was and is dependent not only upon the procedures provided for by its Pact but basically upon the willingness of its members to respect their obligations (1976:28).

What is usually cited as a factor which detracts from the capability of the League in managing inter-Arab disputes is the lack of central authority. This is built into the provisions of Article 7 of the Pact: unanimous decisions of the Council shall be binding upon all member states, but majority decisions shall be binding only upon those states which have accepted them. Needless to say, given the perennial existence of the two factions within the League, it was a rarity for the League summits to settle on a unanimous decision. As an

example, Jordan refused to accept the   13 April 1950 Resolution on Annex Regarding Palestine. Following the partition of Palestine in 1948 (which resulted in the creation of the state of Israel), the Hashemite kingdom of Jordan annexed East Palestine. When threatened with expulsion from the League, Jordan argued that, in the first place, it had not accepted the Resolution, and therefore, was not bound to it.

Zacher explains that in 1945, there was anticipation of serious political difference among League founding members; they did not wish to create a situation in which they could be bound by a majority of their compatriots who at any given moment might oppose their interests. Consequently, in terms of the voting pattern,

> Council decisions in the case of actual or threatened armed
> conflict required the unanimous consent of all League Members
> except the aggressing state. The effect of this stipulation was
> that a resolution could not be passed against an aggressing state
> unless it was completely bereft of allies in the Arab World
> (1979:164-165).

Zacher's pessimistic assessment is that, "more than any other region, the Arab world has been characterized by shifting patterns of dissension and competition"(1979:167). Zacher's assessment is in concert with the following observations:

> [The] League has been a façade behind which the Arab states
> have attempted to hide their weaknesses while criticizing the

League for their own inadequacies and failures (Boutros-Ghali, 1969: 118);

and,

> Economic, social and cultural co-operation has succeeded to a greater degree than in the political and security realm. In spite of a common basis for political harmony, intra-bloc rivalries and suspicions have prevented closer collaboration and unity of action (Bennett, 1984: 365).

In the end, it should be noted, however, that the area in which cooperation has been most visible (and sometimes effective) is that of coordinating Arab policies in relation to third states and the UN.

4. 4. 5   Peaceful Settlement of Disputes

Under Article 5 of the Pact, League members renounce recourse to force as a means of resolving disputes between them and, even if they do not accept the jurisdiction of the Council to mediate or arbitrate as compulsory over such disputes, its decision would be binding (Bowett, 1982: 230). Thus, according to Article 5, the League is competent for the pacific settlement of disputes between members. Furthermore, the Pact recognizes arbitration as a method of pacific settlement but excludes disputes involving a state's independence, sovereignty, and territorial integrity from the type of disputes which members may bring before the Council (Akindele, 1976: 72). Both traditional methods, mediation and arbitration, cannot be effective, in the absence of strictly binding

obligations for pacific settlement, and the absence of the machinery necessary for this settlement. However, as Al-Kadhem concedes, provision of more strict obligations in the treaty does not necessarily mean that an organization has been more effective in dealing with inter-member disputes (1976: 5). The OAS and the OAU are examples in this matter.

4. 4. 6   Security Provisions in the Treaty

The Pact of the League of the Arab States was complemented in 1950 by the Joint Defence and Economic Co-operation Treaty, which came into force in 1952. Also called the Collective Security Pact, the 1950 Treaty is based on Article 6 of the Pact of the Arab League, and establishes an autonomous system of collective security and defence within the meaning of Article 51 of the UN Charter (Simma, 1995: 701). Under Article 6 of the Pact, each member has a right to summon the Council immediately in the event of aggression, whether by another League member or an outside state; the Council is authorized to decide what measures should be taken against any eventual aggressor (Boutros-Ghali, 1969:69, Bowett, 1982:230).

Inspired in greater part by the Rio Treaty and NATO, the Arab Collective Security Pact asserts the principle that an armed attack or aggression against any member is an attack against all members and places an obligation on each state to assist the attacked state by every appropriate means, including armed force. One of the notable and authoritative historians of the Arab League,

Boutros-Ghali, treats the Pact in dismissive terms, remarking that it is only a "political myth and not a military reality", and that it creates a "false idea of security" by concealing Arab state weaknesses (1969: 87; 90). Nonetheless, he concludes that the blame for the inadequacies of the Pact's collective security system does not lie with the League but with the military and technological weaknesses of the Arab states.

It is submitted that Zacher's opinion on the effectiveness or otherwise of the Pact is more valid: "As long as the members of a collective security organization are divided into polar groupings that possess the voting strength to prevent the passage of a resolution, conflicts between members of these groupings are not ordinarily susceptible to organizational involvement" (1979:198-199). The voting rule that requires unanimity for resolutions dealing with threats to or breaches of the peace is the major impediment to the effectiveness of the League in inter-Arab conflicts. In conclusion, it is possible to view the 1950 Pact as clearly aimed at a non-Arab enemy, because it contains "nothing to facilitate the solution of inter-Arab disputes or to enhance the collective security potentialities of the League" (Zacher, 1979: 188). It needs to be recalled that the Pact was ineffective during the Suez Crisis in 1956 and was also dealt a near-death blow during the series of Arab-Israeli wars.

4. 4. 7 <u>A General Assessment of the Arab League</u>

Any critique of the Arab League will have to begin with the lack of consensus that has besieged the organization since its inception. Even today closer

political unity among members is negated by the wide chasm between the so-called militant Islamic fundamentalists and pro-Western Arab moderates. In almost all the instances where there was a clear divide in the League, the fundamentalist/radical faction included Syria, the Sudan, Egypt, Yemen, and Algeria. The pro-Western/conservative bloc invariably comprised of all the monarchies and emirates: Saudi Arabia, Kuwait, Qatar, and before the overthrow of the monarchical systems in their countries, Iraq and Libya. The Hashemite Kingdom of Jordan, the Kingdom of Morocco, the Lebanon and Tunisia have tended to side with the conservatives, given their close ties with the West. The most infamous chasm between the two factions was instanced in the protracted civil war in Yemen affecting the royalists and republicans, with Saudi support for the former and Egyptian support for the latter. These configurations are well explained in Zacher's indispensable work, *International Conflicts and Collective Security* (1979). More illustrations will be detailed in Chapter Six.

Given the provisions of the Pact of the League which require unanimity, the League is expected to achieve this on very rare occasions. During the protracted Iran – Iraq war of 1980 – 1988, the League was divided on the matter, owing to the fear of some members over Iraqi campaign of territorial expansionism. The fears were legitimate, in that, if Iraqi designs of territorial expansion could be pointed at a regional powerhouse like Iran, then the smaller states like the emirates were overtly vulnerable. Nonetheless, the League finally sided with Iraq, against a non-member and a non-Arab country, which was Iran. Two years after the first Gulf War, another one erupted when Iraq directed its territorial expansion towards Kuwait, claiming the tiny emirate as a

lost province. The League, in the face of naked aggression, could not take a united stand. The house was divided once more, with radicals such as Libya, the PLO, and surprisingly, Jordan (perhaps owing to its strong tribal, cultural, and economic ties with Iraq) supporting Iraq. As expected, the conservatives, who were in the clear majority, joined the US-led Allied forces to dislodge Iraq from Kuwait.

The Palestinian question has also vexed the League for a considerable time owing largely to its interconnectedness with the position of Israel in relation to the League. The fate of the Palestinians is a matter that cannot be overestimated for it holds the key to lasting peace in the region. What compounds the matter is that though Israel is not a member of the League it is, thanks largely to inordinate US funding and support, the most powerful nation in the region. The Arabs have gone to war with Israel three times since 1948, the year of the creation of the Jewish state, and on each occasion, they lost, not only the war, but parts of their territories as well. It was the 1967 War, however, that crystallized the division within the League between members encouraging a less confrontational dialogue with Israel and those who reject any dialogue but instead call for the destruction of the Zionist state.

Zacher's analysis of the Israel factor is that though the presence of Israel has provided a common enemy for all the Arab states and the expression of opposition to the Israelis was a common pastime, after 1967, two important members, Egypt and Jordan, moderated their tone (1979: 183ff). In addition, when the League called upon its members to sever ties with Washington and London in view of their support for Israel during the war, Tunisia, (then

monarchical) Libya, Saudi Arabia, Kuwait, Jordan and Morocco did not heed the call, thus preventing the possibility of a unified Arab edifice. Egypt and Jordan began to adopt an accommodative approach, ascribed in large measure to their humiliating loss of territory in the war. They evidently desired dialogue with Israel to get their own possessions back. They became the leaders of what Zacher calls the 'pro-accommodation grouping', which included the traditionalists.

Regarding the Palestinians, the League has a history of division because of the diverse attitudes of Arab states to the methods of the PLO in waging its liberation struggle against the Zionist state. Needless to elaborate, the traditionalists/accommodationists had always viewed with disfavour the uncompromising stance of the PLO. Jordan, in particular, was battling what it called a Palestinian state within its borders in the early 1970s.

It is also an important factor that the non-membership of Israel has presented the League with the problem of a negative image of ineffectiveness in dealing with the situation in the Middle East. Although conventional wisdom would have it that the League has a more immediate mandate to deal with conflicts in the region, it has so far proven itself to be an ineffectual spectator. The reasons are not hard to find. US involvement in the Middle East displays blatant selective morality or duplicity of a superpower, which can decide whether, and when, a regional organization has to be encouraged to deal with local problems. The entire League membership constitutes unequal partners in the search for peace when confronted with the combined will of the USA and Israel. As always, the US is willing and able to veto any initiative that does not

suit the interest of Israel. In the final analysis, it should not be forgotten that two of the founding members of the League, Egypt and Jordan, have diplomatic ties with Israel. The two have considerable influence in the League, and therefore, their voice is counted among the accommodating moderates within the Arab world.

4. 5 THE NORTH ATLANTIC TREATY ORGANIZATION

The foundation of the North Atlantic Treaty Organization rests on what could be called the Soviet threat and the Germany factor. In one sense, it was a response to the possible threat of Soviet military incursions into central and western Europe. The USA initiated the establishment of the organization as a "major element in the containment policy directed against Communist states in general and the Soviet Union in particular" (Bennett1984: 367). In the other sense, from the Europe perspective, NATO's purpose was to prevent a renewal of German rearmament and aggressive policy.

As far as the USA was concerned, the watchful eye should be on the Soviet Union, whereas for Europe powers, such as France in particular, Germany was the enemy to prepare against. By and large, it was possibly the Berlin blockade, and the Communist coup in Czechoslovakia in 1948 which strengthened the US view and galvanized other European partners into sharing its policy that NATO should be created to meet the perceived Soviet threat, and to be a counter-threat to Soviet policy designs (Fedder, 1973:101). According

to Fedder, NATO served US foreign policy in two important respects: first, there was the need for US bases to be placed closer to the Soviet Union in order to bring Soviet territory within range of American weapons; second, states which join NATO were no longer available as possible allies for the Soviet Union (1973:103). Taking a more comprehensive view of the matter, Wilcox says:

> The threat of Soviet aggression had so permeated Western European thinking by 1949 and had stimulated such a feeling of fear and insecurity that there was no real progress toward political stability and economic growth. NATO dissipated this fear, and, together with Marshall Plan, ushered Europe into a period of development and prosperity unparalleled in modern times (1965:804).

This statement restates the American policy towards Europe; first it supported European integration and independence from the US in the economic sphere; second, it favoured European inter-dependence with the USA in the military arena.

4. 5. 1   **Treaty and Founding Principles**

The North Atlantic Treaty was signed in Washington, DC on 4 April 1949 by twelve original members: Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, and the United States. Turkey and Greece acceded to the Treaty in 1952, West Germany in 1955, and Spain in 1982.

The key provision of the Treaty lies in Article 5, which provides that an armed attack against one of them shall be considered an attack against them all. **(9)** The Treaty imposes a duty to assist the attacked member in order to restore or maintain the security of the North Atlantic area. The recognition of the sovereignty of member states is safeguarded by the clause that the obligation could be discharged by "such actions as it deems necessary".

In terms of membership, commentators say that there existed nothing in the Treaty that would have precluded participation by the USSR, pointing out that the possible obstacle could perhaps have been found in the phrase: "free institutions" in Article 2. Thus, the obstacle to membership is ideological rather than categorical (Henrikson, 1986:118).

In terms of reference to the principles of international law, the preamble declares: "The parties to this treaty reaffirm their faith in the purposes and principles of the UN Charter". Article 1 states that the "parties undertake, as set forth in the UN Charter, to settle any international dispute in which they may be involved by peaceful means" and to refrain "from the threat or use of force in any manner inconsistent with the purposes of the United Nations".

The question of whether NATO was a regional arrangement in terms of Chapter VIII of the UN Charter, or whether it was a military alliance for collective self-defence outside the Chapter, attended and beset the organization from its inception. The following extracts will illustrate the problem of classification.

The then Secretary of State, Dean Acheson, addressing the US Senate Foreign Relations Committee during the debate on the passage of the Vandenberg Resolution, on 7 April 1949, had this to say:

> Article 53 deals with a regional arrangement which has been set up, for whatever purpose it may be, and Article 53 says that that regional arrangement shall not, itself, undertake coercive enforcement action against any country unless the security council asks it to do so... Article 53 has nothing whatsoever to do with the right of self-defense, individual or collective. Therefore article 53 is not involved in our discussion in any way whatsoever.

Ernest Bevin, the then British Foreign Secretary, addressed the House of Commons on the new treaty thus:

> The treaty is not a regional organization under Chapter VIII of the Charter ... The Treaty is an arrangement between certain states for collective self-defense as foreseen by Article 51 of the Charter. It is designed to secure the Parties against aggression from outside until such time as the Security Council has taken the necessary measures (cited in Bebr, 1955:180).

These two official statements on the new Treaty reveal two positions: to keep it within the scope of self-defence, and to remove it from the realm of Chapter VIII. The legal and political motives for these positions were discussed extensively in Chapter One of this thesis.

Hummer and Schweitzer present the opinions of those who defend NATO as an alliance rather than a regional arrangement in this way:

(1) No 'local disputes' within the meaning of Article 52 could ever arise in the absence of a common culture, language, history, and geographical proximity within NATO members;

(2) The obligations of a military alliance were inconsistent with the prohibition of the use of force in terms of Article 2(4),

(3) In contrast to an alliance, a regional agency within the meaning of Article 52 has competence only with respect to intra-regional disputes (in Simma, 1995:96).

It is submitted that these opinions are flawed. With respect to the first, there does exist a high level of homogeneity in terms of Western civilization among NATO members. With reference to number (2), it should be recalled that Article 1 of the North Atlantic Treaty actually acknowledges Article 2(4) of the UN Charter. With respect to number (3), it is worth recalling that none of the provisions of Chapter VIII refers to 'intra-regional disputes'. This thesis, therefore, reaffirms Kelsen's view that NATO is a regional arrangement within the meaning of Chapter VIII of the UN Charter.

4. 5. 2   Acknowledgement of UN Charter Principles

According to Kelsen, little doubt exists that the purpose of the North Atlantic Treaty Organization especially the organization of collective self-defence, is consistent with the principles and purposes of the United Nations. As such, he explains, "it is obvious that the provisions of Article 1 of the North Atlantic Treaty, establishing the obligation of the parties to settle international disputes by peaceful means - *an obligation which has nothing to do with collective self-defence* - has been inserted into the Treaty in order to comply with Article 52, paragraph 2, of the Charter which applies only to regional arrangements" (1951:924); emphasis added). This observation reveals the extent to which any organization established primarily for the maintenance of international peace and security could.go to pay homage to the UN Charter. **(10)** Nonetheless the important rule is that it is not what the organization says or declares, but what it actually does. In general, the treaty declares subordination to the purposes and principles of the United Nations. In the words of Henrikson "nothing in the North Atlantic Treaty itself or in the things NATO has done violates the UN Charter, the text of the pact was carefully written so as to be fully consistent with that master document" (1986:116).

Article 1 lays down the undertaking to settle disputes peacefully; Article 5, the so-called heart of the treaty, specifically mentions Article 51 of the UN Charter, affirming "the inherent right of individual or collective defence" of

nations. More importantly, Article 7 reiterates the primary responsibility of the Security Council.

4. 5. 3   <u>Existence of the Hegemon and the German Factor</u>

It is now a truism that the United States is the pre-eminent member state of the North Atlantic Treaty Organization although it does not use the organization as a fig leaf as it does with the OAS. Thus, it would be difficult to regard the USA as a hegemon within the traditional context. However, as Bennett observes, European members were somewhat frustrated by the realization that only the U.S. policy towards the former Soviet Union, including the decision for nuclear retaliation, would really determine their fate in a major confrontation (1984:368).

What is interesting about US membership in NATO was a shift in American policy toward Europe. During WWII, US policy was to steer clear of involvement on the European continent in peacetime, but it found itself, after the war, involved in intra-European affairs through the peacetime alliance. According to Henrikson (1986:122), the American view on European security was premised on West Germany's ultimate rearmament and, it was believed, its ultimate replacement of the United States in post-war Europe: "The Americans had landed in Europe in 1944 to restore the European balance, not to become part of it". The proposition that a revitalized Germany at the heart of Western European Security horrified the former Allied powers in Europe, in particular the French, but US dominance prevailed, although diplomatically. Henrikson says: "Even the French began to see that the long-term stability of

Europe and its territorial integrity vis- à-vis the USSR required exploitation of Germany's military potential as well as economic resources"(1986:122). The French demand in return for accession of Germany to the alliance is stated as follows: the German forces should be strong enough to impress the Soviet Union, but should be weak enough not to threaten Luxembourg, a plausible but impractical scheme, as Henrikson judges (1986:123). At the London conference in September 1954, new arrangements to admit Germany were confirmed, and later in October, at the Paris meeting, the Brussels Treaty was transformed into the Western European Union, which paved the way for West Germany rearmament and entry into NATO.

4.5.4 Resources for Conflict Control and Peaceful Settlement of Disputes

Unlike the discussion on the previous arrangements, these aspects are explored under a single head because of the mono-functional character of NATO. The same will be repeated under the discussion of the Warsaw Treaty Organization. The main reason is not obscure: the OAS and the Arab League strain their resources by performing both pacific settlement duties, and that of providing security. For NATO and the Warsaw Pact, all the resources available are expended on strengthening defence against outside attack, consequently very little peacemaking within the organization takes place. As Wilcox reminds us, "one of NATO's strengths lies in the fact that it has a fairly limited and precise mission to perform - the collective defense of the NATO area against aggression". He continues:

> In the early years of the Organization it was believed
> that if this commitment were broadened so as to include the
> extra burden of settling regional disputes, the unity of purpose
> might suffer and the alliance subjected to undesirable stresses
> and strains (1965:796).

As such, it should not be construed that regional alliances were created for the purposes of resolving differences between their own members. During the Cold War, consensus among NATO members was important only to its external functions.

4. 5. 5 Security Provisions in the Treaty

It was mentioned before that the essence of the North Atlantic Treaty lay in Article 5 which declared that an armed attack on one or more of the signatory states was an attack on all of them. As Bowett maintains, "there is little doubt of the success of NATO as a military alliance, NATO powers have, in peacetime, co-operated to a degree which has never been attained by allies in wartime" (1982:184).

The North Atlantic Treaty was based on the Rio Treaty precedent, which proved that keeping the peace within a region could also be extended against outside aggression. For NATO members, effective multilateral action, consonant with UN principles and purposes, was possible. According to Henrikson, "the founders of NATO appear to have believed that they were doing what they could to strengthen the UN organization, in the only way

possible, in the international circumstances of the deepening Cold War" (1986:117).

It should be mentioned here that the treaty is completely neutral regarding the source of aggression, but the opponent is identified only in abstract geographical terms.

4. 5. 6   A General Assessment of NATO

Beyond doubt, NATO has succeeded in preventing wars in its region throughout the Cold War period. This is the supreme yardstick by which regional arrangements should be assessed. In addition, member states within NATO do not have a history of inter-member conflicts. It is submitted that inter-member relationships within NATO are convincing proof that democracies rarely go to war against each other, as described in Chapter Three.

Members of NATO subscribe to democratic institutions and ideals. Their leaders are placed in such positions through democratic processes and the structural models of their country place certain constraints upon leaders. As described by Maoz and Russett, "structural models assert that complex political mobilization processes impose institutional constraints on the leaders of... democracies" in their international dealings (1993: 624). For example, a democratic system would require that the leadership mobilize the general public opinion, satisfy the legislature, and the political bureaucracy before taking decisive international action. In non-democratic systems, as in the former Warsaw Pact countries, the leadership did not operate under sufficient

structural constraints. In the words of Duffield, "although the North Atlantic Treaty allowed for parties to withdraw after it had been in force for twenty years, no state has renounced its membership, and four states [from the Warsaw Pact] have joined the alliance since its inception" (in Woods, 1996: 336). That had never been the case with the Soviet-led alliance, which continued to keep its members subservient to USSR hegemony.

Founded as a military alliance under the provisions of Article 51, the organization has steadfastly refused to be brought under UN control in terms of Chapter VIII regulations. That attitude, it is submitted, could not be sustained. The UN Charter does not permit any organization, of whatever nature, to be left to its own wishes, outside UN control. Even Article 51 leaves no room for unbridled independence. During the Cold War period, fortunately, there were no cases involving NATO's use of its awesome fighting machinery that would have compelled the UN to exercise its right to maintain international peace and security. It was to be in the New World Order when NATO forces were engaged in combat for the first time in the Yugoslav wars of the 1990s

4. 6   <u>THE WARSAW TREATY ORGANIZATION</u>

The Warsaw Treaty Organization, or the Treaty of Friendship, Co-operation and Mutual Assistance, was regarded primarily as the counterpart, in Communist Europe, of the North Atlantic Treaty, of Western Europe.

However, the WTO came into being several years following the founding of NATO. The initial Soviet response to the formation of NATO was to consolidate its security system by a series of bilateral agreements with its client states within the Communist bloc.

At the United Nations, the Soviet Memorandum of 23 September 1949 to the Security Council accused the Western powers of violating the UN Charter by pursuing an aggressive policy through the instrumentality of the Atlantic Pact (Kulski, 1950:455). The Atlantic Pact, the Soviet Ambassador argued, was directed against the Soviet Union and her satellites because none of them was invited to join it.

The Soviet Union continued to make diplomatic protestations about the North Atlantic Treaty, while watching closely whether West Germany would ultimately join the Western organization. Eventually, West Germany acceded to the Atlantic Pact by virtue of the Western European Union and that factor alone mobilized the Soviet Union to establish a full-fledged counterpart of NATO for the Communist bloc. The main thrust of the Soviet argument was that by allowing West Germany into the Atlantic Pact, the western powers were joining in the aggressive policy of Germany. As Akindele relates it "the Warsaw Pact, which represents the military face of Soviet-dominated Eastern Europe, [was] largely a political response to the changes in the political morphology of Europe anticipated by the accession of West Germany to the North Atlantic Treaty (1976:116).

In addition to the German factor, the other bases for the creation of the Warsaw Pact were the desire to create a bargaining tool with the west, and provision of justification for keeping Soviet military forces in Hungary and Romania after the signing of the Austrian State Treaty, on 15 May 1955, by the Four Permanent Members of the Security Council, China excluded. **(11)**

4. 6. 1   The Treaty and Founding Principles

In many ways, the Warsaw Pact is a mirror-image of the Atlantic Pact and most of the issues explored under NATO will have to be repeated. In order to advance the argument of this Chapter, passing references will be made to the parallels between the two alliances.

As with the Atlantic Pact, the heart of the security system of the Warsaw Treaty lies in the so–called "armed attack" provision in Article 4. The wording is almost verbatim as that found in Article 5 of the Atlantic Pact. Despite the Warsaw Pact being a carbon copy of NATO, "in practice the organizations have not followed identical patterns of organization or behavior" (Bennett, 1984:371). It is reasonable to infer that the difference might lie in the obvious fact that the Soviet Union used to exercise hegemonic power over its ostensible alliance partners.

The preamble to the Treaty repeats and reaffirms the criticism of the Paris Agreement of October 1954 as creating a danger of renewed war through the re-militirization of West Germany. As it is the custom, Article 1 places an

obligation on the contracting parties to refrain, in accordance with the UN Charter, from the threat or use of force, and to settle their international disputes by peaceful means so as not to endanger international peace and security. Article 4, the "armed attack" provision, further states that in accordance with the UN Charter, the Security Council shall be advised of measures taken on the basis of this article.

In terms of membership, Article 9 provides that: This treaty may be open for accession by other states, irrespective of their social and state system, who declare their readiness to assist the efforts of the peace-loving states for the purposes of safe-guarding the peace and security of nations. Thus, theoretically, the USA, if it so desired, could have applied for membership of the Warsaw Pact.

With regard to enshrining the principles of international law, the Pact obliged its signatories to act in the spirit of friendship and co-operation, and to respect each other's independence and sovereignty and non-interference in each other's domestic affairs (Article 8). Nevertheless, there is consensus that the Brezhnev Doctrine, declared after the invasion of Czechoslovakia in 1968 amounted to a formal repudiation of these principles. Akindele elaborates:

> To the extent that the common interest of the socialist commonwealth of Eastern Europe is usually defined by the Soviet Union, the Brezhnev Doctrine of limited sovereignty [amounted] to a claim by the Kremlin of the right of intervention in the domestic affairs of the socialist states of Eastern Europe (1976:68).

Following the founding of the WTO, the Soviet Union desisted from attacking the Atlantic Pact in the Security Council.

4. 6. 2   Acknowledgement of Charter Principles

Article 4 of the Pact refers specifically to the right of self-defence in accordance with Article 51 of the Charter. Also, it reiterates the reporting clause in terms of any measures undertaken pursuant to Article 51 provisions.

As mentioned before, Article 1 reaffirms the obligation under the UN Charter to settle disputes peacefully, with specific reference to the United Nations Charter.

One notable omission is the recognition of the superiority of the Security Council in matters relating to the maintenance of international peace and security in clear terms as the North Atlantic Treaty does. However, the inference drawn from the wording of the second part of Article 4 (reporting clause) is that the treaty does recognize and acknowledge the primacy of the Security Council.

4. 6. 3   <u>The Existence of the Hegemon and Security Provisions</u>

The original members of the WTO were: Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, and the USSR. These states were treated as the Communist bloc when at the end of WW II Soviet troops occupied most of Eastern Europe and subsequently communism was established in these counties at varying times. The WTO was habitually regarded as one of the most highly unequal, or asymmetrical, inter-state relationships (Woods, 1996: 98; 99).

From the beginning, the Soviet Union did not attempt to disguise its hegemonic status. For example, in all the bilateral agreements that were signed by the Soviet Union and its individual satellites, there was none that was signed between two satellites, revealing Soviet fears of being excluded from any Communist bloc inter-state relationship.

The Soviet Union used the Warsaw Pact to keep its troops on the territories of all the member states. It also maintained exclusive control over Warsaw Pact communications networks, joint air defence systems and logistical supply lines (Woods, 1996: 107). As things were, owing to emphasis on military planning towards external aggression, little time was devoted to "defensive arrangements that might have been used to resist Soviet intervention" in other weaker states (Woods, 1996: 108). The conclusion to be drawn is that the main strategy of the Warsaw Pact prevented satellite states from developing an adequate defensive capacity against intra-bloc invasions, such as happened in

Hungary (1956) and Czechoslovakia (1968). The exclusive concentration was on the perceived threats from the West.

In terms of security provisions, in addition to the obligation to assist one another militarily, the Pact provided in Article 5 for a "unified command, to which certain elements of their armed forces shall be allocated by agreement among the parties". In practice, however, a Soviet general always served as a commander-in-chief and defence ministers from other countries served as his deputies (Bennett, 1984: 371).

The Warsaw Treaty Organization, in historical perspective, served as a bargaining chip in East-West relations. The other spin-off was that the threat of a Soviet nuclear or conventional retaliation helped deter the Western powers from coming to the defence of Eastern European countries when the Soviet Union invaded them, thus maintaining the equilibrium (Woods, 1996: 109). In 1991, the Warsaw Pact was dissolved and was replaced by the Treaty of Friendship and Cooperation of the Commonwealth of Independent States (CIS).

4. 6. 4   A General Assessment of the Warsaw Pact

The Warsaw Pact was established under the provisions of Article 51 as a counter-measure against NATO, in particular, the accession of West Germany into the organization. In basic terms, Article 51 alliances have similar designs and the distinction can only be made in terms of the constitutional relationships between member states. By and large, the Warsaw Pact was an asymmetrical

coalition of communist states because the Soviet Union exercised inordinate control over the internal affairs of member states. By any standard, Soviet hegemony within the region far surpassed the excesses of the USA inside the OAS. In most instances, the USA struggled to keep a veneer of collectivism in its aggressive policies in the western hemisphere. In the Warsaw Pact, the USSR rode rough-shod over the policies of the Eastern Europe states. As Duffield notes: "

> Most analyses of alliances presume a high degree of autonomy on the part of alliance members. States are ultimately free to enter or leave alliances and to determine the nature and level of their participation. In contrast, most non-Soviet members of the WTO had little choice about membership in the alliance and only limited amount of discretion in shaping other important aspects of their foreign and military policies (in Woods, 1996: 339).

Unlike NATO with a clean record as far as interventions were concerned, the track record of the Warsaw Pact was irreparably damaged by the notorious invasions of Hungary (1956) and Czechoslovakia (1968). It is important to remark that to all intents and purposes, the interventions were unilateral actions of the Soviet Union. It is interesting to note that just like the cases of the OAS, Warsaw Pact members were never invaded by outside enemies. The invader, in all instances, was the hegemon inside the organization.

The Soviet determination to preserve a communist bloc in eastern and central Europe began to crumble in the 1980s, following popular discontent in Poland,

led by Lech Walesa's Solidarity. Martial law was imposed in Poland in 1981 but the cracks within the Pact were irremediable. The rise of Mikhail Gorbachev to power in the Soviet Union in 1985 introduced a new factor in East-West relations. The new leader became an overnight success, and was transformed into an international statesman who dramatically improved East-West relations.

The inadvertent by-product of the thawing of the Cold War was the precipitous dissolution of the Soviet Union and the demise of the Warsaw Pact. In July 1990, following the fall of the Berlin Wall in 1989, Gorbachev agreed to accept a reunified Germany within NATO. In March 1991, all military organs of the Warsaw Pact were abolished.

4. 7   CONCLUSION

In the preceding pages, an attempt has been made to provide an historical-comparative perspective of four regional organizations, namely: the OAS, the Arab League, NATO, and the Warsaw Pact. The historical perspective provided in this study embraced the Cold War period that began in the wake of the Second World War and the founding of the United Nations and its Charter.

The Cold War saw the emergence of diverse regional arrangements dealing with the question of international peace and security at the regional level; that is, they regarded themselves as "junior United Nations". The maintenance of peace and security as a function of regional organizations entails two duties: to provide the machinery for the pacific settlement of disputes within the region;

and to provide security on the occasion of aggression, whether internal to the organization or external.

Two of the organizations discussed, the OAS and the Arab League, are comprehensive in their aims, and therefore attest that they are capable of performing both functions. The other two, NATO and the Warsaw Pact, were founded as military alliances and the peaceful settlement of disputes among their own does not feature within the scope of their functions, whether at a low level or visibly. The provision of security wss the paramount, and perhaps sole, function.

To contextualize these functions as they are to be performed by the organization, this chapter looked at several aspects which are crucial in assessing the legality and the capability of the organizations to execute their functions. These included: a brief analysis of provisions of the treaties in terms of the maintenance of international peace and security; compatibility with UN Charter provisions and respect for the principles of international law; material and ideal capacity to deal with conflicts at the regional level; the existence of the hegemon; and the available procedures for the settlement of disputes and provision of security.

In the end, most of the treaties were found to be compatible with UN Charter principles, at least in theory. What will be investigated in Chapter Six is the actual practice of these organizations. The next chapter, however, looks specifically at African regional arrangements: the OAU, ECOWAS, and SADC.

NOTES

1) It is also not coincidental that all regional arrangements include in their treaties a clause prohibiting the use of force to achieve political ends. This phenomenon is illustrated in the ensuing discussion on the treaty provisions of the four regional organizations.

2) A note on terminology is appropriate here: The UN Charter, in Article 51, does not mention "regional arrangements", but refers to "organization". The seemingly inconsequential lexical distinction, to the contrary, has led to a protracted argument by alliances that they should not be cited as "regional arrangements". Be that as it may, this thesis has adopted Kelsen's view that alliances, such as NATO, are regional arrangements.

3) Hans Kelsen's observation on this issue is more discerning: "In accordance with Article 52, paragraph 1, a regional arrangement must deal with 'matters relating to the maintenance of international peace and security'. An agreement dealing with other matters is not a regional arrangement within the meaning of Chapter VIII" (1951:919).

4) The issue of the then Transjordan deserves mention: it was one of the founding members of the Arab League although it was still a mandated territory in 1945. The membership of the then Palestine Liberation Organization (now Palestine Authority) still remains a special case.

5) Wilcox cites the example of the precarious passage of the North Atlantic Treaty as the so-called Vandenberg Resolution in the US Senate: "In retrospect it is worth noting that the Resolution was sold to the Senate and to the American people primarily as a constructive programme for the strengthening of the United Nations.".

6) In essence, the discussion under this head is a synthesis of arguments gleaned from Joseph Nye's influential work, *Peace in Parts: Integration and Conflict in Regional Organization,* first published in 1971. The revised edition of 1987 is the text used in this thesis.

7) The San Jose meeting, it should be explained, did not take any concrete action, but instead reaffirmed the principle of non-intervention. Minerva Etzione proposes the view that the US did not forgive the OAS for shirking on their responsibilities against communist governments; in return, the US dragged its feet in implementing proposed measures to uplift the economies of the Latin states.

8) It should be recalled that it was the Egyptian Government that initiated the Cairo meeting of 1943; the Protocol leading to the founding of the League was signed in Alexandria, Egypt's second city; and, until 1979, the headquarters of the League were situated in Cairo. According to Bennett: "The League has been split into radical and conservative factions, and no member has been able to emerge as a leader of a Pan-Arab Movement" (1984:364).

9) Article 5 reads: "The parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all, and consequently agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence, will assist the party or parties so attacked by taking forthwith, individually and in concert with other parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area".

10) Alan Henrikson, although adopting an uncharitable view, provides a realistic explanation:

Formalistic and declaratory self-qualification along the lines of the UN Charter's Chapter VIII does not, of course, establish actual working relationships with the world body...[A]ssociations with the UN do give them, however, the appearance of consistency with the central organization, a kind of family resemblance to it" (Fawcett & Hurrell, 1995:131).

11.   The Austrian State Treaty, signed by the four occupying powers after WWII, ended more than ten years of Allied occupation of Austria.

CHAPTER FIVE: AFRICAN REGIONAL ARRANGEMENTS UNDER THE UN CHARTER - THE OAU, ECOWAS, AND SADC: AN HISTORICAL-COMPARATIVE PERSPECTIVE

5.0   INTRODUCTION

In Chapter Four, the discussion centred on four non-African regional arrangements namely, the Organization of American States (OAS), the League of Arab States (Arab League), the North Atlantic Treaty Organization (NATO), and the Warsaw Treaty Organization (WTO, or Warsaw Pact).   The focus was on the historical-comparative perspective of their establishment, under United Nations Charter provisions, as role-players in the maintenance of international peace and security. The perspective took into consideration the following aspects: treaties and their founding principles, acknowledgement of UN Charter principles, the presence or not of the hegemon, existing resources for conflict resolution, available methods for the peaceful settlement of disputes, and security provisions in the treaties of those organizations.   The main purpose of the discussion was to contexualize the founding of these regional arrangements within the framework of international politics and relations in the after-math of World War II, which ushered in the Cold War period in twentieth-century history.   The conclusion arrived at revealed that regional arrangements are by-products of, on the one hand, the interest of power, or the power struggle on the international stage as pronounced by the realist school of thought, and on the other, institutional co-operation to overcome external problems that nation-states cannot individually cope with, as explained by the liberal-functional school of thought.

The centre of attention in this chapter falls on three African regional organizations, namely, the Organization of African Unity (OAU), the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC). These three organizations share one important aspect with the four non-African organizations dealt with in Chapter Four: they are also involved in the maintenance of international peace and security in addition to their basic or founding principles and objectives. However, one distinction needs to be mentioned here, which is that none of the African regional arrangements was ever established as a mutual defence pact, or military alliance, in the mould of NATO and the Warsaw Pact. The three organizations were not conceived, at their founding period at least, as being a possible or future target of a perceived enemy, and therefore, did not find it desirable, or even necessary, to include in their treaties, or founding documents, the traditional clause of, "an armed attack against one of us is an attack against all of us", as encountered in the treaties of military alliance.

In the main, the African organizations have more characteristics in common with multi-purpose organizations such as the OAS and the Arab League. This commonality applies more to the OAU than to the two younger organizations, ECOWAS and SADC, which were founded on a single purpose: economic development and co-operation. For ECOWAS and SADC, matters relating to the maintenance of international peace and security were deferentially left to the "Big Brother" of African regional politics, the OAU. All regional, or sub-regional organizations **(1)** in Africa customarily yielded to the OAU to harmonize their foreign policy on political issues on the international plane, particularly at the United Nations. Nonetheless, following the disconcerting realization by ECOWAS and SADC that the OAU was rapidly degenerating into a dinosaur of African

politics, and had a dismal track record on the maintenance of international peace and security, the economic objective was soon joined by the political objective, and today, it is a fact that the twin objectives of regional economic development and regional political stability are the principal aims of the two organizations. One fact is also clear though: ECOWAS and SADC still continue to defer to the OAU, albeit symbolically, on all their political initiatives, as shall be explained in the forthcoming sections of this discussion.

With respect to the aspects of comparison applied to the four non-African regional arrangements, these will be applied *mutatis mutandis* to the African organizations. As such, there will be a noticeable departure from the format adopted in Chapter Four, although not to the extent where the *historical-comparative* perspective is altogether lost, thereby breaking the link between all the organizations as role-players in the maintenance of international peace and security. The main reason for the adjustment of aspects for consideration is that African regional organizations were established under a relatively different political climate. The Cold War imperatives on these organizations were not as pervasive (both effectively and extensively) as they were regarding non-African regional arrangements (with the Arab League a possible exception). It should be recalled that the majority of African states are solidly within the Non-Alligned Movement, despite frequent (and at times destructive) superpower rivalry which extended to African political situations and disputes during the Cold War era. It is also worth recalling that one of the principles of the OAU is found in Article 3(7) of the OAU Charter, which affirms "a policy of non-alignment with regard to all blocs". **(2)** As such, this chapter will not observe the Cold War period as a framework to guide the issues.

For the three African organizations themselves, there will be a noticeable difference in terms of depth and extent of analysis. There will be more profound analysis of the OAU than that reserved for ECOWAS and SADC. The bias is best explained by the fact that the OAU has a longer life or existence and has consequently elicited academic and political commentary that far exceeds that of the newer organizations. In this chapter, at least, attention on the OAU will be more preponderant, for obvious historical reasons. In a forthcoming chapter on regionalism in the New World Order, attention on ECOWAS and SADC would be more extensive, so as to reflect the higher profile role for these two organizations in recent developments in the maintenance of international peace and security. It will be apparent that in the present times, the activities of the younger regional arrangements have eclipsed those of the mother body.

With regard to the OAU, the discussion will focus briefly on the political situation in independent Africa before the historical summit at Addis Ababa in May 1963. The purpose is to build a backdrop to the political compromise that was reached at Addis Ababa in the form of the OAU Charter of 25 May 1963. A more concentrated exposition will be on the principles and objectives of the OAU Charter, accompanied by commentaries on them, and how they have forged the style of the OAU in its quest to maintain international peace and security on the African continent. Subsequent points of discussion will be limited to the following;

▫ Relationship between the OAU and the UN;

▫ The presence of a hegemon and ideological blocs;

▫ Resources for conflict resolution;

▫ Security environment in Africa, and,

▫ Finally, a general assessment of the OAU, would be given.

As far as ECOWAS is concerned attention will be restricted to its treaty and its founding principles and aims, the security provisions which ultimately led to the creation of ECOMOG, the ECOWAS Monitoring Group, and a general assessment of the organization in the present times. Since ECOWAS was founded primarily (and perhaps solely) on economic reasons, its role in the maintenance of peace and security in the West African region began nearly a generation (15 years to be exact) after its establishment. Because this thesis is on the political and security roles of regional organizations, the economic objectives and achievements of ECOWAS will not be considered, unless they impinge on political matters.

Much the same on economic issues applies to SADC. However, SADC has considerable experience in the political and security matters in Southern Africa, in its previous incarnation as the grouping popularly known as the Front Line States. (3) By and large, the Southern African political situation made it imperative for all the black independent states opposed to repressive settler and apartheid regimes in Rhodesia and South Africa, respectively, to form political groupings to co-ordinate their efforts to eradicate colonialism and racism, with the National Liberation Movements (for example ZANU-PF, SWAPO, and the ANC) leading the charge.

For the leaders of independent black states the realization and need for economic co-operation would only be a logical consequence to the overthrow of colonial regimes in the region. In Southern Africa, political and economic changes have greatly influenced the prioritization of objectives of SADC.

Following these broad comments on the African organizations, it is now proposed to discuss each organization *seriatim*.

5.1   THE ORGANIZATION OF AFRICAN UNITY

In his article on regional organizations and their different relationships with the United Nations, Wilcox (1965) assesses the rationale for some organizations to establish themselves as role-players in the maintenance of international peace and security. The conclusion he reaches regarding the OAU reads:

> "The OAU, which is restricted geographically to nations in relatively close proximity to each other, can create the kind of machinery its members need to cope with their common problems more effectively than a world organization" (1965:807).

Plainly, Wilcox based this opinion largely on the fact that in its first two years, the OAU had established itself as the pre-eminent body to deal with African problems, within the so-called African framework. The organization had registered, by 1965, two notable successes on its track record: the Algerian-Moroccan border dispute, and the Ethiopian - Somali - Kenya dispute. Furthermore the organization had staked its own claim at the UN to be seized of African disputes in the first instance, during the Security Council debates on the Second Congo crisis in December 1964. The debates led to the renowned "Try OAU First" principle emanating from Resolution 199 (30 December 1964) (El -Ayouti, 1974).

Although the size and diversity of membership would have been a weakening factor in the OAU's ability to cope with its regional disputes, the geographic

proximity and the strife for "African Unity" are creditable characteristics which habitually off-set any discernible differences. The diversity of its membership derives from the composition of the African continent that is predominately Arab in the North, and predominately Black in the sub-Saharan region. In addition, the diversity of the OAU membership is a direct result of the political, economic, and administrative legacies of the different colonial powers (Bukarambe, 1983:50).

The heterogeneity of the OAU in terms of history, race, language, and colonial legacies can be best explained by a detour of the discussion to the pre - 1963 historical and political environment of independent Africa.

5.1   Pre - 1963 Political Environment

The OAU, as it is known today, traces its origin to the First Conference of Independent African States (CIAS) held in Accra, Ghana, in April 1958.   It was attended by delegations from eight countries that had already attained independence in Africa, namely: Egypt, Ethiopia, Ghana, Liberia, Libya, Morocco, Tunisia, and the Sudan. **(4)**   The main issues that emerged from that historic meeting of African leaders were `the following:

(1)   Condemnation of colonialism and racism;
(2)   Support for the Algerian National Liberation Front;
(3)   Declaration of a policy of non-alignment in world affairs; and,
(4)   Co-ordination of African policies on international affairs.

One of the resolutions adopted was on "Steps to be taken to Safeguard the Independence, Sovereignty and the Territorial Integrity of the Independent States".

Furthermore, the Conference declared the determination of the participants "to resort to direct negotiations to settle differences among themselves and, if necessary, to conciliation or mediation by other African Independent States". **(5)** A review of these resolutions would show that in fact they laid the foundation of the principles and aims of the future pan-African body, the OAU. It should also be recalled that the political perspectives of those African leaders at that time were considerably influenced by the political standpoints of the new-established Non-Aligned Movement at a Conference held at Bandung, Indonesia from 18-23 April 1955. Of the eight participants at the Accra 1958 meeting, six of them (with the exception of Morocco and Tunisia) attended the Bandung Conference. By and large the 1958 Accra Conference is well remembered by commentators more for the viewpoints adopted by the elder statesman of pan - Africanism, President Kwame Nkrumah (1909 - 1972) of Ghana. In essence, Nkrumah's vision of Africa laid the ground for the so-called "radical" views at the Addis Ababa Conference of 1963. Nkrumah deprecated the idea of economic unity as time-delaying and maintained that only a political union could assure uniformity of foreign policy projecting the African personality and fashioned Africa as an important force in world affairs. As history bore out later, Nkrumah's ideological viewpoint turned out to be the proverbial voice in the wilderness.

The Second Conference of Independent African States took place in Addis Ababa in July 1960, with thirteen governments attending. In addition to the original eight at Accra in 1958, five new members joined the CIAS, namely Algeria (still not independent though), Cameroon, Guinea, Nigeria and Somalia. Once again, the key issue that characterized the 1960 meeting was the question and extent of co-operation among African states: whether to go the direction of unity, or to go the whole way towards a total union. As Patricia Wild notes, **(6)** there were "deep-

seated ideological differences regarding the form of unity Africa was to take" (in Tharp, 1971:38). At the time, Ghana still had the unofficial role of "African leader", but the independence of Nigeria, which did not share similar views on African unity with Ghana, posed new challenges to Ghana's leadership. By and large, from 1958 and 1960, the search for continental unity degenerated into opposing factions, and later, African states were to seek an appropriate form of unity through a variety of regional groupings.

The balance of power, if it may be so characterised, between the "radical group", which sought total union of African States, and the "conservative/moderate" group which desired to enjoy its newly-won sovereignty from colonial powers, was affected dramatically by the accession to independence of thirteen former French colonies. In 1960, France granted independence to the following countries: Benin (then known as Dahomey), Burkina Faso (then known as Upper Volta), Cameroon, Central African Republic, Chad, Gabon, Ivory Coast, Madagascar, Mali, Mauritania, Niger, Senegal and Togo. The preponderant majority of these francophone states were to align themselves with the conservative bloc in African ideological rivalries. However, within the general African grouping, those francophone states were heavily criticised, *inter alia*, for:

(1)   Failure to oppose French policies on Algeria;
(2)   Sending African troops to fight against the Algerian FNL;
(3)   Support for western policies; and,
(4)   Signing defence pacts with France.

However it was the outbreak of the first Congo crisis in 1960 that was to crystallise the factions in the embryonic African unity. The crisis hastened the formation of

competing alliances, one approving United Nations policies on the Congo, the other favouring the secession movement in the renegade Katanga province. **(7)** In essence the two groups came to be known as the Monrovia/Brazzaville group, labelled as conservative, and the Casablanca group, branded as radical by commentators. The Monrovia bloc meeting in January 1962 consisted of the so-called Brazzaville group (all 12 former French colonies) **(8),** Liberia, Nigeria, Somalia, Sierra Leone, Togo, Libya and Ethiopia. Their standpoint favoured a community of African nations rather than a union, a strong support for sovereignty of nations, and a neutral stance on world affairs with leanings towards the West. The Casablanca group which met on 7 January 1961 to adopt the Casablanca Charter, consisted of only five states, namely, Ghana, Guinea, Mali, Morocco and the United Arab Republic (as Egypt was then called until 1968). The Algerian rebel government, the FNL was also part of this group. Their standpoints were basically anti-French and the West in general, and socialist in outlook; they were willing to co-operate with the Soviet Union and her satellites; and they urged African economic and political unity as well as a joint military command (for the eradication of colonialism in Africa). As Cervenka observes, the emphasis of the Casablanca Charter was on militant rather than peaceful issues, since it prioritized the liberation of African territories still under foreign domination and the eradication of colonialism and neo-colonialism in all their forms (in El-Ayouti & Brooks, 1974:27). As matters stood, the group could not conceive intra-bloc disputes arising.

The compromise that was later to be forged between the two groups at the Addis Ababa 1963 summit is best synthesized by Wallerstein in these words:

> The essence of the compromise was that the Casablanca powers accepted the Monrovia formula - a loose Confederal structure for the OAU and a pledge for non-interference in each other's internal politics - in return for which the OAU was pledged to give the high priority to the goal of the liberation of southern Africa by political and military aid to the liberation movement   (in El - Ayouti & Brooks, 1974:20).

The next section deals with a comprehensive assessment of the Addis Ababa meeting in May 1963, which, in more ways than one, put to rest the ideological rivalry between factionalized African states.   Henceforth, any ideological positions were reined in within an umbrella body comprising all independent black African states, the OAU.

5.1.2 The Addis Ababa Summit, 1963: General Assessment

The OAU was born on 25 May 1963 in Addis Ababa, Ethiopia, and as Wallerstein remarks, organization, like human beings, are not born to an identity, they establish one in the course of their maturation (1966:774).   At its founding, the OAU was meant to be a living symbol of African unity as hammered out at a conference that brought together thirty two delegates. **(9)**   The conference was convened under the chairmanship of the Guinean President, Sekou Toure' (1922 - 1984).   The main goals included: the resolution of differences between the Monrovia and Casablanca blocs; the promotion of unity among all African states; and the eradication of all forms of colonialism.

At the beginning of discussions, the border problem facing new African states reared its head at the conference. The problem of maintaining borders set up during the colonial era appeared to have the potential of derailing the Addis Ababa talks. The main sticking point was that, as delegates had gathered to forge African unity, it would have been counter productive, and paralysing, to deal with the border question on a tribal and ethnic basis, an element which the colonialist themselves did not consider. For the delegates, it was almost an impossible situation, for any suggested adjustment of borders immediately resulted in additional complaints: if a part of one state were to be granted adjustment, other sections would seek similar changes. The only chance for any kind of international stability was to retain the borders as they existed.

Nonetheless, the border issue was a pressing matter, as exemplified by the stance taken by Morocco. King Hassan II (1924-1999) was absent from the conference as a protest against the participation of Mauritania which Morocco claimed as part of its territory. Also, Somalia had staked out territorial claims against Ethiopia and Kenya (Touval, 1967:103). The frontiers problem was used by President Nkrumah as an argument for a political union throughout the continent, declaring that "only African unity can heal this festering sore of boundary disputes between our various states" (cited in Touval, 1967:104). As the situation was to evolve, the voice of the Malian President, Modibo Keita (1915 - 1977), carried the sentiments of the majority of the delegates: "We must take Africa as it is, and we must renounce any territorial claims, if we do not wish to introduce what we might call black imperialism in Africa" (cited in Touval 1967:104). In spite of the urgency of the matter at the founding conference, there was no categorical reference to borders which found its way into the nascent Charter, and it did not feature in any of the resolutions made there. As Touval suggests, perhaps, in the quest for unity,

delegates desired nothing to prevent the unanimous approval of the OAU Charter (1967:104).

On the strength of numbers alone, the "Ghanaian proposal for organic political union was rejected in favour of a loose organization with a limited functional approach to unity" (Bennett, 1984:362). The reason was that the Casablanca group was outnumbered by the moderates (and the Monrovia group), which enjoyed a clear majority. Nonetheless, a historic compromise was reached, as explained by Wallerstein:

> The OAU represented a compromise between radically differing views on African unity, between those who thought of African unity as a symbolic and tactical aspect of a revolutionary movement, and those who thought of it as an alliance between sovereign states to protect their newly acquired status in the world community (1966:774).

By bringing the two blocs together and effecting their immediate dissolution, the OAU scored a tangible victory on the occasion of its establishment. Be that as it may, Zartman takes a more realistic view in his assessment of the summit result:

> Previous ideological differences by no means disappeared, but they were submerged in the combined atmosphere of euphoria and seriousness that reigned at the meeting. When they appeared later, they were contained within the institution and were subject to a number of ground rules for keeping intra - African disputes on a manageable level (1966:34).

The rules set up at the conference, which were later enshrined in the OAU Charter and subsequent resolutions of OAU summits include: a declaration against subversion, political assassination, and interference in internal affairs of other countries, and the provision for an arbitration commission for peaceful settlement of disputes. In the end, what the radicals obtained in the compromise was a greater attention to the problems of colonial Africa, particularly the Portuguese territories and Southern Africa (Zartman, 1966:34).

The situation of the Union Africaine et Malgache, popularly known as the Brazzaville group, deserves special mention. The group operated within the Monrovia group, and maintained that its existence was not in any way affected by the compromise reached between the main Casablanca and Monrovia blocs. It continued to claim its existence, when it held a summit on 22-30 July 1963 in Cotonou, Benin, immediately before the first ordinary meeting of the OAU Council of Ministers in Dakar, Senegal between 2-11 August 1963. Wallerstein recounts how the OAU asserted its primacy over regional groupings in Africa at the Dakar meeting. The OAU Council of Ministers reached a compromise in a special resolution on "Regional Groupings", recommending that: any regional grouping or sub-grouping be in keeping with the Charter of the OAU and meet, *inter alia*, the following criteria:

❑ Geographical realities and economic, social and cultural factors common to the states;

❑ Co-ordination of economic, social, and cultural activities peculiar to the states concerned. **(10)**

As Wallerstein says, "the UAM did not conform to this definition since it was not geographically contiguous and had a primarily political role" (1966:776). It was dissolved early in 1964. **(11)**

Following the general assessment of the Addis Ababa summit and some of its aftermath, the next discussion is on the document that emerged from the summit, the OAU Charter.

5.1.3 The OAU Charter and its Founding Principles and Aims

Article 2(1) of the Addis Ababa Charter lists the following as purposes of the OAU:

(a) To promote the unity and solidarity of the African and Malagasy states;

(b) To co-ordinate and intensify their co-operation and efforts to achieve a better life for the people of Africa;

(c) To defend their sovereignty, their territorial integrity and independence;

(d) To eradicate all forms of colonialism from Africa; and,

(e) To promote international co-operation, having due regard to the UN Charter and the Universal Declaration of Human Rights

Article 2 (2) lists the areas of co-operation between member states, which include political and diplomatic co-operation (Article 2(2) (a)) and co-operation for defence and security (Article 2(2) (f)).

The following principles of the OAU are found in Article 3 of the Charter

(1)   The sovereign equality of all member states;

(2)   Non - interference in the internal affairs of states;

(3)   Respect for the sovereignty and territorial integrity of each member state and for its inalienable right to independent existence;

(4)   Peaceful settlement of disputes by negotiation, mediation, conciliation and arbitration;

(5)   Unreserved condemnation, in all its forms, of political assassination, as well as subversive activities on the part of neighbouring states or any other states; **(12)**

(6)   Absolute dedication to the total emancipation of the African territories which are still dependent; and,

(7)   Affirmation of a policy of non-alignment with regard to all blocs.

An initial and general appraisal of these provisions is neatly made by Venter;

> The main provisions are cautious, even traditional.   The Charter's emphasis on territorial integrity and sovereignty, and the implicit upholding of arbitrary colonial boundaries between independent states, has attracted the approval of orthodox international lawyers   (1994:51).

An earlier assessment made by Tordoff (1984:242) views the OAU Charter as a combination of "conservative statements designed to protect the status quo in inter - African relations with radical commitment towards the outside world".   The "traditional" and "conservative" parts of the purposes and principles reflected the wishes of the Monrovia group: (Article 2(1) (a) - (c); Article 3 (1) - (5)); and the radical statements (Article 2(1) (d); Article 3(6) - (7)) as the deal sought by the Casablanca group.   Tordoff gives an example

of how seriously some conservative states considered the principle of non-interference: eight Francophone states boycotted the 1965 summit in Accra on the ground that President Nkrumah had violated this clause in the Charter (1984:246).   As far as the principle of sovereignty and equality of states goes, "the immediate reason for [its inclusion] was the misgivings among a few small states about the intentions of some larger neighbours, especially in matters concerning frontier disputes" (Touval, 1967:104).

Modern commentators on the OAU's principles argue that some of them are obsolete, and that the Charter needs an overhaul.   In particular, Article 3(2) on non-interference has generated substantial criticism.   According to Mwagira, it is the interpretation of this article which is problematic, because it tends to be "more absolute than the founding fathers intended" (1996:2). His own interpretation, which is correct, is that the issue of non-interference is addressed to the world generally, because the wording of the clause does not refer to "member states" but simply "non-interference in the internal affairs of states".   It is instructive to compare it with the immediately preceding clause: "The sovereign equality of *all member* states".   Finally, it is submitted that the "non-interference" clause should be interpreted as referring to the member states, and not to the Organization.   Otherwise, as history has already shown, it had been difficult for the OAU to intervene in intra-state conflicts which resulted in massive violations of humanitarian law causing untold loss of human lives because it lacked a legal tool or provision to do so.

In terms of its scope of activities, the framers of the OAU Charter saw African unity as the primary objective of the organization.   The all-

important role of a regional organization established under Chapter VIII of the UN Charter, that of peaceful settlement of disputes in terms of Article 52, is not paramount in the Addis Ababa Charter. As Touval observes, "peacemaking is not listed among the purposes of the organization as defined in Article 2. It appears that peacemaking was seen by the framers of the Charter as a function subsidiary to the promotion of unity" (1967:145). With the exception of the perfunctory inclusion of Article 3 (4), (a close reading of which reveals reference to the member states, and not to the organization itself), the Charter says very little on the role of the OAU in the peaceful management of disputes. But as history was to show, "within a few months of its founding, several territorial disputes erupted between member states [and] the OAU was called to the high office of peace-maker" (Touval, 1967:105). It is an irony of history that the Commission for Mediation, Conciliation and Arbitration, provided for in Article 19 of the OAU Charter, was established after the OAU itself had dealt successfully with a few disputes.

The main institutions of the OAU established under the Charter are, the Assembly of Heads of States and Government (AHG), which meets once a year in ordinary session; and the Council of Ministers, which is charged with a number of functions, including the preparation of the agenda for the Assembly and, the responsibility of implementing the decisions of the AHG. The Council meets twice a year in ordinary sessions.

The other body established by the Addis Ababa conference was the African Liberation Committee (ALC). The ALC is subordinate to the Assembly, and originally consisted of nine member states which were later increased to

thirty-one. Dar es Salaam was designated as the headquarters of the ALC. The ALC was "charged by the Resolution on Decolonization with the task of harmonizing the assistance given by African states to the national liberation movements within the colonial territories" (Bowett, 1982:243). According to Bowett, the ALC earned itself criticism from many member states. The committee's decision on which liberation movements to recognize and therefore support financially bordered on autonomous position and role, free from the control of the OAU and its Secretariat. The work of the ALC will be discussed in greater detail in a forthcoming section of this Chapter (section 5. 1. 7).

As far as borders are concerned, the OAU Charter did not include anything explicit, but the principle of *utis possedetis*, that of maintaining colonial borders, was borrowed from the experiences of Latin American states when they, just as rapidly as the African states, delivered themselves from the yoke of colonialism in the early nineteenth century.

The foregoing discussion attempted to highlight the major principles and aims of the OAU as enshrined in its charter. What follows is an examination of the relationship that was to develop between the regional organization and the universal body, the United Nations.

5. 1. 4 OAU Relations with the United Nations (13)

When the OAU was constituted in 1963, the UN was nearly eighteen years old and all post-1945 regional bodies, if they had a role in the search for peace, habitually

made explicit reference to the UN Charter. However, the OAU Charter is actually silent about the OAU being envisaged as a regional organization under Chapter VIII of the UN Charter. The conspicuous mention of the UN Charter is found in Article 2(1) (e), providing that the OAU would promote international co-operation having due regard to the UN Charter and the Universal Declaration of Human Rights. But as Andemicael (1979: 272) suggests, the purposes and principles of the United Nations are to a large extent reflected in the OAU Charter, with the obvious exception of clauses on the elimination of colonialism, which are not enshrined in the UN Charter.

Be that as it may, the first concrete reference linking an individual regional agency to Article 52 of the UN Charter is contained in the historically significant Security Council Resolution 199 (1964) which reads, in part, that the OAU "should be able, in the context of Article 52 ... to help find a peaceful solution to all the problems and disputes affecting peace and security in the context of Africa". As it was, the OAU itself was clearly recognized as a regional arrangement in relation to the UN within the meaning of Article 52(1). In the following year, General Assembly Resolution 2011 (XX) of 11 October 1965 formalized institutional relationship between the UN and the OAU by granting the OAU observer status at UN General Assembly sessions. Since then, there have been reciprocal invitations of the Secretary-General of each organization to attend meetings of the other.

It should be recalled that any relationships between the world body and regional organizations were always informed by the question of jurisdiction, as illustrated by the OAS-UN relationship. There is a general consensus that there has not been any unpleasantness regarding the OAU - UN relationship over the matter of jurisdiction. On this matter, Andemicael writes;

> The fact that neither Article 19 [of the OAU Charter] nor the protocol of the CMCA refers to the jurisdiction of the UN in peaceful settlement seems to imply that the founders of the OAU preferred to seek settlement of inter-member disputes exclusively within an African framework, particularly through the machinery of the OAU (1979:235).

The inferences drawn from the omissions noticed by Andemicael above find further support in the inferences drawn from Resolution 199 (1964), which inspired the "Try OAU First" principle. As Andemicael continues, in none of the disputes or other differences between OAU members did the Security Council exercise its right to-

(1)   Conduct on investigation under Article 34;

(2)   Recommend under Article 36 any method of adjustment other than the regional one; and,

(3)   Propose appropriate terms of settlement under Article 37 (1979:254).

Nevertheless, as Andemicael reads the meaning of Resolution 199 (1964), the Security Council was merely deferring to the OAU machinery on pragmatic grounds (i.e. ability to deal with African problems) rather than formal jurisdictional grounds (i.e. competence, meaning the OAU had primacy over the UN) (1979: 254).

It is noteworthy to evaluate the views of the superpowers on the "Try OAU First" principle as practised by the universal body. The views or standpoints of both blocs in the Security Council were read as favourable. The United States and the

United Kingdom adopted an attitude "consistent with their positions in regard to the respective roles of the UN and the OAS in disputes or situations arising in Latin America". For the Soviet Union, the OAU's official policy of non-alignment was deemed acceptable, the more so that the OAU, unlike the OAS, was not "subject to disproportionate influence of a rival major Power".

Finally, it should be noted that the "Try OAU First" principle was limited to pacific adjustment of disputes. The OAS, however, found itself on a collision course with the UN and the Security Council on a number of occasions because its machinery for settling disputes included the possibility of Chapter VII measures which would have required authorization from the Security Council. But as many writers have contested, the OAU's position on the liberation struggle against colonialist regimes are essentially Chapter VII measures, which were taken without Security Council authorization or encouragement. This issue will be re-visited in a forthcoming section of this chapter.

5.1.5 The Presence of a Hegemon and Ideological Blocs

At the outset, it is safe to concur with the observation that a symmetrically balanced equilibrium exists in the OAU as it lacks the dominance of a hegemonic power (Simma, 1995:719). The OAU shares this characteristic with one other non-African regional arrangement, the Arab League. The absence of a hegemonic power within the ranks of the OAU is one of the redeeming qualities of the organization. This quality shines demonstrably in the fact that though the OAU Charter contains no explicit constitutional obligation for its member states to refer their disputes to it before taking recourse to the UN, the principle of the priority of seizure of regional disputes settlement has been constantly observed by member

states.   That was not the case with OAS, which failed on numerous occasions to exert its own inherent authority other than constitutional obligations contained in the Charter of Bogota and the Pact of Bogota.

Recognized "regional powers" on the African continent, such as Egypt in the North, Nigeria in the West, South Africa in the South (or Zimbabwe prior to South Africa's accession in June 1994), and Kenya or Uganda, in the East, have not succeeded in bringing their assumed domination to bear on OAU machinery (It is not suggested here that these member states have attempted before to wield some form of dominance).   It is submitted that the OAU has displayed admirable equality among its member states, as reflected by the rotating chairmanship, which could be assumed by weak states such as Burkina Faso and Togo.   An interesting aspect of the OAU in terms of power relations within its ranks is that of the fluidity of blocs.   As Patricia Wild remarks:

> In view of the high rate of turnover in ruling personnel (the elite)
> due to numerous changes in government, it is not surprising that
> states sometimes shift gears in international affairs and alter the
> composition of political bloc (in Tharp, 1971:36).

Political factors at the OAU summit are influenced by the kind of leader representing his country at that particular summit. **(14)** For example, before Nkrumah was deposed in 1966, Ghana had a bad reputation of supporting radical subversive movements waging campaigns of destroying governments in certain parts of the continent.   The new rulers following the coup, Ankrah (1966 - 1969), Afrifa (1969-1970), made efforts to improve relations with neighbouring countries, casting aside Nkrumah's policy of pan-Africanism.   In Libya, the traditionalist and

conservative monarchy was ousted in a military coup in 1969, ushering in Colonel Muamar Gaddafi into power, whose revolutionary position aligned him with radical states, Algeria and Egypt (Tharp, 1971:37).

As stated by Zacher (1979: 132 - 134), factions in the OAU fell into three groups, the "radical non - aligned", the "moderate non - aligned" and the "conservative". The building blocks of those groupings rested on three criteria, namely, alignment, ideology, and subversion. *Alignment* refers to "politico-security ties to the West"; *ideology* explains either the "general attitude towards Western interest in the international community" or "advocacy of socialism"; *subversion* means "the legitimacy of attempting to install governments [in other countries] with which they share common views by a variety of means".

According to Zacher's classification, the radical non-aligned (probably representing some vestiges of the Casablanca group) argued for a non-aligned foreign policy, cultivated political ties with subversive elements in conservative countries, and displayed hostility towards ties with West and its interests. The second group, the moderate non-aligned, favoured non-alignment but it was not anti-West in its foreign policy. **(15)** The last association, the conservatives, the rump of the UAM, sought closer ties with the West and opposed the radicals' promotion of subversion and spread of socialism and the continent (1979:133).

Within the context of these discrete groupings, it is difficult however, to pigeon-hole OAU member states into these factions, because the number and rapidity of regime changes in Africa led to many shifts of foreign policy and ideological presence (Zacher, 1979:134). These factions, however, impacted considerably, and negatively too, on the OAU's resources for conflict resolution.

5. 1. 6Resources for Conflict Resolution

At its founding conference, the OAU did not enshrine dispute-settlement procedures or mechanisms in its Charter, but merely provided for the creation of a commission to deal with disputes in Article 19: the establishment of a Commission of Mediation, Conciliation and Arbitration (CMCA). On paper, at least, the OAU has at its disposal a dispute - settling document, but one that existed outside the Charter. The benefit of history reveals that the CMCA was the proverbial paper tiger, and was denied political, or even legal teeth by the mother body. It has not earned a place of its own in the chronicles of the OAU as a role-player in the maintenance of international peace and security.

The reality is that the CMCA has been eclipsed by the OAU's other unique characteristic, which is the preferred use of *ad hoc* mediation over institutionalized procedures as found in the practice of other regional arrangements. As Wolfers elucidates, "mediation shading into conciliation has been the preferred means of settlement. The institution has developed appropriate machinery, generally a selected group of heads of state mandated to mediate between the leaders of disputing states" (in Touval & Zartman, 1985:175). Thus the flexible procedures of diplomacy found more favour over the rigours of customary international law.

(16)

The *ad hoc* committee could either be launched at ministerial rank, appointed at extraordinary sessions of the Council of Ministers (as it was in the Algerian-Morocco border dispute), or at the Head of State level. The select committees often reflected the linguistic, regional, and cultural composition of the OAU but, as

Wolfers maintains, "not every ad hoc Commission is a miniature of the whole body"(Touval & Zartman, 1984: 190). On the discernible development of preferences on what committee to appoint, Wolfers reveals: "The charismatic standing of OAU leaders helps to explain why the extraordinary sessions at the ministerial level later gave way to ad hoc committees comprised of heads of state" (in Touval & Zartman, 1984:190; 191).

There prevails an opinion that the OAU relied on its own machinery for adjusting disputes between members which required Chapter VI measures of the UN Charter. But, to cite Jonah, OAU members "place reliance on UN machinery for the solution which in their view might require elements of action under Chapter VII provisions" (in El-Ayouti & Brooks, 1974:133). It is worth recalling that the first OAU force that intervened in Chad in 1982 was conceived in terms of traditional peacekeeping, and not to enforce an OAU resolution.

Concerning the disputes that the OAU habitually dealt with, two types are discernible: inter-state disputes provoked by the colonial legacy of artificial borders, and intra - state political crises leading to civil war and secession strives (Akindele, 1976:82). The vexing difficulty of the borders was resolutely dealt with at the first OAU summit at Cairo, Egypt, 17-21 July 1964. The Assembly of Heads of States and Government adopted Resolution 16 (1), sponsored by Tanzania. The resolution stated that the border problems were a factor of dissension, that there were external manoeuvres aimed at dividing African states, and that "the borders of African states, on the day of their independence, constitute a tangible reality". There is validity in the opinion that the resolution found a legal basis and rationale on Article 3(3) of the OAU Charter which called for respect for sovereignty and territorial integrity of each state. As far as self-determination and

secession are concerned, "most African states regard [such claims] by groups within independent states as unacceptable" (Touval, 1967:93). The success of Eritrea in achieving separation from Ethiopia in 1993 is a special case. When it was freed from Italian colonial rule by the British in 1941, Eritrea was federated with Ethiopia in 1952 under a scheme imposed by the United Nations and was annexed in 1962 by Addis Ababa (Ayoob, 1995: 54).

The OAU betrays one of its fundamental weaknesses, as in any other organization, though, when its members are split in their support of the contending parties (Bennett, 1984:363), as evidenced in the Congo and Biafran crises. Though the house was divided, it did not fall. Bukarambe clarifies the prevailing phenomenon in the OAU style of conflict management:

> The OAU forges a broad consensus over issues of major interest to the member states. This denotes that there will be dissent and indeed, there has been. But at the end, what is generally seen as the African position invariably emerges. For the members who disagree, it is a sort of *fait accompli*. Their dissent does not usually alter the general position. (1983:53).

Bukarambe cites the case of the Ogaden War between Ethiopia and Somalia, in 1977, which impinged on two principles of the OAU: one was that of the inviolability of colonial borders, and the other concerned the involvement of non - African powers in continental strives. He writes; the OAU "declined to condemn the Soviet - Cuban invasion against Somalia because the Somali goal would have amounted to forceful rather than a peaceful alteration of borders" (1983:54). Thus, by inferring from the OAU stance on the war, the principle of territorial integrity supersedes that of foreign invasion.

In the end, the prominent resources at the disposal of the OAU could be synthesized as follows:

(1)   Under its auspices, African problems could have African solutions;

(2)   There is legitimization of certain positions in a conflict on the basis of provisions of the OAU Charter and resolutions; and,

(3)   There is mediation of conflicts through either *ad hoc* committees, personal diplomacy, or the good offices of another member state   (Bukarambe, 1983:53).

5.1.6 <u>The OAU and the Liberation Struggle</u>

It is submitted that any general appraisal of the OAU should acknowledge positively its involvement in the liberation struggle of the continent.   Even before the founding of the OAU itself, independent African states took the lead in the UN in denouncing colonial and racist regimes in Africa, particularly South Africa and Portugal, and promoted and encouraged the use of collective action against those states.   Following the creation of the OAU, the African voice in the UN was endowed with more credibility and respectability, and African states acted in concert.   As Wilcox observed in 1965, the OAU itself approved many non-peaceful measures (which should have obtained prior Security Council authorization) in its efforts to eradicate colonialism from the continent:

(1)   Severance of diplomatic and consular relations;

(2)   Total economic boycott of the two countries;

(3)   Creation of liberation armies; and,

(4)   Denial of any rights to air and sea transportation to and from South Africa
       or Portugal (1965:802).

Akindele, however, takes a more legalistic view of the OAU's involvement in the struggle for liberation basing his arguments on customary international law and UN Charter provisions.   His thesis begins by explanation of the relationship between colonialism and domestic jurisdiction in terms of customary international law: "The relationship between a colonial power and its colonies has been strictly a domestic matter governed by the law of the metropolitan power and consequently colonial wars had the character of domestic strife" (1976:124). On the other hand, the OAU regarded colonialism as permanent aggression and therefore illegal, citing the force of the Declaration on Colonialism adopted by the UN General Assembly in 1960. **(17)**   But, as Akindele concludes, "the 1960 Declaration neither authorizes the use of force for its implementation nor claims to override the Charter injunctions against the use of force" (1976:126).   His advice to the Liberation Committee is that to legalize their activities, they should frame their bases on the provisions of Article 51 of the UN Charter, as acts of self-defence.

Be that as it may, the UN Security Council chose to disregard the activities of the OAU's Liberation Committee for political reasons, perhaps inspired by the desire to extend, by implication, the scope of Resolution 199. The OAU's role in the liberation of Portuguese colonies such as Angola and Mozambique, and Zimbabwe, did not incur the disapproval of the Security Council at any time.

Bukarambe characterizes the OAU as a regional actor in the maintenance of international peace and security in this way:

> In spite of the deficiencies of the OAU, member states are still charmed by it. They still have sufficient loyalty towards it to continue to refer to it, to invoke its provision, and endeavour to be seen to its side (1983:57).

The preceding discussion attempted a treatment of the OAU as the mother body on the continent, from an historical perspective. It is within this context that the focus will turn to the two regional organizations that were constituted to manage economic issues and in areas where the OAU was seen to be too amorphous to execute the responsibilities mandated to it by its member states. Nonetheless, it is important to mention that the demise of the OAU is imminent, and once the Constitutive Act of the African Union (Lome, 11 July 2000) is ratified by the requisite majority signatories, the OAU would be replaced by the African Union.

5.2 THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

The Economic Community of West African States (ECOWAS) is made up of sixteen members: Benin, Burkina Faso, Cape Verde, Cote d' Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo. The community is comprised of former colonies of three European powers except for Liberia, which was not

a European colony at any time in modern history, but was founded by freed African slaves from America.

In order to contextualize the so-called Anglophone-Francophone power-axis in the region, the line-up of the ECOWAS in terms of colonial legacies is as follows: Benin, Burkina Faso, Cote d' Ivoire, Guinea, Mali, Mauritania, Niger, Senegal, and Togo are all former French colonies and are usually referred to as Francophone West Africa, and they constitute a majority bloc in terms of cultural-political affiliation. Britain's former colonies in the ECOWAS region are: The Gambia, Ghana, Nigeria, and Sierra Leone, making up the Anglophone grouping. Portugal is the former colonial master of Cape Verde and Guinea-Bissau. The rationale for highlighting this array on colonial-cultural heritage is that its latent significance reared its head during the early phases of ECOWAS' involvement in the Liberian crises (1989 - 1997), as shall be illustrated in a forth-coming chapter.

5.2.1 <u>The Treaty and its Founding Objectives</u>

ECOWAS was constituted on 26 May 1975 under the Treaty of Lagos, signed by the heads of state of fifteen West African countries, that is, all the current member states except Cape Verde, which joined in 1977. As Tordoff (1984:234 - 235) notes, the Community was never enlarged, as Senegal (suspicious of Nigerian intentions) had wished, to include Zaire and the other Francophone states of Central Africa. But the counter-argument was that the union would have been unmanageable owing to size and extent, and would therefore be no longer "regional".

The original aim of ECOWAS was to form a customs union binding together the small and weak national markets of West Africa. The future projection was that economic integration would lead to a single West African market large enough to attract increased investment, and also the removal of tariffs by 1990.

Since this thesis is on the role of regional arrangements in the maintenance of international peace and security, it would not profit the discussion to provide an extensive chronicle of ECOWAS activities in economic development matters. Be that as it may, it is necessary to synthesize the original objectives of the community to build a backdrop to the emerging role of ECOWAS in the field of international peace and security. Apart from the long-term aim of ending custom duties and other restrictions on trade between member states, the treaty's other principal objectives include: the harmonization of the economic and industrial policies of member states; the elimination of the disparities in the level of development of member states, the abolition of obstacles to the free movement of people, services and capital, and the harmonization of member states' monetary policies. **(18)** (Degenhadt, 1986:430).

The principal institutions of ECOWAS include a Supreme Authority of Heads of State, with a rotating chairmanship, to meet at least once a year; a Council of Ministers, with two representatives from each member state, and also a rotating chairmanship, meeting at least twice a year.

It is evident that, from its inception, ECOWAS had basic and traditional objectives that are customarily found in the treaties of regional economic

groupings.   There were no allusions to political matters, no matter how wide the interpretation of the provisions on co-operation.   It is a revealing exercise to make a survey of the political situation in West Africa during the years leading to the establishment of the community and the period immediately thereafter.   What is instructive is that, despite widespread instability in the region, as in other parts of the continent, obviously, the Lagos Summit, (perhaps paralysed by Article 3(2) of the mother body's Charter, and the Dakar Resolution of 1963 on sub-regions in Africa, did not consider political dimensions in its treaty.

In 1975, the Nigerian Civil War (1967 - 1970) was still fresh in the collective memory of the majority of Nigerians and its aftermath continued to reverberate in African political circles.   On 26 October, Dahomey (later Benin), experienced a military coup, with Major Kerekou becoming President.   There was a military coup in Upper Volta on 8 February 1974, and in the same year on 15 April, Niger's President Hamani Diori was overthrown in a military coup headed by Lt. Col. Kountche'.   In 1975, only two months following the founding of ECOWAS, the Nigerian President, General Yakubu Gowon was ousted by Brigadier Murtala Mohamed while attending an OAU Summit in Kampala, Uganda.   Murtala himself died by the sword on 13 February 1976 during an unsuccessful coup.   He was replaced by Lt. General Obasanjo, the current civilian president, who was elected in 1999.

As suggested earlier, the nascent West African community continued on the firm belief that those political instabilities were beyond its province and

competence: they were run-of-the-mill internal matters of many African states.

It is submitted that the ECOWAS treaty could not contain references to Chapter VIII of the UN Charter since ECOWAS was not conceived as a regional arrangement to be tasked with upholding peace and security to promote UN principles and purposes. Such a task, however, became an exigent subject for the young community to consider, in view of the precariousness of political life in the region. It finally dawned on the leaders that lofty ideals on economic harmony were merely built on shifting sands if not founded on solid political stability and security.

5.2.2 Security Provisions and the Creation of ECOMOG

The transformation of ECOWAS as *strictu sensu* economic group to a regional organization claiming limited jurisdiction or competence in the political affairs of West Africa began with proposals in 1976 for a defence protocol, "barely a year after the signing of the ECOWAS agreement itself", as Conteh-Morgan attests (1993:36). Nonetheless, the proposal was approved at the Third Summit of the organization, 21-22 April 1978 in Lagos on the recommendation of the Council of Ministers in November 1977. Under the Protocol on Non-Aggression, the heads of state undertook, *inter alia*, to refrain from attacking each other and recognize as definitive the present borders of their territories (Degenhardt, 1986:430). Evidently, the protocol did not go far enough, except to recount the major and popular (with heads of state) OAU Charter principle on non-intervention and borders. It did not extend into the realm of regional dispute-settlement.

The next stage in the transformation occurred at the Fourth Summit, 28-29 1979, Dakar, Senegal, when ECOWAS decided to set up a commission to study problems connected with mutual defence assistance. It was at the Sixth Summit, 27-30 May 1981, in Freetown, Sierra Leone, that ECOWAS heads of state signed a Protocol Relating to the Mutual Assistance on Defence.

The 1981 Protocol contains in, Articles 16-18, all the rules necessary to make ECOWAS both a defensive alliance and a regional system of collective security under both Article 51 and Charter VIII of the UN Charter (Simma, 1995:707). As Conteh-Morgan comments, "the adoption of the Protocol provides the first and still the only example of a collective arrangement on the continent" (1993:36). In Chapter II, the Protocol provides that: "Member States declare and accept that any armed threat or aggression directed against any Member State shall constitute a threat or aggression directed against the entire community". Clearly, the provision echoes those found mainly in military alliances such as NATO and the Warsaw Pact, and also some clauses buried inside the documents of multi-purpose organizations such as the OAS and the Arab League.

Some of the pledges made by the Authority in terms of the Protocol include military assistance against armed threat or aggression; armed conflict between two or several states; and internal conflict within any member state engineered and supported actively from outside likely to endanger the security and peace in the entire community. As an awareness of the clear and present danger of the political precariousness in an economic

community, the preamble to the Protocol elevated collective security as a fundamental component of economic development and integration in West Africa. In the words of Conteh-Morgan:

> The defence Protocol could be interpreted in terms of collective economic self-interest approach. Peace and security are no doubt inseparable from problems of development and regional economic integration, not only in the ECOWAS sub-region, but also on the rest of the continent (1993:36).

By and large, it is submitted that ECOWAS' welcomed migration into the politico - security realm was, unfortunately, theoretical, to say the least. Military coups and serious violations of human rights in the region during the 1980s did not ignite the force of the provisions of the Protocol, and the economic community continued to regard non-interference in the internal affairs of member states as sacrosanct, according to the gospel of the OAU Charter, Article 3(2). As noted by Sagay, it "needed the conflict of the Liberian civil war to trigger" the provisions of the Protocol to create ECOMOG in 1990. He says that there is almost a generation gap between the establishment of ECOWAS and the setting up of ECOMOG in August 1990, and that a clear distinction exists between their functions (in Garba, 1997:78 - 79). Evidently, ECOMOG as we know it today, was not an institution conceived by ECOWAS, and as such, "it is a child of historical circumstances".

ECOMOG was created out of ECOWAS' response to the atrocities that were being committed on a horrifying scale in Liberia following the rebellion led

by (the present leader) Charles Taylor against the government of Samuel Doe. The Authority of Heads of State of ECOWAS met in Banjul, the Gambia, on 28-30 May 1990 to decide on appropriate measures to deal with the crisis. The measure taken, formally called Decision A/DEC 9/5/90, constituted the Standing Mediation Committee, comprising of the Gambia, Ghana, Togo, Mali and Nigeria.

The decision made it plain, *inter alia*, that the Summit was:

☐ CONVINCED that regional security and stability, as well as peace and concord are necessary conditions for effective sub-regional economic co-operation and integration;

☐ AWARE of the disruptive effect that situations of conflict and dispute among Member States have on the ultimate ECOWAS goal of harmonious and united West African Society.

Nonetheless, the Standing Mediation Committee did not swing into swift action "to stem the tide of Liberia's rapid degeneration into a virtual state of anarchy where mutual genocide was becoming the order of things" (Conteh-Morgan, 1993:37). It was left to the putative letter of 14 July 1990 by Samuel Doe to the Committee, through the channels of Nigerian leader Ibrahim Babangida, pleading assistance, which signalled the move to establish ECOMOG. The Committee met in the Gambia again, on 6-7 August 1990 and issued what was to be called Decision A/DEC 1/8/90. The crucial operative part of the Decision is found in Article 2: Cease-fire Monitoring Group:

1. In order to arrive at a peaceful and lasting settlement of the dispute, ECOWAS shall establish, under the authority of the Chairman of the Authority of Heads of State and Government of ECOWAS,... a Cease-fire Monitoring Group (ECOMOG) to be composed of military contingents drawn from the members of ECOWAS Standing Mediation Committee, as well as from Guinea and Sierra Leone;

2. The Cease-fire Monitoring Group shall be assigned the function of assisting the ECOWAS Standing Mediation Committee in supervising the implementation and in ensuring the strict compliance by the parties with the provisions of the cease-fire throughout the territory of Liberia.

The Decision granted the ECOMOG Commander "powers to conduct military operations for the purpose of monitoring the cease-fire, restoring law and order to create the necessary conditions for free and fair elections to be held in Liberia" (Article 2(2)). ECOMOG was initially meant to remain in the war-torn country until the installation of an elected government (Article 2(4)). But the Committee's divinations excessively underestimated the fragility of peace and security in the region. The military coup in Sierra Leone on 25 May 1997 prevented the dissolution of ECOMOG when it was re-deployed as a response to the political threats emerging from that country. Nonetheless, what is worth recalling is that, as the case may be, ECOWAS made a far-reaching revision of its treaty, which was signed on 24 July 1993. Article 58: "regional security" of the revised treaty provides that in pursuit of "the maintenancece of peace, stability and security within the (sub) region" member states undertake to:

□ Employ where appropriate, good offices, conciliation, mediation and other methods of peaceful settlement of disputes

▫ Establish a regional peace and security observation system and peace-keeping forces where appropriate (Article 58(2)).

For this reason, ECOWAS transformed itself fully into a Chapter VIII regional organization, a status which designated it as a possible agency through which the UN could maintain international peace and security. Because of the constitutional provisions of the revised treaty, ECOMOG, for all intents and purposes, has become an indispensable adjunct of ECOWAS which "enables the sub-regional political leadership to keep intra-state and inter-state conflicts in the ECOWAS sub-region under manageable control" (Garba, 1997:78).

In a forthcoming chapter, the activities of ECOMOG in Liberia will be examined in detail and assessed, together with the behaviour of other high-profile organizations in recent years isolated in this thesis, namely NATO and SADC. It is necessary to point out that for the West African people, ECOMOG represents a beacon of hope in the volatile region in that, in the New International Order, African crises have been marginalized; the permanent members of the Security Council have made it difficult for that organ to discharge its responsibilities fully during crises in Africa. Even though European and American troops can fight and die in Central and Eastern Europe, Africa is not worth their soldier's lives. The world body derives sinister satisfaction in re-inventing the provisions of Resolution 199 (1964), which in the present dispensation of globalization sound hollow: "African solutions to African problems".

The foregoing discussion explored the historical circumstances which inspired Africa's first hands-on experiment in the maintenance of international peace and security through a regional organization other than the OAU, which is ECOWAS. The next focus falls on the other regional organization of note in Africa, namely, SADC.

5.3   SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (19)

The Southern African Development Community (SADC) formerly called the Southern African Development Co-ordinating Conference until 1992, has the following membership, with the year of accession given in brackets except for founding member states: Angola, Botswana, Democratic Republic of Congo (1998), the Kingdom of Lesotho, Mauritius (1995), Mozambique, Namibia (1990), the Seychelles (1998), South Africa (1994), the Kingdom of Swaziland, Tanzania, Zambia, and Zimbabwe.

It is submitted that SADC has found widespread favour among authorities on regional integration in the developing world, with Tordoff in 1984 calling it "the most substantial of the regional groups to have emerged" out of Africa (1984: 237). As the case may be, the shrewd and cautious approach to substantial regional integration adopted by SADC, and its trimmed ambitions, won the approval of commentators, who were always at the ready to compare it with regional attempts in the past that did not, in the end, achieve effective levels of co-operation between states. One of the main reasons for the collapse of sub-Saharan regional organizations is explained by Slinn: "It is particularly difficult for the political leadership of countries which have only relatively attained national independence to abandon some

element of sovereignty in the interest of regional solidarity" (1984:183). Slinn takes the view that most of sub-Saharan regional groupings, such as the East Africa Community, were rooted in the colonial past because they reflected ways of co-operation before independence. As for SADC/SADCC, "its roots do not lie in the colonial past but in the response of the newly independent countries of Southern Africa to the problem of confrontation with the remaining white-ruled States of the sub-region" (1984:186).

These positive observations stand as testimony that, judging from its history, SADC was a fairly unique organization. Be that as it may, SADC member states do have certain unpleasant colonial experiences in relation to regional groupings. Many of them have bitter memories of British and Portuguese objectives of creating a white, racist dominion in Southern Africa. For example: Tanzania belongs to the initial East African Community which collapsed in 1977, but was later revived in 2000; Malawi and Zambia were members of the Federation of Rhodesia and Nyasaland; Angola and Mozambique were part of the Portuguese Union, dominated by the mother country. Botswana, Lesotho and Swaziland used to be the dominated affiliates of the Southern African Customs Union formed in 1910 but when the dominant member, South Africa, attained majority rule in 1994 the relationship in the Union changed dramatically for the better. As Kapungu summarizes it, the experiences of these partnerships of "a horse and rider" served SADC member states well: "It was the objective of SADCC that no one member should be dominant in the organization" (in El-Ayouti, 1994:48,49).

Most of these Southern African states were engaged in the harsh struggle for independence when much of Black Africa was already enjoying the fruits of self-government, in the 1960s and early 1970s. According to Maphanyane, the struggle, "based on African nationalism, and the twin objectives of African Liberation and African Unity, reinforced a spirit of political and cultural symbiosis, whose most poignant expression was the Frontline States" (1994:3). While South Africa in particular remained unliberated, it "constituted the main focus of a generalised, if not united, African resistance throughout Southern Africa and beyond". In the final analysis, the struggle laid the foundation of "a distinct Southern African personality" **(20)** which promoted first, political solidarity and later, economic co-operation.

It is that political solidarity which is the subject of the next discussion, when these countries together formed the Frontline States, a body respected by many for its role in the liberation history of Southern Africa.

5.3.1 <u>Southern Africa: Pre - 1980 Political Climate</u> **(21)**

The Southern African organization known as the Frontline States (FLS) traces its roots to the Organization of African Unity and its Liberation Committee which deemed Tanzania as the main rear base of the liberation struggle in Southern Africa in the early 1960s. Zambia, following its independence in 1964, also accepted responsibilities to function as a base for exiled liberation movements. Botswana joined in early 1975; Mozambique in 1975; Angola in November 1975; and, once freed from colonialism, Zimbabwe and Namibia joined their erstwhile brothers-in-arms in 1980 and

1990 respectively. An instructive feature of the history of the Southern African political struggle is that after South Africa's attainment of majority rule in 1994, it joined the ranks of the FLS; that is, even in the new South Africa, the FLS continued to exist, and was explicitly used as an instrument of policy by SADC to manage the Lesotho constitutional crisis of 1994. The official communiqué of the SADC Summit in Gaborone on 29 August 1994, reads: "The Summit commended the Front-line States, and in particular, Presidents Mugabe, Masire, and Mandela for their personal contributions towards efforts to bring peace and stability to Lesotho".

In the late 1960s, Zambia had to endure relentless military attacks and economic disruptions because of her continued provision of support and resource base for the liberation struggle. Both Tanzania and Zambia were members of an indistinct grouping known as Conference of Heads of State of East and Central Africa, which was formed in March 1966 and later held regular meetings in various capitals of the region. The primary purpose of the Conference was to encourage better regional relations and to co-ordinate their policies regarding the Southern African struggle for liberation. The conference was considered to be more suitable to the task since it was smaller and less diverse than the OAU. It excluded Botswana, Lesotho, and Swaziland since they were "most vulnerable to South African pressure". In essence, the Conference was a motley of states that had dissimilar policies towards the struggle in general (Maphanyane, 1994:4).

It was left to the publication of the Lusaka Manifesto (on Southern Africa) at the fifth meeting of the Conference on 14 - 16 April 1969, to pave the way towards the formation of the FLS, with Zambia, Tanzania, and Botswana

holding a policy distinct from other member states, in particular conservative Malawi and the-then-Zaire. By and large, the Lusaka Manifesto sought to draw a distinction between, (1) the situation of Southern Rhodesia and the Portuguese colonies, which necessitated armed struggle, and (ii) the situation in South Africa, which called for a policy of boycotting the apartheid state. Andemicael clarifies the manifesto's general policy:

> If independence can be won peacefully, the African Nationalists should not die unnecessarily; but if it cannot be so achieved, the people concerned must use every means at their disposal, including force, rather than accept permanent domination (1979: 279).

Malawi, it should be noted, did not sign the Manifesto, and it proceeded to establish diplomatic and economic relations with South Africa. Botswana, however, by endorsing the Manifesto, threw in its weight together with the FLS, which became more apparent in the 1970s, when that country welcomed thousands of refugees from Angola, South Africa, Namibia and Zimbabwe. As a reward for this stance, Botswana became, too, a victim of South African military attacks, and frequent border raids by Rhodesian contingents.

The leaders of Botswana, Mozambique, Tanzania, and Zambia met in the central Mozambique coastal town of Quelimane in 1975 to launch the Frontline States. The grouping was later joined by Angola following its independence in November of that year. One of the key and immediate tasks was to forge unity among the liberation movements in Southern Rhodesia so as "to form a more effective fighting force and single political

organization capable of confronting the Smith regime in any negotiation leading to majority rule and independence" (Andemicael, 1979:279).

Following the assassination of ZANU national chairman, Herbert Chitepo in March 1975, the FLS, in its quest to form the Patriotic Front, provided the means and policy direction while the leadership issue was being resolved (Maphanyane, 1994:10). By and large, in the next five years, including the Geneva Conference in 1976 following the collapse of the Patriotic Front, the FLS steered the way to independence of Zimbabwe in 1980.

The other dominant issue, but in the least protracted, was Angola, in 1975. The question was whether to back MPLA as opposed to UNITA and FNLA. Nonetheless, UNITA's alliance with South Africa tipped the scales in favour of MPLA. But as Maphanyane makes an enlightening remark, "the situation could have been much worse were it left to individual Frontline states members to decide upon which faction to support in the Angolan conflict" (1994:10). Consequently, by putting a united front on the issue, the FLS paved the way to the MPLA assuming the reins of government in November 1975. All along, the diplomatic initiatives of the FLS remained an integrated part of OAU policy in the region. In the end,

> ...with independence and majority rule in Zimbabwe in 1980, the Front Line States focussed their attention on the political issues of Namibia and apartheid and, especially, *the economic position of the independent states vis-à-vis South Africa itself* (Garba, 1997:24) (Emphasis added)

As far as the Namibian question was concerned, the FLS based its approach on the evolution of UN Security Council 435 and shifted focus from hard-core politics to Zimbabwe's independence, which was of immense symbolical importance for it removed a powerful colonial regime from the region.

The path to SADC was smoothed by the experience of political co-operation under the Frontline States. In May 1979, Foreign Minister of the FLS convened in Gaborone to consider the idea of mounting a conference on development in Southern Africa. Their meeting prepared the agenda for the historic Arusha Conference in July, attended by Frontline States leaders, and external partners, in the form of friendly governments and multinationals. For the FLS, it became an urgent matter that national independence would be incomplete without economic independence. In order to broaden the membership of the new groupings, Botswana's Foreign Minister, Mr Archie Mogwe, paid official visits to the leaders of Lesotho, Malawi, and Swaziland, which were not FLS members, to canvass their participation in the proposed regional initiative. Zimbabwe, with its independence only a matter of time, had been an integral element in the formation of SADCC. Zaire could not be included within the regional fold, owing to the political and economic support it received from Belgium and the United States, which was viewed with disfavour by the FLS. Also working against Zaire was its own support for rebel movements in Angola.

At the same time when those developments were in the preparatory stages, South Africa launched its own counter-initiative in the form of the Constellation of Southern African States. CONSAS, as it was called, was to

include South Africa's apartheid creations, Transkei, Bophuthatswana, Venda and Ciskei, as well as Botswana, Lesotho, Malawi, Swaziland, and Zimbabwe. However, CONSAS collapsed at once, mainly due to the strengthening of the FLS through Zimbabwe's new status and the ability of the FLS diplomatic coalition to found SADCC (Garba, 1997:25).

On 1 April 1980, the nine countries which had subscribed to the Arusha plan, met in Lusaka, Zambia, to officially launch, at the summit level, the Southern African Development Co-ordination Conference.

5.3.2   SADCC: From the Lusaka Declaration to the Windhoek Treaty, 1980-1992

The official SADCC Summit communiqué released on 1st April 1980 announced:

> Today, in a historic Summit meeting, leaders and representatives of the nine independent countries of Southern Africa, made a joint declaration of their strategy for a closer integration of their economies. This marks a new commitment to co-ordinate their economies so as to accelerate their development and reduce their dependence on the Republic of South Africa. **(22)**

The leaders approved a programme of action that included:

□ The creation of a Southern African Transport and Communications Commission based in Maputo;

□ Measures to control foot and mouth disease in cattle throughout the region;

- ❑ The preparation of a food security plan for the region;
- ❑ The establishment of a Regional Agricultural Research Centre specializing in drought-prone areas;
- ❑ Plans for Harmonization of Industrialization and Energy Policies;
- ❑ Sharing of National Training Facilities with the Region; and,
- ❑ Studies leading to proposals for the establishment of a Southern African Development Fund.

An inspection of the programme of action, needless to say, reveals that at its launching, the Southern African states, as SADCC, did not envisage the organization's commitment in security and political matters, which, arguably, were still the domain of the FLS. **(23)**

The main objectives of the Lusaka Declaration, the legal document establishing SADCC, were as follows:

(1)   To reduce the external economic dependence, especially on South Africa;

(2)   To secure genuine and equitable regional integration;

(3)   To mobilise resources to implement national, inter-state and regional policies; and,

(4)   To achieve international co-operation within the strategy of economic liberation.

It is submitted that at its inception, the main objectives of SADCC were in no way radical or revolutionary, but they reflected the basic aims of any grouping of states desirous of economic regional integration.   The areas of co-operation, such as trade and communications, agriculture, veterinary science, energy, manpower, finance and industrial development, did not predict the eventual existence of an ambitious regional community.

By and large, it was the 'South African factor' that distinguished SADCC from other known regional organization in the developing world. In the words of Kapungu:

> SADCC was not basically formed 'in unity' against South Africa. It was formed as an instrument for development, for improving the standard of living and the quality of life of the people in its member states...But because of the destabilization activities of South Africa against countries whose economies had been conceived and organized as functionaries of South Africa, the *political dimension of SADCC became more pronounced* (in El-Ayouti, 1994: 45 – 46) (Emphasis added).

As an attempt to dilute the "anti-South Africa" perception that SADCC was likely to acquire, the late President Julius Nyerere of Tanzania said at the Lusaka meeting:

> But our purposes are not simply greater independence from South Africa. If South Africa's *apartheid* rule ended tomorrow, there would still be need for states of Southern Africa to co-operate, to co-ordinate their transport systems, to fight foot and mouth disease together, to nationalize their industrial development. (Cited in El-Ayouti, 1994: 46).

It is now a fact that Nyerere's clarification turned out to be the truth: following its attainment of majority rule in April 1994, South Africa joined the group, rather than the group disbanding according to the "anti-South Africa" school of thought. "The political objective", according to Kapungu,

"was to reduce dependency on apartheid South Africa, but the main objective has been to promote balanced economic development" (in El-Ayouti, 1994:48).

The humble beginnings of SADC are also reflected in the fact that the organization was not even constituted by a treaty, which ought to have been registerable under Article 102 of the UN Charter. It was left to the Second Summit in Salisbury (later Harare) in Zimbabwe on 20 July 1981 that the leaders of the organization signed a Memorandum of Understanding on the Institutions of SADCC, which codified all SADCC decisions relating to institutional arrangements. A memorandum is a formula employed when an international instrument does not create binding obligation (Slinn, 1984:189). The institutions established under the Memorandum include the summit Meetings, held annually in ordinary session; and the Council of Ministers, meeting twice a year in ordinary sessions.

A noteworthy development in the early years of SADCC was its decision in July 1982 to invite one representative each of the liberation movements of Southern Africa recognized by the OAU to attend SADCC sessions in observer status. The significance of this decision is that the organization was progressing towards a more visible involvement in the liberation struggle in the region, and was gradually shedding its pragmatic and conservative image as a purely economic association. When the leaders of SWAPO, ANC, and PAC, attended the SADCC summit for the first time in 1984, SADCC signalled its decision to be committed to political matters in the region.

At the international level, SADCC was rewarded in the form of UN General Assembly Resolution 37/248 (21 December 1982) on co-operation between the UN and SADCC. Recognition by the UN meant increased support of SADCC by UN agencies and also that the activities of SADCC as a sub-regional organization are consistent with the objectives and principles of the UN Charter. As Slinn writes, "the UN, in recognizing SADCC, [had] accepted the organization's role relating to matters within its competence" (1984:194). It is the argument of this thesis that "the objectives and principles of the UN Charter" include the maintenance of international peace and security and a case may be put forward that SADC has competence in such matters.

The rise of SADCC and its growth during the 1980s was not devoid of external threats and provocations. South Africa, bitterly let down by the failure of CONSAS to attract credible African nationalists, launched a campaign of destabilization throughout the SADCC region, concentrating its terror on two countries, Angola and Mozambique, the two main transit countries of the region owing to their seaports. Notorious cases of murder and sabotage include, the commando raid on Maseru, 9 December 1981; the destruction of fuel storage facilities in Beira, 8-9 December 1982; and the sabotage of the Benguela Dam in Angola, 17 January 1983. Furthermore, the apartheid regime gave extensive military support to rebel movements, UNITA in Angola, and RENAMO, in Mozambique, to strengthen their cause in destroying the governments of the two countries. According to the figure quoted by Kapungu, between 1981 and 1991, destabilization cost the region more than $30 million. (in El-Ayouti, 1994: 44).

The following discussion summarizes some of the highlights of SADCC pronouncements, in its communiqués, on the political situation in the region, as a prelude to the launching of the Windhoek Treaty creating the new SADC.

The 1982 Summit (22 July 1982) held in Gaborone, condemned South Africa for its policy of destabilization aimed at SADCC member states without any specific mention of atrocities such as that occurred in Lesotho. The condemnation of South African sabotage was to be a recurrent item in the communiqués of years to come.

In 1983, the Maputo Summit delivered a scathing attack on the duplicity of Western countries:

> South Africa can invade and occupy sovereign states, blow up vital installations, massacre populations at no apparent cost to its relations with its main allies. Some of these friends of South Africa, who provide the racist regime with capital, technology, management skills and weapons necessary to carry out such a policy *seek also to improve their relations with SADCC* (Emphasis added). **(24)**

The invective continues: "It is clearly irrational for such countries to invest in regional infrastructure only to see such resources wasted by South African sabotage". **(25)**

Together with the standard condemnation of South Africa, the 1985 Summit also stated: "The apartheid regime continues to arrogantly occupy Namibia

and to brutalize her people in complete defiance of international law and opinion...A new initiative is urgently called for to end the violence of apartheid, the occupation of Namibia and the acts of destabilization against states" (Arusha, 9 April 1985). The summit did not elaborate on the "new initiative"; conceivably, it was an appeal to the international community to take a more active role in the search for lasting peace in the region.

The 1986 Summit (Luanda, 22 August) reviewed the current political and security situation in the region. Specifically mentioned were the following: the mounting international campaign for sanctions against South Africa, her blockade of Lesotho in January 1986 and the attacks on Gaborone, Harare, and Lusaka in 1985, and the current disruption of Zambian and Zimbabwean traffic. What was most revealing about the 1986 Summit was that there was a deafening silence on the January coup in Lesotho, which ousted the government of Chief Leabua Jonathan, and installed Major General Lekhanya at the head of the Kingdom's government. For the first time, the ranks of SADCC were joined by a military figure representing one of the member states. It is submitted that in the absence of any legal provision to comment on the internal affairs of the member states, SADCC was paralysed to condemn the coup, even if it so wished.

The 1987 Summit, held in Lusaka on 24 July, called upon the international community to take concerted action to stop South African aggression, towards the dismantling of Apartheid, and the independence of Namibia. The Summit also registered a strong objection to United States' selective practice of isolating and excluding Angola and Mozambique from its proposed aid to SADCC and warned that that it "expressed its displeasure at

the attempt to associate SADCC member States with terrorism". The stance taken on the ruinous intentions of the US approach of divide-and-rule was laudable, and is approved of in this thesis.

Meeting in Harare on 25 August 1989, the SADCC Summit "instructed the Council of Ministers to formalize SADCC, and give it appropriate legal status, taking into account the need to replace the SADCC Memorandum of Understanding with an Agreement, Charter or Treaty, to be prepared in readiness for signature during the 1990 Summit". But that was not to be because the document was to be ready for signature much later at the 1992 Summit. Also at the Harare Summit, the leaders approved of the new developments towards the independence of Namibia. Namibia acceded to SADCC membership immediately after independence in March 1990, and on 26 August at the meeting in Gaborone, Sam Nujoma's attendance as Head of State, rather than a representative of a liberation movement, marked Namibia as the tenth member of SADCC. Between 1990 and 1992, the focus on non-economic issues was on political developments in South Africa, following the 2 February 1990 pronouncements by President F.W. De Klerk, unbanning all political organizations, including the ANC and the PAC.

The foregoing focal points chronicle SADCC's forays into non-economic issues and reveal that since its inception, the organization was not immune from the strong political forces that were whirling throughout the region. The quest for economic co-operation was harnessed with the desire for political liberation, peace and stability in the region.

In 1992, the Heads of State and Government met in Windhoek on 17th August for the last time under the name SADCC. At the end of the meeting, the summit signed a new Declaration, a Treaty, a Protocol committing member states to deeper and more formal arrangements for co-operation and integration under the framework of a new organization, The South African Development Community (SADC).

5.3.2.1 SADC Treaty: Major Provisions Relating to Regional Peace and Security

The Treaty of the Southern African Development Community is a legal document totalling forty-four pages, and has forty-four articles, divided into eighteen chapters. Hereunder is a synopsis of the major provisions that have potential to characterize the organization as a regional arrangement under Chapter VIII of the UN Charter.

According to the Preamble, the Community bears "IN MIND the principles of international law governing relations between states". As such, the Treaty obliges SADC member states to observe and obey both customary international laws and the objectives and principles of the UN Charter, which include the maintenance of international peace and security.

Chapter Three of the treaty deals with the Principles (Article 4), Objectives (Article 5), and General Undertakings (Article 6) of the Community.

The principles of the SADC treaty are enunciated in Article 4:

(a)   Sovereign equality of all member states;

(b)   Solidarity, peace and security;

(c)   Human rights, democracy, and the rule of law;

(d)   Equity, balance and mutual benefit; and,

(e)   Peaceful settlement of disputes.

Principles 4(b) and (e) provide SADC with a claim to a role as a manager of regional conflicts.   A useful aspect of Article 4 is its specific reference in the opening clause to "SADC and its Member States", which in ordinary interpretation would mean collective and individual roles.   This aspect becomes more apparent when compared with the OAU Charter, which continually refers to "Member States" as if the organization itself has no role at all.

Article 5 lists the objectives of the organization, but those that are not purely developmental are:

5(b)   to evolve common political values, systems and institutions; and,

5(c)   to promote and defend peace and security.

In its communiqué launching the Treaty, the Summit reaffirmed that "priority also be given to arrangements for peace and security in the region".

Article 21 catalogues the areas of co-operation, and in addition to those stated in the Lusaka Declaration, the new ones are: environment, social welfare, information and culture, and the key clause (g): *politics, diplomacy, international relations, peace and security.*

In all these foregoing provisions, SADC has positioned itself to take on the mantle of a regional arrangement in terms of UN Charter provisions, in particular those found in Chapter VIII, and by extension, Article 51 when the occasion arises. However, unlike the ECOWAS in its Defence Protocol, SADC has not yet formulated a mutual defence pact in the hackneyed ritual of "armed attack against one of us....".

Article 43 provides for the registration of the treaty at the OAU and the UN, a clear testimony of SADC's constitutional relationship with higher bodies. In the end, Article 44 marks the termination of Memorandum of Undertaking of SADCC, of 20 July 1981, thereby closing a chapter on the long, and arduous journey that the organization has travelled, and opening a new one of higher expectations in the region.

5.3.3 New Political Developments in Southern Africa and the Launching of the SADC Organ, 1992 - 1996

Namibia's independence and the unbanning of political activity in South Africa in 1990 ushered a period of unprecedented optimism in the region, which climaxed in multiparty and non-racial elections that installed a democratic government in Pretoria in May 1994. Southern Africa, for the first time, was a free region, free from colonial and racist oppression. In more ways than one, SADC's and the FLS's political confrontation with white regimes was concluded with triumph on their side. SADC's involvement in the political situation from 1992 to 1996 can be gleaned from pronouncements in its communiqués.

In 1993, the Community reviewed the political situation in Mozambique, following the Rome Accord between the Frelimo Government and Renamo rebels, and "was encouraged by improving situation in that country" which translated into multi-party general elections in October 1994. The Summit also reaffirmed its earlier position that the region, through SADC and the Front-Line states, had a crucial role to play in the democratization of South Africa.

The momentous event of 1994 was the accession by South Africa to the Windhoek Treaty, when the then Executive Deputy President Thabo Mbeki signed and sealed the Instrument of Accession in Gaborone on 29 August. South Africa became the eleventh member of SADC. The major political turmoil that confronted SADC was the Lesotho constitutional crisis that began in April. The crisis will be dealt with in a subsequent chapter. Suffice it here to quote: "The summit condemned in strongest terms the actions of the Lesotho Security Forces. At the same time, the summit expressed strong objections to the recent decision by His Majesty, King Letsie III to unlawfully dissolve Parliament and disband the democratically elected government in gross violation of the constitution of the Kingdom". **(26)** What was significant about these remarks was that, whether consciously or not, SADC was interfering or intervening in the affairs of a member state for the first time. With regard to Angola, the Summit pinned its hopes on the UN-sponsored Lusaka negotiations leading to national reconciliation. With regret however, the Summit noted the intensification of the war in Angola. Another notable announcement in 1994 was the approval of the establishment of a Sector on Politics, Diplomacy, International Relations, Defence and Security.

The 1995 Summit was held in Johannesburg, South Africa, and the official communiqué was issued on 28 August. The Republic of Mauritius attended the Summit for the first time, bringing the total membership to twelve. In his welcoming address, President Mandela told the summit that "peace and stability was now prevailing in the region, pointing out that *time had come to concentrate on economic growth and development issues*" (Emphasis added). **(27)** With that view, perhaps, SADC wanted to signal the return to the original objectives. The Summit was also told about relative stability that had returned to Lesotho following Frontline States troika intervention (Botswana, South Africa and Zimbabwe, as the so-called Lesotho Guarantors). On the issue of the Sector on Political Co-operation, Peace and Security, the Summit deferred it to a future date, obviously after considering the sensitivity of the matter.

For the first time, SADC held a Special Summit on 11 December 1995 in Pretoria. The sole issue for discussion was Nigeria, in the wake of international protest and condemnation of the military government's decision to execute nine Ogoni activists, including the renowned writer, Ken Saro Wiwa. The Special summit, convened by South Africa, desired to adopt a united position against Abacha's regime. Conceivably, owing to lack of unity, the Summit "decided that the contribution of SADC towards resolution of the Nigerian crisis will be channelled through Commonwealth Group of Eight (including South Africa and Zimbabwe), the OAU and the United Nations". No initiative was taken by SADC and South Africa's hopes for a punitive approach were left by the wayside

SADC leaders met in Gaborone on 28 June 1996 to launch the SADC Organ on Politics, Defence, and Security (OPDS, or Organ for short). The Organ "Constituted an appropriate institutional framework by which SADC countries would co-ordinate their policies and activities in the areas of politics, defence and security". The organ was established pursuant to the principles set out in Article 4 of the SADC Treaty, but this time round, they were enhanced and amplified (especially (g)) to present an unambiguous position on conflict resolution in the region:

(a)   Sovereign equality of all member States;

(b)   Respect for the sovereign and territorial integrity of each State and for its inalienable right to independent existence;

(c)   Achievement of solidarity, peace and security in the region;

(d)   Observance of human rights, democracy and the rule of law;

(e)   Peaceful settlement of disputes by negotiation, mediation and arbitration; and,

(f)   Military intervention of whatever nature shall be decided upon only after all possible political remedies have been exhausted in accordance with the Charter of the OAU and the United Nations.

For the purposes of SADC's emerging role in the maintenance of international peace and security, Principles (c); (e); and (f), are of an added significance. Principle (f) laid the legal basis for enforcement action in terms of Article 53(1) of the UN Charter, and there was to be no ambiguity about it.

As far as the objectives of the Organ are concerned, there are sixteen of them. The ones that are crucial to this thesis are:

- To protect the people and safeguard the development of the region, against instability arising from the breakdown of law and order, inter-state conflict and external aggression;

- To co-operate fully in regional security and defence through conflict prevention management and resolution;

- To mediate in inter-state disputes and conflicts;

- Where conflict does occur, to seek to end this as quickly as possible through diplomatic means. Only where such means fail would the Organ recommend that the summit should consider punitive measures. These responses would be agreed in a Protocol on Peace, Security and Conflict Resolution; and,

- To develop a collective security capacity and conclude a Mutual Defence Pact for responding to external threats, and a regional peacekeeping within national armies that could be called upon in the region, or elsewhere on the continent.

The application of the above principles and objectives will be examined in a forthcoming chapter focussing on SADC involvement in the conflicts besetting the region.

For the institutional framework of the Organ, the Summit declared that it "shall operate at the Summit level and shall function independently of other SADC structures. The Chairmanship of the Organ shall rotate on annual and on a Troika basis". President Mugabe, as the permanent chairman of the Front Line States, was elected the first Chairman of the Organ. In that capacity, he called the first meeting under the provisions of the Organ, at summit level, on 22 October 1996 in Luanda, Angola, to address the political situation in that country. The Luanda meeting presented SADC with its first constitutional crisis of whether or not a meeting at summit level should be chaired by the SADC Chairman, President Mandela.

The period after the Windhoek Treaty, South Africa's independence, and the launching of the Organ is described in these words:

> On the political scene, democratic processes seem to be undergoing all sorts of test. The buzz-words such as "human-rights", "transparency", "rule of law", "good governance", "accountability", etc, were still novel ideas which needed to be put to severe test in South Africa (Garba, 1997:30).

5.4 CONCLUSION

The foregoing discussion provided an examination of African regional organizations, namely the OAU, ECOMOG and SADC from an historical-comparative perspective. The examination disclosed that, generally, these organizations were not originally set up with Chapter VIII activities foremost in their objectives and principles. These activities which purported to maintain international peace and security were part of the "learning" experience of the organization.

The discussion explained that the primary objectives of the OAU were the unity of independent African States and the eradication of colonialism and racism from the African continent. Although the OAU Charter clearly expresses the supremacy of the UN Charter and the Universal Declaration of Human Rights, there are no categorical references to the UN Charter which might guide the activities of the OAU, for example as found in the OAS, NATO and WTO. Another characteristic of the OAU is that, despite the

lack of obligatory mechanisms to bring disputes between member states, the organization succeeded in institutionalizing this very principle through the *ad hoc* committee it is well-known for. The OAU, it was found, played a major role in the liberation struggle in Southern Africa.

ECOWAS, the study revealed, represents the first-ever attempt by an African regional organization other than the OAU to deal with conflicts between states in the region. Also, its activities within the realm of UN Charter Chapter VIII provisions evidenced the expansion of tasks. ECOWAS began its life in 1975 as a coming together of poorly developed countries with the pre-eminent, and perhaps sole objective of creating a West African economic market that would be strong enough to attract investment and propel development. In 1990, it created, as historical circumstances demanded, a peacekeeping force, ECOMOG, which later transformed itself into an indispensable agent for peace in the region.

The story of SADC is not altogether different from that of ECOWAS. When in 1980 nine poorly developed Southern African states assembled in Lusaka to declare their mission towards economic independence from South Africa, no one could divine that from 1994, the organization would be involved in the political instabilities of its member states. SADC so far has not categorically, proclaimed itself as a Chapter VIII organization, but to all intents and purposes, it is today regarded as such.

The next chapter focuses on the historical cases that illustrate the behaviour of all the regional organizations hitherto discussed, except ECOMOG and

SADC, which do not have a history of peace-keeping activities during the Cold War period.

NOTES

1) It is of importance to explain here the terminology to be adopted in this thesis regarding *region/regional* and *sub-region/ sub-regional*. Earlier literature on regionalism favoured the exclusive usage of *regional* to refer to the OAU, and *sub-regional* to mean other organizations within the continent. Evidently, that was meant to recognize the OAU's pre-eminence as Africa's voice on the world stage. Nonetheless, with the growing international stature of both ECOWAS and SADC, especially in peace and security matters, accompanied by the decline of the OAU's role in such matters in recent decades, the use of sub-regional has consequently fell out of favour. This thesis will refer to all African organizations as *regional* organizations.

2) Many commentators observe that this principle is peculiar to the OAU and that no other regional organization of note has gone so far in its treaty or founding document to declare its non-aligned status. However, many African countries have on their own disregarded this principle, and for the interest of the nation-state, have shown a preference for one of the power blocs, when pragmatism called for this.

3) Some writers on the topic use the orthography: Frontline states, which will be retained in direct citations. Otherwise, this thesis will adopt the abbreviation FLS.

4) A major significance of the 1st CIAS, which is often downplayed in many commentaries, is the fact that the meeting laid the bridge between Black and Arab Africa for the first time.

5) Text in Brownlie (1992), pp.540 - 543.

6) Her article, "Radicals and Moderates in the OAU: Origins of Conflicts and Bases for Co-existence" appears in Paul Tharp (1971) pp. 36-50.

7) The two Congo crises (1960 and 1964) will be discussed in Chapter Six on historically important cases in regionalist discourse.

8) Benin, Burkina Faso, Chad, Cote d'Ivoire, Gabon, Mali, Mauritania, Madagascar, Niger, Senegal, and Togo.

9) Morocco was not present at the Addis Ababa meeting.

10) (Council of Ministers) Resolution 5(1), 10 August 1965.

11) The OAU's standpoint on the UAM evidently reflected its desire to attain political pre-eminence over African affairs during its early years. It is instructive to compare its current standpoint on regional groupings such as ECOWAS and SADC.

12) Bennett notes that there was a compelling historical fact that inspired the inclusion of this principle: Before the summit, there existed a series of charges against the government of Ghana by neighbouring states, which culminated in the assassination of President Sylvannus Olympio of Togo, on the eve of the Addis Ababa Summit (1984:362).

13) Much of the information used in this section was obtained from Andemicael's magisterial work on the OAU's relationship with the UN.

14) It is well-known that in the first three decades of the OAU, Heads of Governments did not stay long in their offices. Since most of them arrived at the summit by the sword, they also disappeared by the sword.

15) Zacher believes that some of the ways of ascertaining policy orientation were:
   • Pattern of diplomatic ties;

- Voting behaviour on East-West issues in the UN (for example: ex-French colonies voted with the West; the radicals sided with the Soviet bloc)

- Military and economic aid patterns (1979:141)

16 On this matter, Cervenka observes that of the peaceful means enumerated in Article 33 of the UN Charter, the OAU excluded *judicial settlement*, probably because "inter-African disputes are primarily political and do not require a legal solution" (in El-Ayouti & Brooks, 1974: 51).

17 The OAU espoused, with more vigour, the arguments used by India against Portuguese claims during the Goa incident in 1961.

18 Seven of the ECOWAS members are in a monetary union linked to the French economy.

19 Much like ECOWAS before it, SADC in its early phases could not be easily fitted into the mould of regional arrangements under Chapter VIII of the UN Charter. Nonetheless, the historical imperative is crucial, for background to the development of SADC from political solidarity (Frontline States) through economic co-operation (SADCC), and a regional community (SADC).

20 An important aspect raised by Maphanyane concerns Tanzania and Angola. For Tanzania, its geographical situation in East Africa does not preclude its conception as part of the "Southern African identity", owing to its key role in the liberation struggle. As for Angola, long excluded from this identity owing to Portuguese repression, contributed immensely in the struggle for liberation in Namibia and South Africa.

21 This subsection is essentially a synthesis from the information gleaned from Maphanyane (1994).

22 SADCC Communiqué, 1 April 1980, Lusaka.

23 It is worth recalling that the launching of SADCC did not in any way affect the FLS, which was an *ad hoc* committee of the OAU.

24 SADCC Communiqué, 11 July 1983.

25 *Ibid.*

26 SADC Communiqué, 29 August 1994, Gaborone.

27 SADC Communiqué, 28 August 1995, Johannesburg.

CHAPTER SIX: THE GEOPOLITICS OF REGIONAL ARRANGEMENTS: A SURVEY OF LEADING HISTORICAL CASES, 1945 - 1990

6.0 INTRODUCTION

In Chapters Four and Five, attention was centred on the constitutional arrangements of seven regional organizations which have a role to play in the maintenance of international peace and security under the provisions of the UN Charter. The approach that was used in the examination of these arrangements was at once historical and comparative. The historical perspective built the context within which each organization has to be analysed in terms of its origin, development, and over-all assessment, and the comparative aspect was used as a framework within which to consider the organizations according to prescribed criteria, such as treaty provisions, and the available resources for conflict management and resolution.

It is now the intention of this chapter to move from treaty provisions that are essentially theoretical, to the actual behaviour of states, or state practice on the world stage, in their presumed task of maintaining international peace and security. The cases isolated for the purpose of this chapter are what may be termed leading historical cases, or historically important cases. By and large, they are historical events that laid the foundation for the study of regional arrangements in international law and politics. They are the parameters within which practitioners and scholars assess their theoretical assumptions and as such, they are the perennial references to historical

events that have guided the course of the development of universal-regional relationships. Proverbially, they are grist-to-the-mill for scholars of international law and politics, more especially when the approach adopted is the historical perspective. The majority of them, such as all the OAS cases and the early cases involving the OAU, have received academic and critical attention of a high standard from a wide spectrum of commentators, resulting in mountains of worthwhile literature.

The primary purpose for selecting these cases in this thesis is that they provide continuity in the narrative of the entire subject on regional arrangements concerned with the maintenance of international peace and security. They reinforce, as it were, the logical flow of the argument presented in this study. Furthermore, the historical approach adopted in this thesis desires a three-dimensional perspective: the past, the present and the future. In terms of the narrative presented in this thesis, this chapter takes a look at the practice of regional arrangements in the past, that is, during the Cold War period, which is the defining era in the history of the twentieth century, especially of the United Nations. The next chapter will examine the present or recent manifestations of the role that regional arrangements play in the post-Cold War era, or the self-styled New World Order. The succeeding chapter, which closes the research arguments, will attempt to present a future perspective of regional arrangements based on the past and the present. Consequently, the discussion in this chapter emphasises the "lessons from history" that could be possibly learnt.

For the OAS, the cases selected are: Guatemala (1954), Cuban Crises (1960 - 1964), the Dominican Republic (1960;1965), the Falkland Islands

/Malvinas (1982). Cases involving the Arab League are: Lebanon (1958; 1976), Kuwait (1961). NATO involvement in historical cases is, strictly speaking, non-existent, as it shall be explained hereunder. However, there will be a brief mention of the lone example of Cyprus (1964). The Warsaw Pact's cases are the two notorious invasions of Hungary (1956) and Czechoslovakia (1968). OAU cases are: Algeria-Moroccan border crisis (1963), Ethiopia-Somalia-Kenya (1964); The Congo crisis (1960; 1964); Nigerian Civil War (1967-1970) and the Chad intervention (1981).

6. 1   ORGANIZATION OF AMERICAN STATES

At the outset, it should be mentioned that, by far, the literature existing on the OAS exceeds that of any other regional organization. In terms of historical cases, however, the behaviour of the OAS has not received favourable assessment. According to Levin, this is "due to the fact that generally the cases that have tested the interpretation and application of norms concerning the respective roles of the organizations...have been those where the United Nations and the OAS collided rather than those where they complemented each other" (in Andemicael, 1979:148). Her argument rests on the observation that from its inception in 1945 up to 1960, with one exception of Guatemala in 1954, there was no UN involvement in inter-American conflicts.

Another defining attribute of the OAS is that during the Cold War period it was the only organization that was involved in serious arguments about the interpretation of Article 53 of the UN Charter. The OAS members interpreted the article in such a way as to minimise Security Council control

(Akehurst, 1967:182). The main issue in the confrontation between the universal body and the regional organization was whether "enforcement action" referred only to military action, or it was meant to include non-military sanctions as well.

The OAS, furthermore, was locked in contention with the UN over the right of member states of the former to take their disputes to the latter. Insisting on the constitutional obligation of its member states to refer disputes for pacific settlement first to the regional body, the OAS struggled to maintain pre-eminence over the provisions of Article 34 and 35 of the UN Charter. (Claude, 1964; MacDonald, 1964)

Hereunder an analytical survey of OAS individual cases to illustrate the conduct of the regional organization and its relationship with the United Nations:

6. 1. 1   Guatemala (1954)

The Guatemala case earned its place in the history books of universal-regional relationship by being the first to test the constitutionality of that relationship, in terms of Chapter VIII of the UN Charter.

The invasion of Guatemala from Honduras and Nicaragua by exiled Guatemalan rebels receiving military support from the United States began on 18 June 1954. The attack was against the government of Colonel Jacobo Arbnez Guzman, legally elected on 15 March 1951, which by early 1954 had been turning more and more to communist support..

Within the context of the deepening Cold War, the United States feared that communism in the small country would provoke a violent class struggle and that the ideology would spread in Central and South America (MacDonald, 1964:24). As a precaution, the United States sponsored and guided a resolution on communism at the tenth Inter-American conference held at Caracas, between 1-28 March 1954. Popularly known as the Caracas Declaration, in full The Declaration of Solidarity for Preservation of the Political Integrity of the American States against International Communist Intervention, it was the first in the series of measures to protect the American States against communism. According to reports, it was adopted by seventeen votes to one (Guatemala) with Argentina and Mexico abstaining. Conceivably with a view to punish the Arbnez regime, the United States embarked on a destabilizing campaign by arming the rebels (Degenhardt, 1986: 347).

On 19 June 1954, the Guatemala government called on the UN Security Council to act against the aggression and send an observation commission. At the same time, it also called the OAS's Peace Committee to send an investigatory body to verify the aggressive activities of Honduras and Nicaragua. By turning to the United Nations, Guatemala was invoking the authority of the Security Council based on Articles 34, 35, and 39 of the UN Charter.

On 20 June, the Security Council passed a resolution calling for an end to the bloodshed and asking states not to contribute to it, but it did not support a Soviet proposal demanding a withdrawal of the invading troops. The

majority of the Council proposed to refer the issue as a dispute to the OAS, based on Articles 33, and 52 of the UN Charter. The next day, Guatemala asked the OAS Peace Committee to suspend its activities since the matter was before the Security Council, but Honduras asked the Committee to continue its involvement. Without Guatemalan consent, however, the Peace Committee could not conduct any investigation.

Guatemala, through strong Soviet support, succeeded in convening another Security Council meeting, which turned out to be a duel between the representatives of the United States and the Soviet Union. The Soviet ambassador, Simeon Tsarapkin argued: "To send the matter to the OAS for further discussion would be fiddling while Rome burned" because the invaders were already on Guatemalan territory. The position of the United States was that the problem fell under Article 52(2) and its ambassador said: "I say to the representative of the Soviet Union, stay out of the hemisphere and do not try to start your plans and your conspiracies over here" (cited in MacDonald, 1964:28).

Events took a dramatic turn over the next two days, 26 to 27 June. First, Guatemala, realizing that UN assistance was not forthcoming, approached the Peace committee to send its mission, a request which was granted on the 27th, the very same day that the Arbnez government fell. The president resigned and fled to Mexico and a military junta took power in the interim. On July 8, a new junta led by Castillo Armas assumed power and was recognized by the United States (MacDonald, 1964:24; Zacher, 1979:227). To all intents and purposes, for the OAS, and by extension the Security Council, the matter was then closed.

A few lessons are thrown up by the Guatemala case. First, the Security Council asserted its authority granted by Article 39 to determine the existence of any threat to the peace or act of aggression. In the Guatemala case, however, the Council determined that an armed invasion was a "dispute", and therefore, fell within the scope of Chapter VI of the UN Charter. As regretted by Bebr (1955:178), to treat a situation or even aggression as a mere dispute excluded, or even minimized, United Nations action. Second, the case illustrated how an ordinary armed invasion of a small country assumed Cold War proportions, by pitting the two superpowers against each other. The matter was no longer for consideration by the Council on its own merits, but instead was bandied around within an ideological context. Finally, the case was a clear example of how the United Nations failed to come to the aid of a small nation, an omission that resulted in a military coup ousting a democratically elected government.

6. 1. 2 The Dominican Crisis (1960)

In August 1960, members of the OAS decided collectively to break diplomatic relations with the Dominican Republic and also to apply partial economic sanctions because of putative complicity of that government in the attempted assassination of the President of Venezuela. What was crucial in that decision was that under Article 20 of the Rio Treaty, OAS resolutions imposing economic sanctions constituted only a binding obligation on all members.

The Security Council took up the matter as requested by the Soviet Union, which desired to approve the decision of the OAS so as to give it legal force and to render it more effective in terms of Article 53. By and large, the Soviet proposal was *ex post facto* legitimization as opposed to *prior* authorization as per article rules. In accordance with the view of the Soviet Union, and its ally, Poland, the collective measures imposed by OAS members against the Dominican Republic were enforcement measures within the meaning of Article 53 in as much as the term "enforcement action" in Article 53 embraces measures enumerated in Article 42 as well as those in Article 41 of the UN Charter.
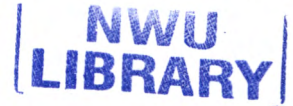
The opposing view held by the United States and the United Kingdom asserted that "enforcement measures imposed by a regional organization require prior Security Council authorization only if those measures called for the use of armed force" (Akindele, 1976:109). On the strength of numbers favouring the Western view, a resolution was adopted urging the Council to merely "take note" of OAS action. Henceforth, widespread, although not legally correct, interpretation of the concept "enforcement action" as used in Article 53 was not to encompass measures enumerated in Article 41.

The Security Council divested itself of its own constitutional authority by setting a precedent that regional enforcement action which did not involve the use of force did not require the prior approval of the Council. That was the major outcome of the Dominican Republic crisis. Another abiding lesson was that some powerful member states abused their authority by interpreting UN Charter provisions in ways that reflected ideological positions that transgressed the parameters of the law as it existed. In the

final analysis, the Dominican case opened wide the interpretation of Article 53. As maintained by Halderman (1963:105) modification of the Charter provisions amounted to nothing less than "tacit Charter amendment theory".

6. 1. 3   The Cuban Crises (1962-1964)

Following his rise to power in Cuba after the ouster of the Batista regime in 1959, Fidel Castro found himself as the ideological outcast and *bete noir* of the OAS fraternity. From 1960 his country was at the receiving end of the United States policy of economic aggression which abused the OAS as a legitimating instrument of its unilateral actions.

At the Punta del Este Conference, on the Uruguayan seaside, OAS leaders met between 5 - 17 August 1962, where they finally adopted a motion to exclude Cuba from the OAS, thereby reinforcing its pariah status. Just like the Dominican Republic before it in 1960, the Cuban government in February 1962 requested the Security Council to condemn the measures taken against it. The Security Council, by and large, invoked the Dominican precedent, but the Soviet view was that no precedent had been set since in 1960, the Council "merely took note" and the resolution was not intended to settle the legal question before it. In the end, the Security Council declined the Cuban request in March 1962 for an advisory opinion on the matter. The Council declared that the exclusion of a member from participating in the activities of the regional organization was within the competence of that body and did not at all amount to an "enforcement action".

Matters, however, came to a head in the historical and well-documented Cuban Missile Crisis of 22-31 October 1962. The uncontested facts of the case have already reached legendary status and to rehearse them here would only arrest the narrative flow of this submission. What is important for this discussion is the response of the OAS, as a regional body, in the awesome task of the maintenance of international peace and security.

Following the blockade of Cuba by the United States because of the shipment of Soviet-made nuclear missiles to the Caribbean Island, the world was brought to the brink of a nuclear war between the two superpowers. But that was not to be. Both sides made certain demands with a view to resolving the international crisis.

The United States demanded the withdrawal from Cuba of all missiles and offensive weapons, maintaining that the quarantine would only be terminated after the withdrawal of the missiles. The Soviet and Cuban response was that the missiles were intended for defensive purposes (for example, to deter a United States invasion of Cuba). They insisted that the United States infringed the freedom of the seas, which amounted to aggression in terms of Chapter VII of the UN Charter. In the end, the Soviet Union withdrew the missiles in return for a United States guarantee not to invade Cuba, after which the blockade was terminated (Akehurst, 1967:199).

Before the lifting of the quarantine on 31 October, there was a flurry of diplomatic activity to deal with the crisis, through the initiatives of the OAS and the United Nations. At a meeting convened by the OAS to legitimize

the blockade as a regional action, Dean Rusk, the US Secretary of State, said on 23 October, that, in so far as the missile threat was to the western hemisphere, the American Republics had "primary responsibility and duty to act" (Akindele, 1976:113). Once again, the OAS was set on a collision course with the United Nations, this time over the interpretation of the enabling resolution of the regional body to enforce the quarantine. The OAS, by interpreting the measure as an exclusive regional concern, desired to by-pass the Security Council, insisting that the organization did not require Council authority in terms of Article 53.

The stage was set for high-sounding, self-interested interpretations of the UN Charter in that particular circumstance. The hub of the controversy was the nature of the measure imposed by the OAS at the unsubtle instigation of the United States. As explained by Akindele: "The naval quarantine, though unilaterally announced by the United States, was implemented by the OAS resolution which recommended individual and collective action, including the use of force, to prevent further delivery of 'offensive' weapons to Cuba. In other words, the quarantine measure was an act of the OAS" (1976:111).

Leonard Meeker, the Deputy Legal Adviser to the US State Department said at that time:

> As understood by the United States, 'enforcement action' means obligatory action involving the use of armed force. Thus, 'enforcement action' as the phrase appears in Article 53 (1) should not be taken to comprehend action of a regional organization which is only recommmendatory to the members of the organization (quoted in Akindele, 1976: 111).

The essence of the OAS, or indeed the United States argument, was that the OAS resolution was *recommendatory* and not *obligatory* to the member states, therefore, it did not fall within the purview of Article 53(1) of the UN Charter. It is submitted that the interpretation was flawed, and it merely reflected interest of power. This is based on the proper interpretation of Article 20 of the Rio Treaty which reads: "Decisions which require the application of the measures specified in Article 8 **[necessary to maintain inter-American peace and security, e.g. severance of diplomatic relations, economic sanctions, and use of armed force]** shall be binding upon all signatory states...*except that no state shall be required to use armed force without its consent*". It is therefore evident that any OAS resolution to resort to "enforcement action" which includes the use of armed force is inherently *recommendatory* as provided for by Article 20 of the Rio Treaty. As such, the US position was a red herring, with the spurious intention to confuse the issues.

A bitter lesson was that in the end that very false interpretation commanded the support of the Security Council. Abram Chayes, the Legal Adviser to the US State Department clarified the outcome of the Council's position on the Cuban Missile crisis thus:

> Regional organizations would now seem to have moved into a key place in the Charter's revised scheme of world order...*The integrity of the principle of prior authorization has been challenged*...The Council is a political body which is free to pick and choose, on an *ad hoc* basis, between interpretations which emphasized universal values and interpretations which emphasize regional values. And that

is precisely what it has been doing in these Article 53
situations (cited in Macdonald, 1964:49) (emphasis added).

In these self-congratulatory terms, Chayes was correct in explaining the
position of the Security Council, but, it is submitted, he was mistaken in his
interpretation of the UN Charter.   But as MacDonald assesses Council's
response to the Cuban crisis, "it maintains contact with reality by reflecting
the paralysis of the Security Council and the decentralization of international
society" (1964:49).   And as he concludes, "had Chapter 8 not appeared in
the charter, the Organization's practice would have created it nevertheless"
(1964: 54).

What is to be learnt from the Cuban missile crisis is that the principle of
prior authorization in Article 53 has been cast by the wayside.   The Security
Council, in stripping itself of its primary responsibility of maintaining
international peace and security, weakened one of the crucial positions in the
UN Charter which regulated relationships between the universal body and
regional arrangements.   Article 53(1), in its prior authorization principle,
clearly provides for the primacy of the universal body in those relationships.

It should be mentioned that Cuba was ultimately expelled from the OAS at
the meeting of Foreign Affairs Ministers on 26 July 1964 following a 15 to 4
vote (Bolivia, Chile, Mexico and Uruguay dissenting).

6. 1. 4   The Dominican Republic (1965)

The tiny Caribbean nation once more found itself the epicentre of the stormy
controversy between the OAS and the United Nations in 1965.   The civil

strife in that country began on 25 April when the faction loyal to former President Juan Bosch, known as the Constitutionalists, overthrew the government of President Reid Cabral and attempted to restore Bosch to power. The army, which remained loyal to Cabral, mounted a counterattack against the Constitutionalists and a civil strife commenced. The army took power and in view of the losing battle against the rebel-Constitutionalists, informed the U.S Embassy that it was not in the position to guarantee the safety of United States nationals. As a response to the request of the military junta, the United States despatched 400 marines on 28 April with the ostensible mission of protecting and evacuating foreign nationals (Zacher, 1979:257; Harris, 1991:845).

It is now a well-known fact that the real reason for intervention was the fear that the rebel-Constitutionalists were strongly influenced by Communism. By May 2nd there were over 14000 U.S. troops in the Dominican Republic and by the 5th of May, their number exceeded 20000. In the end they totalled 32000 (Nye 1987:145).

The action of the OAS was as follows: on 29 April, the OAS Council called for a cease-fire and convoked a meeting of OAS Foreign Ministers for May 1st. **(1)** Immediately thereafter the United States shifted its position and tried to justify its intervention as necessary to save the Dominican Republic from communist rule. On 2 May, President Johnson delivered the notorious "Johnson Doctrine":

> ...what began as a popular democratic revolution...very shortly...was taken over...by a band of communist conspirators. The American nation...cannot permit the

> establishment of another Communist Government in the
> Western hemisphere...This was the unanimous view of all
> the American nations when, in January 1962, they
> declared..."the Principles of Communism are incompatible
> with the principles of the Inter-American system".   This is
> and will be the common action and common purpose of the
> democratic forces in the hemisphere (cited in Harris,
> 1991:845 - 846).

By insisting on the exclusion of international communism from the western hemisphere, President Johnson was unwittingly anticipating the Brezhnev Doctrine declared in 1968 to justify the invasion of Czechoslovakia. Akehurst writes that despite many anti-Communist resolutions passed by the OAS, none of them permitted for military action to prevent the installation of a Communist government in a member State, except when two conditions are both met:

(1)   The action must be taken under the authority of the OAS;
(2)   The communist forces must represent external subversions and not an indigenous movement (1967:204 - 205).

An assessment of US intervention would reveal plainly that it did not satisfy those two requirements: first, the United States on 28 April was not acting under the authority of the OAS, and second, there was no proof that the rebel-Constitutionalists were a product of external subversion, despite US protestations that the communist were trained abroad.   Akehurst's view is that "President Johnson had a low opinion of the OAS and it was unlikely that he had originally intended to turn the problem over to the OAS" (1967:206).

On May 6th, the Foreign Ministers of the OAS met pursuant to Council order of May 1st, and voted 14 to 5 in favour of US request for the creation of an Inter-American Peace Force that would in fact multi-laterize the unilateral intervention (Nye, 1987:6). For that matter, the role of the OAS was merely a *post facto* legitimization of and a fig leaf for US hegemonic policy in the region.

The Security Council was also involved in the matter. It began the first of its thirty meetings on the Dominican intervention on May 3rd at the request of the Soviet Union. The use of the veto by both the United States and the Soviet Union prevented any workable resolution. In the end, on 14 May the Council passed a resolution calling for a cease-fire and requesting the Secretary-General to establish a UN representative in the Dominican Republic to report to the Council on developments there (Zacher, 1979:258).

The singularity of the Dominican case was that for the first time in UN - OAS relationship, the United Nations acted on the case when the OAS was already dealing with the matter. The simultaneous activity of the UN and the OAS in the Dominican Republic ignited criticism from both sides. The UN Secretary-General, U Thant, was widely reported as publicly voicing his concern about the impartiality of the OAS. The OAS, for its part, criticised the Security Council for its "abuse of power". As observed by Levin, "the UN and the OAS were injected in the Dominican conflict more as competitors than partners" (in Andemicael, 1979:160). In the end, the process led to elections in September 1966.

The lesson deriving from the Dominican case of 1965 was that a regional organization which acts mostly as a cover-up of the naked aggression of a hegemonic member state loses credibility in the eyes of the world. The OAS was never to recover fully from the political disaster of the Dominican intervention.

6. 1. 5   The Falklands/Malvinas War (1982)

On 2 April 1982, Argentinean forces invaded the British-ruled Falkland Islands and on the next day took possession, by force, of some islands lying further out. The action of Argentina was based on claims of sovereignty over the islands, which they called Malvinas, and declared that British occupation was illegal in terms of international law and therefore the use of force was valid (Harris, 1991:855). By invading the south Pacific archipelago, the Argentinean leader, General Leopoldo Galtieri, effectively killed the on-going talks concerning sovereignty over the islands.

The Security Council adopted Resolution 502 (3 April 1982) which determined that there existed a breach of the peace in the region of the Falkland Islands (Islas Malvinas) and demanded the following:

(1)   An immediate cessation of hostilities;

(2)   An immediate withdrawal of all Argentinean forces from the region; and,

(3)   A diplomatic solution by the parties.

The Falklands war became a quandary for the United Nations and the United States in an interrelated way. For the UN, it meant re-defining the role of regional organizations in dispute settlement because one of the key organizations set up for this role, the OAS, was backing the aggressor, Argentina, unconditionally. The aggressor in 1982 was not the USA, as it was in the 1950s and 1960s. In the past, the OAS succeeded in giving "collective legitimation" to use of force by the US in the face of acerbic criticism from some members of the Security Council. For the United States, the war meant an untenable position, where the choice was between loyalty to its NATO ally, Britain, and its hemispheric neighbours who supported Argentina. As Calvocoressi judges the matter, the USA had failed at the beginning to condemn, in the Security Council, Argentinean aggression as the UN Charter required (1987: 99). That omission on the part of the USA evidenced the duplicity of the powerful countries that are entrusted with maintaining world peace and security.

On 5th April, Britain sent a military expedition (the Task Force) to the region and later, together with European Community members, applied economic sanctions against Argentina.   The United States offered Britain logistical support while the OAS threw its weight behind the Argentinean cause.   In that situation, the OAS acted without the preponderant muscle of the United States for the first time.

Evidently, the Falkland/Malvinas case was a great crisis for the OAS because it found its hemisphere role overshadowed by the United Nations in New York and by the individual mediation of US Secretary of State, Alexander Haig (Henrikson, 1986:142). The international community made

Resolution 502 the basis for any solution to the conflict. One of the key provisions of that resolution was Argentine withdrawal from the islands, a move bitterly opposed by the OAS. The US position was that as Argentina had used force first, it could not invoke the Rio Treaty to deal with "extra-continental aggression" as argued by Argentina and its OAS backers.

While the British expedition was on its way to the south, Secretary Haig began a shuttle-diplomacy between London and Buenos Aires. His main task was to persuade President Galtieri that "the British force was no mere bluff and would recover the Falklands by force if no agreement was reached between the adversaries before the expedition reached the islands" (Calvocoressi, 1987: 99). As the then British Prime Minister recalls in her memoirs:

> On Thursday 8 April Al Haig arrived in London for the first stage of his long and tiring diplomatic shuttle... We made it quite clear to him... that *he was not being received in London as mediator but as a friend and ally*, here to discuss ways in which the United States could most effectively support us in our efforts to secure Argentine withdrawal from the Falklands [...] It was apparent from the beginning that, whatever might be said publicly, *Al Haig and his colleagues had come to mediate* (1993: 191 – 192) (Emphases added).

Thatcher's account describes the unshakeable position of the British, which was that they would not negotiate with an aggressor and that they did not expect the United States to be impartial on the matter. She writes that there

was no other way out of the conflict except the use of force and concludes: "And anyway, what was the alternative? That a common or garden dictator should rule over the Queen's subjects and prevail by fraud and violence? Not while I was Prime Minister" (1993:181).

The sinking of the Argentine cruiser the *General Belgrano* on 2 May, with a loss of 368 lives, put an end to diplomatic negotiations. Britain managed to escape charges of use of force by claiming that the incident was one of self-defence but the overwhelming opinion of commentators showed that the British action could not be excused on that basis. The circumstances in which the vessel was destroyed were not those accepted as warranting self-defence in customary international law.

After the failure of Haig's attempts at mediation, the United States sided officially with Britain on May 28th and imposed sanctions on Argentina (Cassesse, 1986:234). Pirrone maintains that without the backing of the United States, the OAS was unable to do anything more than give a purely verbal manifestation of political solidarity against the counter offensive launched by Britain in self-defence (in Cassesse, 1986:236). Finally, after an all-out war because of collapse of diplomatic initiatives, Argentina surrendered on 14 June 1982. In the final analysis, although Argentina was the undisputed aggressor,

> ...the British government did not wholly escape the
> embarrassment of demonstrating that in a crisis a powerful
> state will not welcome UN diplomacy and will subordinate

the rule of law and its obligations to its own assessment of national advantage and prestige (Calvocoressi, 1987: 100).

It is submitted that the United States should also be censured for its duplicity. It did not address with expected vigour and candour a clear case of aggression by a fellow member of the OAS but rather attempted the failed diplomatic initiative to save its own profile in the hemisphere instead of evoking the force of Chapter VII of the UN Charter. For the record, the OAS was never used as a fig-leaf by the US after the Falklands conflict.

6. 2   THE LEAGUE OF ARAB STATES

At the outset, it needs to be mentioned that, compared to the OAS, the Arab League does not have a sustained record of involvement in the conflicts that have arisen in the region.   One of the main reasons, perhaps, was that the League did not impose on its members the obligation to solve their disputes within the context of the League's machinery before referring them to the United Nations. **(2)**   For that matter, there were no constitutional struggles for primacy between the League and the United Nations, as was the case between the OAS and the UN.   Furthermore, the League did not possess elaborate and enshrined mechanisms for the settlement of disputes in a peaceful manner, nor any realistic provision for the deterrence of an external threat and for enforcement action.   As illustrated by the Suez crisis in 1956, the League was totally ineffective against the military offensive of Britain, France, and Israel.

In the 1950s and 1960s, the perennial problem besetting the League as a regional dispute manager was the so-called Egyptian factor. That was because in nearly all the cases which were brought to the League's Council at that time, Egypt, and later the United Arab Republic (UAR) as it became after 1958, was charged as the aggressor. Further, in the majority of those cases, the League was incapable of resolving charges of UAR intervention, compelling member states to look outside the region for assistance. For example in 1958, Lebanon turned to the United States, and Jordan to the United Kingdom, as will be illustrated under 6. 2. 1 below.

But the most damaging of all instances of the League's inability to deal with an inter-member dispute was the Algerian-Moroccan border dispute in October 1963, when the two disputants resorted to the OAU, which was then barely five months old, rather than to the League for conciliation of their dispute.

Another notable and lamentable failure of the League's task in the maintenance of international peace and security was the protracted Yemen Civil War of 1962 to 1967, in which Saudi Arabia and the UAR, arguably the key member states, supported opposing factions. At the beginning of the conflict, the Council could not deal with the matter because a meeting would be useless. The main sticking point was that there were two conflicting proposals for discussion on the table: one from the Yemen republican regime alleging Saudi aggression, and the other from Yemeni royalists, charging the Egyptians with aggression (Zacher, 1979:177).

The following discussion will isolate three cases for a more detailed consideration, namely, the Lebanese civil crisis of 1958, the Kuwait case of 1961, and the Lebanese conflict of 1976.

6. 2. 1   <u>The Lebanese Civil Strife (1958)</u>

The civil strife in Lebanon broke out in May 1958 as presidential elections approached. The two factions were the pro-Western government of President Camille Chamoun (dominated by the Christian population) and pro-Nasserite/Egypt rebels (mostly Muslims). When the conflict reached serious proportions, the Chamoun government alleged that the rebels were receiving military assistance (both arms and troops) from the UAR and it resorted to the United Nations for action. (Zacher, 1979:234). In its letter of 22 May addressed to the Security Council, Lebanon mentioned that if the Egyptian intervention was not terminated, it would endanger international peace and security.

The Security Council met on 27 May to consider the Lebanese claims, but before the debate could commence, Iraq asked the Council to adjourn in order to allow the Arab League to discuss the matter, which was, first of all, a conflict between two Arab states, and referred to the provisions of Article 52(2) of the UN Charter. In the process, the Lebanese Government was prevailed upon to seek a solution within the context of the Arab League when the Security Council accepted the Iraqi proposal.

The Arab League met between 2-5 June where there was initial agreement that Lebanon would withdraw its appeal to the Security Council and the

League would establish a committee to visit and conciliate groups in Lebanon (Nye, 1987:161). During the meetings, however, consensus could not be reached because of the hostility between the radicals (Egypt, Syria and Yemen), and the conservatives (Iraq, Libya, Saudi Arabia, Jordan and Lebanon) who were monarchist and pro-Western. As a result, the Lebanese government reneged on its earlier agreement to withdraw its appeal to the Security Council and instead pressed for the internationalization of the conflict at the UN-level.

On June 6th, the Security Council began to debate the conflict and by June 11th, the Secretary-General, Dag Hammarskjold, had persuaded the parties and the Security Council to accept the establishment of a UN observer mission in the Lebanon to ensure that there was no illegal infiltration of troops or supply of arms across the Lebanese border. The presence of the UN mission helped in the calming of the situation by early July. However, cataclysmic events in Iraq altered the situation in Lebanon for the worse. The overthrow of the pro-Western King Faysal II on July 14th prompted the United States and the United Kingdom to send troops respectively to Lebanon and Jordan for fear that antigovernment forces, with UAR support, might also attempt to overthrow the pro-Western governments there. (Zacher, 1979:235).

The Lebanese crisis came to an end at the end of July when the factions agreed on a neutralist president. Thereafter, the General Assembly passed a resolution in August calling on all states in the area to abide by the Arab League's principle of non-intervention.

An assessment of the Lebanese case shows that the Arab League's efforts were not sufficient to meet the demands of Lebanon and that the success of any regional organization depends on consensus rather than acrimony among member states called upon to deal with explosive situations such as a civil strife. As Boutros-Ghali concludes, "it is important to emphasize that one of the parties to the conflict had no faith in the Arab League nor in the system that it had instituted to settle conflicts between its member states" (1969:84). Another factor was the U.S intervention that mostly paralysed the League because it strangled its efforts to solve the crisis in its development. By and large, western interference in inter-Arab affairs succeeded in strengthening the regimes of the conservative faction within the League, thereby polarizing the two sides further.

6. 2. 2   <u>Kuwait (1961)</u>

The Kuwait incident constitutes the one notable success of the Arab League's unified effort, including the deployment of a multinational force of more than 3000, to prevent Iraq from annexing Kuwait at the time of its independence from Britain in 1961. As Kuwait approached independence (22 June 1961), Iraq claimed it as a lost province. Three days after independence, Iraq claimed the entire territory of Kuwait and mobilized its troops on the border. Kuwait, as a response, requested and received British protection that arrived on 7 July in the form of 6000 British troops.

The matter was debated at the Security Council at the request of Britain, but a resolution calling for the guaranteeing of Kuwait: independence and sovereignty, was vetoed by the Soviet Union (which was sympathetic to the

post-1958 radical governments in Iraq rather that the creation of another pro-Western, conservative monarchy in the region).

Kuwait's case was then thrown into the lap of the Arab League, which, after several meetings, decided to admit Kuwait as a member state in August. The League also called for the establishment of an Arab force to replace the British troops (Zacher, 1979:241). The Arab force was made up of troops from Saudi Arabia, the UAR, Sudan, Jordan, and Tunisia and reached a total of 3300. It remained in the territory until 1963 by which time the crisis had disappeared (Nye, 1987:162).

The Kuwait case is important for different reasons. First, as mentioned earlier, it improved slightly the track record of the Arab League, and also displayed Arab unity and determination against aggression by one of its member states. As Zacher (1979:199) comments, the extent of the Arab States' opposition to Iraqi policy of aggression revealed a unity of pro-Western states and the radical faction against any increase in Iraqi's power. Furthermore, the League was united in opposing Iraq's challenge of existing boundaries in the Arab world. As such, the League was successful in dealing with a pariah state that lacked allies in the League's Council so as to break the consensus needed for military action.

6. 2. 3   The Lebanese Crisis (1976)

In 1976, the Arab League once again sent a combined military force of 30000 into Lebanon to stop hostilities among disputing factions and to

restore a temporarily stable government (Bennett, 1984:364). In the wake of a series of clashes in 1975, between right-wing Christians and radical Muslim communities led by the Palestine Liberation Army, Syria decided to intervene in January 1976 to oversee a possible cease-fire.

The Lebanese Front, representing the Christian conservatives, resented the Palestine Liberation Organization for establishing a "state" within the state of Lebanon which upset the civilian balance demographically. The National Movement, representing radical Muslims, was allied to the PLO and desired to strengthen its liberation struggle against the state of Israel. Between December 1975 and January 1976, the spectre of partition reared its head, with the migration of Christian and Muslim civilians to parts of the country under the control of the militias of their own faith. Syria, though biased towards the national movement and the PLO, felt that "partition might constitute a threat to its position [as mediator] and undermine its influence on Lebanese affairs" (Cassesse, 1986:181).

Relative peace followed Syrian initiatives but in March the Muslim section of the Lebanese Army rebelled and demanded the resignation of the Christian President, Sulaiman Franjie. For unclear political reasons, Syria attempted to save the Christian government and at the beginning of June, 15000 Syrian troops landed in Lebanon in support of the Lebanese Christians against an alliance of the PLO and Lebanese radical Muslims (Zacher, 1979:278).

Until the Syrian intervention of June 1976, the Arab League had done very little in terms of solving the Lebanese crisis. There were, however, attempts

by the Secretary-General of the League, Mahmoud Riyadh, to mediate a cease-fire in April 1975, and the individual attempts by Saudi Arabia, the Vatican, and France in November 1975. Between March and May 1976, the United States also tried to bring calm to the country (Cassesse, 1986:182).

Between 8 - 10 June, Foreign Ministers of the Arab League attended an emergency meeting in Cairo to discuss the invasion but in the end there was no formal condemnation of the Syrian action. On June 23rd, at a meeting in Riyadh, the League Council resolved to create a token Arab Security Force (ASF), under the supervision of the Secretary-General, to maintain order and stability in Lebanon. The force was to act within the framework of Lebanese authority (Cassesse, 1986:184).

According to Issele's reading of the League's initiative, the ASF was not created to impose a solution on the Lebanese situation by force: "It was not going to be in the position to bring about the withdrawal of the Syrian forces from Lebanon. Its role was 'only' to keep the peace and to ensure that the cease-fire was respected" (in Cassesse, 1986:184). The force was composed of contingents from the Sudan, Saudi Arabia, and Libya and had similarities with UN peacekeeping forces by having the consent of the host-state and the agreement of all parties in the conflict. Nonetheless, heavy fighting continued and the ASF did not register any success in holding a cease-fire and keeping warring factions apart.

Another League meeting was convened between 17 - 18 October to decide on a comprehensive plan that would transform the ASF into a deterrent

force, the Arab Deterrent Force (ADF) made up of 30000 troops. The decisions of the Riyadh meeting were endorsed at a Summit meeting in Cairo between 25 - 26 October by nineteen member states (Iraq and Libya refused to attend the Cairo meeting). The ADF was overwhelmingly Syrian. The brief of the ADF was to:

(1)   deter the parties in the conflict from resorting to violence, and

(2)   collect heavy weaponry in the hands of the factions.

The one impediment was that the Force was not mandated to bring about the withdrawal of the Syrian troops (Cassesse, 1986:186). Nonetheless, a cessation of hostilities was achieved by November and the subsequent instability in Lebanon was instigated by the Israeli factor that culminated in the infamous invasion of 6 June 1982.

The Arab League efforts in the Lebanon crisis registered a minimum of success. The efforts, however, were to a large measure assisted by the boycotting of Iraq and Libya at the Cairo meeting. Had the two countries attended the meeting, the Council would not have reached a unanimous agreement to create a deterrent force if Iraq and Libya had voted it down. The abiding criticism of the League's efforts was that at no stage was Syria condemned, and as Zacher concludes, an Arab Force dominated by the Syrians to keep the peace provided a *de facto* legitimization of the Syrian intervention (1979:198).

6. 3   THE NORTH ATLANTIC TREATY ORGANIZATION

In the strictest sense, NATO does not have a history of involvement in the maintenance of international peace and security during the Cold War period. Nonetheless, some of its member states, in their individual capacities, were part of numerous UN peace-keeping forces, and countries such as Canada, the Netherlands, and Norway, were the backbone of these international forces.   What will be discussed in this chapter is the lone occasion when NATO *attempted* to play the role of a regional manager of peace and security in the Mediterranean island of Cyprus in 1964.

6. 3. 1   Cyprus (1964) (3)

Following Greece's independence from the Ottoman Empire in the nineteenth century, its attempt to expand   into Cyprus was defeated by lack of sufficient military power to execute the mission to the end.   Though Greece was linked to the island through religion, language, culture and the people themselves, the ruler of Cyprus throughout time was Britain, which was also the patron of Greece in international affairs.   When Cyprus attained independence from Britain in 1960, British bases which were crucial for staging operations against Egypt in 1956, and in support for Jordan in 1958, were retained (Salem, 1992:53).   Cyprus has a population of which 80% is of Greek-descent and 20% Turkish-origin and this ratio continues to plague the island.

The independence of Cyprus was guided by the Treaty of Guarantee, signed in London, 19 February 1959, by Cyprus, Britain, Greece and Turkey. The

key provision of the treaty was (Article 2) to maintain the independence, territorial integrity and security of the Republic of Cyprus. The Treaty also made allowance for the retention of British bases (Article 4).

Hostilities broke between the two populations in December 1963 when the president, Archbishop Makarios, sought to revise the 1960 constitution which gave a veto over major policy questions to the two ethnic groups. A cease-fire was mediated by Britain and was then policed by British forces. Immediately thereafter, the Cypriot government secured a Security Council meeting to discuss the situation.

Because the threat of a civil war had subsided, there were no heated debates in the Council and the issue did not acquire Cold War dimensions. The main contention, however, was on the form of peacekeeping force that was to be deployed in Cyprus to replace British forces. The decision was between a British-led NATO force and a UN force. The United States and Britain proposed a NATO force on the main ground that though Cyprus was not a NATO member, three NATO members, Britain, Greece, and Turkey, legally maintain armed forces on the island. Also, the "NATO area" was regionally defined to include the Mediterranean. However the Greek-Cypriot government, the Communist bloc, and the Non-Aligned Movement overwhelmingly supported a UN force, which was set up on 4 March 1964. It was known as the UNFICYP: United Nations Peace-keeping Force in Cyprus.

NATO forces remained in the background and were not part of the UNFICYP. As Dobbel maintains, the Greek-Cypriots rejected a NATO

force owing to geopolitical reasons. Since Turkey was seen as more powerful and more strategically important to NATO than Greece, NATO was perceived by the Greek-Cypriot community as more responsive to Turkish than Greek policies (in Salem, 1992:53). For that matter, the Cypriot government formed an opinion that NATO would not be sensitive to what happened in a non-member state such as Cyprus, but would be very much concerned about how Athens and Ankara responded to the situation on the island.

Following the 1964 instabilities, NATO continued to keep its two eastern members from attacking each other over Cyprus, and the United Nations continued to keep the two internal communities from doing the same (Salem, 1992:54). While the Cypriot issue has not yet been resolved, it "has not been allowed to drive either Greece or Turkey out of their common defence commitment" (Henrikson, 1986:124).

6. 4 THE WARSAW PACT

The now-defunct Warsaw Pact has a disreputable place in history for being an instrument of policy of the former Soviet Union aggression. The organization was seen as a fig-leaf to multilateralize Soviet interventionism in Eastern Europe during the height of the Cold War. In that context, the two outstanding cases were the invasions of Hungary in 1956 and Czechoslovakia in 1968. On each occasion, the Soviet Union relied on the principle of "intervention by invitation". Thus, the-then superpower invoked as a legal basis the necessity to repel aggression or extend

interference and also claimed that it had been invited by lawful governments (Damrosch & Scheffer, 1991:128).

6. 4. 1   Hungary (1956)

On 23 October 1956, Soviet tanks appeared in the streets of Budapest, the capital of Hungary, to quell a popular uprising, and soon thereafter, a new government was in place, with Imre Nagy at the head of affairs. As Harris reports: "At 9am [on the 24th] it was announced that 'the Government had appealed for help to the Soviet formations stationed in Hungary' under the Warsaw Pact. It was not clear when and by whom the application was made" (1991:843-844).

A week later, on November 1st, Hungary repudiated the Warsaw Pact after Nagy had failed to secure a withdrawal of further Soviet troops from Hungary. Hungary also declared neutrality and called for western assistance. Soviet troops returned to the streets of Budapest on 4th November, and a new government led by Janos Kadar was installed, which later announced that it had requested assistance from the Soviet Union (Harris, 1991: 844).

When the United Nations was seized of the matter, the USSR "saw it expedient to protect its interest by using its veto in the Security Council to defeat a US sponsored draft resolution calling for Soviet withdrawal and respect for the independence of Hungary" (White, 1993:15). Subsequently, the UN Special Committee on the Problem of Hungary was not allowed into the country to investigate the situation therein.

The Hungary case is a classic example of how a hegemon behaves in a region and on the international plane if it possesses veto power in the Security Council. When the full might of the Soviet Union was unleashed against the Nagy government on the pretext that it was done under the provisions of the Warsaw Pact, the proponents of strong regionalism were clearly embarrassed. Two years before, in 1954, the USSR had agitated for the Guatemala case to be heard by the Security Council, but in 1956, it did not countenance Security Council involvement in Eastern European affairs.

6. 4. 2   Czechoslovakia (1968)

In August 1968, Warsaw Pact troops entered Prague, the capital of Czechoslovakia, following the election of the Dubcec government, which had embarked on a process of political reform that departed significantly from previous communist policies. According to Harris, "with the assistance of Soviet advisors, the policies and the composition of the Czech government thereafter gradually changed, with the movement towards liberalization being reversed" (1991:844). The conflict was debated in the Security Council between 21 and 24 August at the end of which a resolution condemning the invasion and calling for the withdrawal of foreign troops was vetoed by the USSR.

The Prague invasion resulted in the (in)famous Brezhnev Doctrine:

> When the external and internal forces hostile to Socialism try
> to turn development of a given country in the direction of
> restoration of the capitalist system... this is no longer merely

> a problem for the country's people, but a common problem,
> the concern of all Socialist countries (Cited in Harris,
> 1991:844).

In order to avoid the naked aggression of Hungary in 1956 when Soviet troops intervened unilaterally, Brezhnev chose to give the Prague invasion a multilateral appearance. "Operation Danube", the code name of the Prague invasion, was led by 400 000 Soviet troops, and 80 000 soldiers from Poland, East Germany (DGR), Bulgaria and Hungary. The operation was under strict Soviet command rather than Warsaw Pact as it might have been expected (Woods, 1996:103). As explained by Kramer, the invasion was a manifestation of a new element introduced into Soviet-Eastern Europe relations:

> The Doctrine linked the fate of each Socialist country with
> the fate of all others, stipulated that every Socialist country
> must abide by the norms of Marxism-Leninism as interpreted
> in Moscow (in Woods, 1996:103).

In the Security Council, the USSR and its allies claimed they were acting in their own self-defence against capitalist aggression, and that the matter was a concern only to the people of Czechoslovakia and the Socialist Community in terms of existing treaties. The self-defence argument, in Arkindele's opinion, was to be rejected "on the grounds that it over-extended the concept of self-defence to cover threats of 'ideological' aggression" (1976:118-119). Again the legal issue of whether the Security Council was not an appropriate forum to deal with the invasion as pronounced by the USSR was not a valid claim under the UN Charter. The irony in the Soviet claims could not be lost, as recognized by Akindele:

> In 1954, as well as in 1960 and 1965, the Kremlin found it
> convenient to defend the right of the Security Council to deal
> with any acts of aggression and to take cognisance of any
> dispute wherever it may arise and also condemned the OAS
> for usurping the Council's special responsibility (1976:120).

In the end, the Soviet Union lost its moral voice that had hitherto upheld the primacy of the Security Council and found widespread favour with the Non-Aligned Movement's ever-growing membership. Henceforth, Soviet protestations against the usurpation of Council authority by any regional arrangements would have sounded hollow and hypocritical.

For the record, it was to be the Afghanistan case in 1979 which became a showpiece of Soviet interventionism. In the invasion, 100 000 Soviet troops were stationed in Afghanistan and subsequently, a Security Council draft resolution on the matter was vetoed by the USSR on 7 January 1980. On that matter, White (1993:16) remarks that the intervention was different from previous ones because for the first time, the USSR had pushed its troops beyond the Warsaw Pact zone and, more importantly, the Non-Aligned Movement expressed fear that they would be subject to superpower intervention.

The demise of the Warsaw Pact came about in July 1991. Before that, the eruption of a severe and prolonged crisis in Poland in mid-1980 brought to an end the façade of stability in the Soviet bloc. Soviet troops were deployed from Hungary (1991), Czechoslovakia (1991), Poland (1994), and the final pull-out sounding the death-knell of the Warsaw Treaty Organization was in East Germany in September 1994. The pact was

replaced by the Treaty of Friendship and Co-operation of the Commonwealth of Independent State (CIS).

6. 5 THE ORGANIZATION OF AFRICAN UNITY

The Organization of African Unity as a manager of regional conflicts has succeeded throughout its early years in "institutionalising a pattern of behaviour for African states in conflicts, especially where borders, secession, minority regimes and foreign invasions [were] concerned" (Bukarambe, 1983:54).

In the main, however, the OAU failed to support that institutionalised pattern with constitutional provisions that imposed obligations and duties on the member states. The OAU resolutions are not binding on member states, they are merely advisory. For example,

> ...once a member state decides to ignore OAU resolutions or
> the principles of the OAU Charter (which all have pledged to
> observe) there is nothing else the organization can do other
> than to reaffirm its general position (Bukarambe, 1983 :55).

In the absence of any enforcement power, the OAU cannot impose any form of sanction besides voicing its disapproval. In the final analysis, as will be illustrated in the following historical cases, the OAU relied mostly on *ad hoc* committees and special sessions of the Council of Ministers in dealing with serious conflicts besetting its member states. The mantra that was churned

out was "African problems should be solved within an African framework". It is only fair to say that in most of the cases, the ritual worked only up to a point.

6. 5. 1   The Algerian-Moroccan Border War (1963)   (4)

When a border war erupted between two North African countries, Algeria and Morocco, it presented the OAU with the first opportunity of dealing with an inter-member conflict. As Patricia Wild comments, "the OAU was endowed with no supranational powers which might have enabled it to enforce its will on the disputants" (1966 : 18). The two countries rejected the mediation efforts of individual African heads of state because their preferences could not settle on a common mediator. It was then fortuitous that when the long-brewing conflict finally exploded into an all-out war, there was in place an organization, only four months old, which represented the whole of independent Africa.

Herewith a summation of the historical context of the conflict: In 1956, when Morocco was restored to full sovereignty, the monarchy agitated for substantial negotiations with France over the border between itself and French-ruled Algeria, but in the end no progress was registered. In turn, Morocco chose to talk with the rebel government of the National Liberation Front of Algeria (NLF) which promised to hold talks after the Algerian independence in 1962. In Morocco's view, that promise was not fulfilled and the situation was exacerbated by the withdrawal in 1962 of French forces from the disputed border. Both Morocco and Algeria sent troops to the area.

By October 1963, fighting began after further advances by Morocco into the Algerian border (Touval, 1967:106).

As the situation worsened, and the prevailing African position was that the two should seek a peaceful solution, the problem of "forum-shopping" emerged. Algeria was more committed than Morocco to the mediation role of the OAU, as it was defending a position more popular in that organization, which was the maintenance of existing borders (Wallerstein, (1966:781). King Hassan II however, was reluctant to seek OAU mediation. For his part, he brought the dispute to the attention of the UN Secretary-General, U Thant, but did not request a meeting of the Security Council. His main argument was that " the case was unlikely to be impartially considered by a regional organization which [was] unequivocally committed to the preservation of the territorial status quo in Africa" (Akindele, 1976:95).

It should be noted that other mediation efforts involved Tunisia and the Arab League but were declined by the disputants. Tunisia was disapproved by Morocco owing to its recognition of Mauritania (to which Morocco laid claim), and by Algeria because of Tunisia's own claims to parts of the Algerian Sahara (Touval, 196: 106). The Arab League's efforts were rejected mainly by Morocco because of its perceived sympathy for Algeria, spearheaded by the United Arab Republic (Egypt).

The stage was then set for an "African framework" within which to resolve the matter peacefully. As it was well documented, Morocco's position was weak diplomatically perhaps owing to its absence at the Addis Ababa meeting in May 1963, and its open reluctance to seek an African settlement

of the dispute. Meanwhile "the diplomatic position of Algeria was very strong in Africa. The Algerians benefited from a certain sympathy by their suffering during the Algerian war of independence" (Wild, 1966: 27).

It was the fortuitous timing of the visit of Ethiopia's Emperor Haile Selassie (1892-1975) to North Africa that determined the selection of mediators. The Emperor, it was reported, "had an interest in the methods, procedures, and the decisions on the Moroccan-Algerian dispute because parts of Ethiopia's too were the object of territorial claims" (Touval, 1967:106). The Emperor was joined in the mediation initiatives by the Malian president, Modibo Keita (1915-1977). On why the two disputants finally settled on the Emperor and the Malian leader, Touval explains fully:

> 1.   The president of Mali was welcome to Algeria because of the ideological affinity between the two states and Morocco was probably encouraged to accept him by the assumption that Mali too was dissatisfied with Sahara borders
>
> 2.   Ethiopia's strong opposition to the redrawing of African borders influenced Algeria's ready acceptances of Emperor Haile Selassie and the Emperor's conservatism probably encouraged Morocco to accept him (1967: 107)

Mediation initiatives began on 29 October 1963 when the four leaders, the Emperor, President Keita, King Hassan II, and the Algerian leader, President Ben Bella met in the Malian capital, Bamako. In terms of the Bamako Agreement of 30 October 1963:   **(5)**

1. A cease-fire was accepted;

2. A demilitarised zone was to be created;

3. Hostile propagandas and interference in the internal affairs of each other was to cease; and,

4. An extraordinary meeting of the OAU Council of Ministers was to be requested, for the purpose of creating a committee of arbitration to effect a definitive solution of the dispute. **(6)**

It is to the development of point number four (4) of the Bamako Agreement that this discussion now turns. An extraordinary session of the OAU Council of Ministers, the first of its many special sessions, was held in Addis Ababa between 15 – 18 November 1963 in terms of the Bamako Agreement. The meeting had a legal basis provided by Article XII (2) of the OAU Charter, which permits extraordinary sessions.

The Emperor's opening remarks at the meeting reminded the delegates that "the OAU was about to provide a means for the settlement of an African dispute in an African framework" (cited in Wild, 1966: 29). The Council adopted the Bamako Agreement as the sole basis of discussion and sought to assuage Morocco's plain fears of African bias towards Algeria. As directed by the Bamako Agreement, it appointed a special Committee of Seven, comprising Ivory Coast, Ethiopia, Mali, Nigeria, Senegal, Sudan, and the then Tanganyika.

The Committee of Seven met on two occasions, first in Abidjan, Ivory Coast, between 2 - 5 December 1963, and later between 23 - 28 January 1964 in Bamako. Its brief was to determine the responsibility for the outbreak of hostilities, and to examine the basic causes of the conflict and to

submit concrete proposals to the parties for its definitive settlement (Wild, 1966:32). It is essential to mention that throughout their deliberations to achieve a peaceful settlement within the African framework, the Committee was forever mindful of retaining the confidence of Morocco in the process. The efforts bore fruit when, after a marked improvement in relations between the belligerents, an agreement was signed on 20 February 1964 providing for the ending of the dispute and for the resumption of diplomatic relations in the presence of the Bamako Committee.

An assessment of the OAU's handling of the Algerian-Moroccan border dispute has always been favourable and needless to say, it heightened the profile of the new organization in the eyes of the world. It is important to bear in mind, however, that at no time was the constitutional right of Morocco to appeal to the United Nations ever in question. The reality was that the major Western powers encouraged the kingdom to seek a regional solution under the auspices of the OAU (Akindele, 1976:95).

At the same time as the Algerian-Moroccan border dispute was being addressed the OAU was challenged by another border dispute, which was clearly bifurcate, that involving Somalia's claims against parts of the territories of Ethiopia and Kenya.

6. 5. 2   The Ethiopia-Somalia-Kenya Border Dispute (1964)

At the outset, it should be pointed out that Somalia had always advocated irredentism, a position for which it has historically found little support among African states. Even during the Ogaden war of 1977 between

Somalia and Ethiopia, the OAU, although not approving of Soviet-Cuban intervention on the side of Ethiopia, reserved categorical condemnation against Somalia's forceful attempts to realign African borders.

The attempts first acquired formal government policy when, on the eve of the Addis Ababa meeting in May 1963, the president of Somalia, Aden Abdullah Osman, accused Ethiopia of illegally possessing the portion known as the Ogaden province without the consent and against the wishes of the inhabitants (which were mostly of Somali descent). President Osman also turned to Kenya and denounced it for illegal occupation of the Northern Frontier District (NFD) of Kenya. The two accused in turn charged Somalia with supporting and sponsoring armed bandits, known as *Shifta*, who intruded into Kenya and Ethiopia with the aim of annexing Ogaden and the NFD to Somalia (Akindele, 1976:96).

In both cases, Somalia's claim was based on the issue of self-determination of the Somali tribes entrapped in Kenya and Ethiopia, to which the accused countered by arguing that the principle applied only to colonial territories and not to parts of sovereign independent African states (a clear invocation of the principle adopted from the Goa Incident).

Hereunder, the discussion will attempt to follow the twin-track development of the Somalia-Ethiopia dispute.

When hostilities broke out between Somalia and Ethiopia in February 1964, the problem of "forum-shopping" once again appeared. Somalia, as it was expected, bypassed the OAU and, on 9 February, requested an urgent

meeting of the UN Security Council, to consider her claim of armed aggression against Ethiopia. The request was not favourably met, owing to intense lobbying from African leaders who resented the Somali appeal for United Nations intervention. President Osman was ultimately compelled to withdraw his request to the universal body, a measurable success for the OAU.

The OAU's action on the dispute was launched at the Second Extraordinary Session of the Council of Ministers held in Dar es Salaam, between 12 - 15 February 1964. The resolution passed at the meeting once again called for an African solution to an African problem. The operative paragraphs, however, called for a ceasefire, cessation of hostile propaganda, and negotiations for a peaceful settlement of the dispute. **(7)** The next meeting was held in Lagos on 24 February and repeated much of these suggestions and called for respect for Article 3(2) of the OAU Charter. The cease-fire agreement, however, was accomplished through the assistance of Lt.-General Ibrahim Abboud, Sudan's president, who acted as intermediary between the parties (Touval, 1967: 113-114).

Further meetings on the dispute were held as follows:

    (1) Khartoum   (March 1964)

    (2) Addis Ababa   (September 1967)

    (3) Mogadishu   (February 1968)

    (4) Addis Ababa   (September 1968)

In Khartoum, an agreement was reached to appoint a Joint Commission composed of representatives of the two Governments to supervise the complete withdrawal of military forces to a distance of 15 kilometres from either side of the border. Subsequent meetings were held to examine compliance with the Khartoum Agreement and deal with any violations that occurred (Akindele, 1976:98).

The Somalia-Kenya dispute was handled simultaneously with the Somalia-Ethiopia conflict and also within the context of the OAU Council of Ministers. At a meeting initiated by President Julius Nyerere (1922-1999) the representatives of Kenya and Somalia came to Arusha, Tanzania in December 1965 to discuss the normalization of relations between their two countries. But as Touval records, "the talks were a complete fiasco" (1967:117) owing largely to Somalia's refusal to renounce her claims to the Northern Frontier District. The final push for a peaceful settlement (the ceasefire still held, fortunately) occurred at the OAU Summit held in Kinshasa in September 1967 when Zambia was asked to mediate. President Kenneth Kaunda convened a meeting in Arusha on 28 October 1967 at which the disputants agreed to resume diplomatic relations and to maintain peace on both sides of the border.

6. 5. 3   The Congo Crisis (1964)

The Congo crisis, in actual fact, erupted in two stages, first in 1960 and later in 1964. In the strictest sense, it is reasonable to say that the 1960 crisis occurred before the existence of the OAU and therefore its discussion would fall beyond the scope of this section. Be that as it may, the two crises

represent a series of instabilities which besieged that unfortunate country. In the words of Wallerstein: "The first Congo crisis led directly to the creation of Brazzaville and Casablanca blocs. The second Congo Crisis in 1964 threatened to reopen all the sores healed at Addis Ababa in 1963" (in El-Ayouti & Brooks, 1974:124).

What was important about the two Congo crises was that on those two occasions African states were divided, one faction supporting the legitimate government and the other group supporting the rebel movement. As such, Africa could not give any clear signal to the outside world hence foreign intervention in both cases. The final analysis was that the OAU in 1964 failed to influence the direction of the conflict in Congo.

Here follows a synthesis of the events which unfolded during the first Congo crisis:

On 30 June 1960, Congo was granted independence by Belgium, with Joseph Kasavubu (1910-1969) as President and Patrice Lumumba (1925-1961) as Prime Minister. Shortly thereafter, some sections of the national army mutinied, and the Belgians returned with the pretext of restoring law and order. Events took a dramatic turn on 11 July when Moise Tshombe (1919 – 1969) proclaimed the mineral-rich province of Katanga to be independent. Confronted by foreign aggression and a secessionist movement, the Lumumba Government appealed to the United Nations for assistance. On 14 July, 20000 UN peacekeeping forces landed in the Congo, to supervise the cessation of hostilities. Tshombe managed to keep

the independence of Katanga alive for three years with covert support from Belgium and white mercenaries.

The difficulties of the UN operation in the Congo (UNOC) were caused by the unspecific character of the mandate, the refusal by the Belgians to withdraw their troops, and most critically, intervention by the superpowers and the polarity between African factions (Akindele, 1976:99). The superpower element threatened to cast the conflict into Cold War parameters, with Washington and Moscow caught up in the syndrome of whether the winning side would be pro-West, or pro-Communist. In an effort to discourage superpower rivalry, the UN encouraged participation of African forces in peacekeeping activities, only to realize that Africa was not united itself on the matter.

At first, radical African states, perhaps taking a cue from the Soviet Union, supported the Lumumba Government, while Tshombe's Katanga province received Western support. Events took another dramatic turn when Lumumba was dismissed by President Kasavubu for receiving Soviet aid and in November 1960 a new government was led by Colonel Joseph Mobutu. The majority of Western powers lurched towards the new government, and discarded Tshombe, with only Belgium, Britain and France reluctant to see the Katangese secession collapse. Mobutu returned power to Kasavubu in February 1961. The next governments were headed by Prime Ministers Ileo (until August 1961) and Adoula (until June 1964). In January 1963, the United Nations finally ended the secession and Tshombe fled into exile in Spain when his army was defeated. He was later recalled in 1964 by President Kasavubu to head the national government. **(8)**

The Second Congo Crisis happened when the OAU was in place and had laid down the rules in its Charter that generally governed the resolution of conflicts within an African framework. As Akindele says, one of the main goals of the OAU was to prevent intervention of foreign powers in Africa and sought to achieve the "Africanization of the peace-promotion exercise" (1976:99). But the Second Congo Crisis was clear evidence that the OAU was then politically not strong enough to prevent external powers from being deeply involved in intra-African affairs.

In July 1964, the trouble in the Congo was resuscitated when the rebel movement, calling itself the Conseil Nationale de Liberation (NLC), led by Christopher Gbanye, challenged the Government of the recently-installed Tshombe. The proverbial tables were turned because it was then the constitutional obligation of Moise Tshombe to maintain the authority of the Central government in Leopoldville (later Kinshasa) and to protect the territorial integrity of the Congo against the secession movement in Katanga.

As mentioned, OAU members were divided on the issue, but to be fair, they were united on the question of foreign intervention. However, policy boundaries were not clear at the time. For the Tshombe government, the issue was defined as an inter-state conflict between the Congo and some neighbouring states, namely, Congo-Brazzaville, Burundi, and later, Sudan and Uganda, which supported the rebel cause (Tharp, 1971: 40).

For the majority of African states, the crisis was partly a civil war, partly an international dispute between Africa and western powers, especially

Belgium and the United States. Radical African states embarked on a campaign to support the NLC because of Tshombe's heavy reliance on western military assistance and mercenaries from Belgium, Rhodesia and South Africa.

Tshombe appealed to the OAU for troops to be sent to the Congo so as to ensure order in calm areas, thereby freeing government troops to fight the rebels. The OAU was polarised on how to respond to the request. One side (including Nigeria, Sierra Leone, and Senegal) inclined to granting the request for troops to safeguard Congolese sovereignty. The other side (called the interventionist, including Algeria, Kenya, Mali, and Egypt) held a view that "Tshombe's request for troops had given the OAU the right to intervene in a more radical manner" (Tharp, 1971:41).

In Wallerstein's view, the OAU entered into the situation with all its energy, holding three meetings of the Council of Ministers:

(1) Third Special Meeting, Addis Ababa, 5-10 September 1964

(2) Fourth Special Meeting; New York, 16-21 December 1964

(3) Fourth Ordinary Meeting, Nairobi, 27 February 9 March 1965

The Third Special Meeting of the OAU Council of Ministers recommended the creation of an *ad hoc* committee under the chairmanship of Jomo Kenyatta (1891-1978) with the purpose of assisting the Congolese leaders in achieving national reconciliation, and bringing about the resumption of normal relations between the Congo and its neighbours. Not unexpectedly, Tshombe rejected the committee's first purpose because it elevated the

rebels to a position of equality with the Congolese government, which was a clear departure from the OAU principle on non-intervention. The government wanted the committee to confine its tasks to normalizing inter-state relations (Tharp, 1971:42). Tshombe's mistrust of the OAU was deepened by the OAU's decision to dispatch a delegation to urge the US government to suspend military assistance to the regime in Leopoldville.

It was to be the Stanleyville incident which was to offer, though inadvertently, a political solution to the 1964 crisis. Following the NLC rebels' capture of 200 European (white) hostages in November, Belgium and American troops landed in Stanleyville (later Kisangani) on a rescue mission. The landing took place while most of the Foreign Ministers were meeting in New York for the opening of the nineteenth session of the General Assembly and it provoked a profound bitterness among African leaders.

The Council of Ministers convened a meeting, which became the celebrated Fourth Special Session of the Council, in New York between 16 – 21 December 1964 and asked the Security Council to recommend an African solution and to co-operate with the OAU. As explained by Jonah:

> In the sense in which the Guatemala crisis of 1954 was a test-case in the relationship between the OAS and the United Nations, the debates in the Council regarding the Belgian landings in Stanleyville represented a test-case for the OAU and the United Nations (in El-Ayouti & Brooks, 1974:136-137).

The United States and Belgium put forward a claim that the landings were a humanitarian operation, to which the OAU retorted that they were, in fact, an expression of naked aggression and racism, a problem they desired the Council to debate, and *not* the Congo question. As events turned out, no delegate challenged the OAU's authority in solving the Congo crisis, unlike the previous experience of the OAS before the council (El-Ayouti & Brooks, 1974:138). In the end, the "Try OAU First" principle was entrenched in the practice of the Security Council, in the form of Resolution 199 (30 December 1964) which "clearly placed the problem of peace promotion in the lap of the OAU, at the same time, urging all states to assist the regional organization in its search for peace" (Akindele, 1976:102).

For the record, the Congo Crisis of 1964 finally resolved itself when President Kasavubu dismissed Tshombe in October 1965 and in November, General Mobutu took power.

6. 5. 4   The Nigerian Civil War (1967 - 1970)

At the outset, it needs to be established that in the Nigerian civil war, the OAU did not play any active role besides that of a diplomatic voice of solidarity with the Federal Government. Andemicael proposes that the OAU's stance was due mainly to the conflict being a secessionist problem, rather than an ideological war attempting to overthrow the central government (1979:251). What makes the case relevant to this discussion, however, is the fact that the rebel government of Biafra was recognized by

four members of the OAU, namely, Gabon, Ivory Coast, Tanzania and Zambia.

The seeds of the secession movement were sown on 15 January 1966 when the Balewa government was overthrown in a coup. The new military government headed by General Ironsi was dominated by the Ibo of the Eastern Region and attracted suspicion on the national character of the coup itself. A fresh coup on 29 July brought another military man, Yakubu Gowon to power. There prevailed subsequently a wave of anti-Ibo sentiment mainly in the northern parts of the country, culminating in tribal massacres of horrendous proportions. The result was that on 30 May 1967, Colonel Ojukwu took the Eastern Region out of the Nigerian Federation and declared the Republic of Biafra. He took that cause despite counter-opinion at a conference held in earlier in January in the Ghanaian town of Aburi (Calvocoressi, 1987: 371 – 372).

One of the indistinct issues was whether the conflict was to be seen as an intra-state dispute, or one between two republics because of the limited international recognition that Biafra received. The OAU position was best understood against its principle on secession which was not difficult to understand. The United Nations deferred to the majority of African states, which, in addition to supporting the Federal Government, advised the world body not to intervene politically in Nigeria. The two superpowers, in particular the Soviet Union, supported the Gowon government in view of the line taken by the majority of the OAU.

At the Kinshasa Summit of 1967, the OAU condemned the secession and declared that the crisis was an internal matter. The OAU sent a delegation to General Gowon. Known as the Consultative Mission, it was composed of the Heads of State of Cameroon, Congo-Kinshasa, Ethiopia, Ghana, Liberia and Niger, "leaders whose governments were particularly apprehensive of ethic dangers within their own countries" (Touval & Zartman, 1985:183). Their mandate was to assure the Federal government of the Assembly's desire for territorial integrity, unity and peace of Nigeria. The Mission was led by Emperor Selassie, well-known for his anti-secession stance. Secession leaders lost all faith in the impartiality of the OAU mainly due to successive OAU resolutions calling for the rebel government to cooperate with Lagos, and to restore peace and unity in Nigeria.

Wolfers observes that despite the hands-off approach of the OAU, the conflict attracted world-wide attention, and other international bodies, such as the Commonwealth and the International Committee of the Red Cross, intervened, but largely through humanitarian concerns. Perhaps the Biafran cause, which was supported by Communist China and Tanzania, found disfavour by its reliance on Portugal, South Africa, and Rhodesia.

The Biafran crisis was concluded chiefly through the overwhelming military offensive of the Federal Government. There were, strictly speaking, no diplomatic initiatives that contributed to the resolution of the conflict. When the secession leader, Colonel Ojukwu fled to Ivory Coast, and the military officers surrendered to federal forces on 7 January 1970, Biafra ceased to exist as an entity, thereby bringing the hostilities to an end.

6. 5. 5 The Chad Crisis (1981)

The OAU response to the crisis in Chad represented the first time that an African peacekeeping force was assembled through an OAU resolution to intervene in an internal affair of a member state. The Inter-Africa Force (IAF) was set up following the OAU Summit in Nairobi, at which it was announced on 11 June 1981 that an OAU peacekeeping force would be set up under Article 53 of the UN Charter. On that basis, Resolution 102 (XVII) of the OAU Assembly provided for a peacekeeping force to be sent to Chad.

Chad had been besieged by an internal strife since its independence in August 1960. It had been occupied by foreign forces since 1969 when the French, who had relinquished political control in 1960, returned in 1969 at the request of President Tombalbaye to fight against the *Frolinat* (Chad National Liberation Front) based in the north. In 1980, when the French left, President Goukouni Oueddei called in the Libyans to intervene on his side in the prolonged civil war. The legality of these interventions was never challenged since they were responses to appeals by governments.

The OAU's involvement in the Chad crisis had begun to gain momentum at the Nairobi Summit and was led by President Arap Moi of Kenya. Before the Inter-Africa Force could actually be despatched to Chad, a Franco-African Summit took place in Paris on 4 November 1981. There President Mobutu Sese Seko led the initiative to send a Zairian contingent to Chad, and France (together with the USA) expressed the willingness to give

financial aid and military advice to the IAF. Doubtlessly, these Western pledges were made with an eye on the Libyan presence in Chad.

On his return from France, President Goukouni demanded the withdrawal of the Libyans and in a huff, President Gaddafi ordered his troops to return home at once. That was a recipe for a disaster. By refusing to synchronize the withdrawal of the Libyans with the arrival of the IAF, Gaddafi clearly left the Goukouni regime unprotected against the rebel forces led by former Defence Minister, Hissene Habre.

The IAF arrived finally in December 1981, with the "Zairians carried by US airforce"; the Senegalese "equipped and carried by the French", and the Nigerians being the late arrivals (Cassesse, 1986:171). The force was made up of 2000 Nigerians, 900 Zairois, and 500 Senegalese. While subject to their own national laws, they carried the flag and wore the insignia of the OAU, and were under Nigerian command.

The role of the IAF was a fluid matter. In terms of the Paris Agreement of 4 November 1981, its role was to contain and moderate hostilities and also *to assist the government in the formation of a united army.* For the Nairobi Agreement of 28 November 1981, which in fact legitimized the IAF within the OAU framework, the force was meant to *guarantee the defence and security of the country* until government forces could be brought together. (9) President Goukouni himself wanted the IAF to fill in the role of the departed Libyans, which was to take an active part in the fight against Hissene Habre. But the IAF countries had merely sent their troops not to

fight the Chad War only to act as a buffer between the opposing forces (Tordoff, 1984: 255; Cassesse, 1986:172).

On 11 February 1982, the OAU Standing Committee on Chad met in Nairobi and declared that the IAF was a neutral force without any bias towards one political faction or another. Clearly, that was a change of position because that meant treating the government and rebels as factions. Militarily, Habre was on the ascendancy, prompting Goukouni to engage in an acrimonious conflict with the OAU Standing Committee. By the end of June 1982, President Moi gave orders for the withdrawal of the IAF, an order that was carried out at once (Cassesse, 1986: 173).

By and large, the significance of the OAU intervention should not be exaggerated because only three African states were part of the IAF and the initiative was bank-rolled by western powers who were desperate to see Libya out of Chad. As Tordoff says, the force could not have been launched without the financial assistance from the west (1984: 256). When it was clear that the OAU could not afford to maintain the force beyond the set date for elections in June 1982, the organization turned to the UN for assistance.

With reference to the legality of the IAF in terms of Chapter VIII of the UN Charter, the OAU did not seek prior authorization from the Security Council. However, when the Council debated the Chad war in April 1982 it gave post hoc legitimisation to the setting up of the IAF. The United Nations also raised a fund totalling $35m but refused to qualify the operation as a peacekeeping force under Article 52 and 54. As Cot says, the UN did not provide financial, administrative and material support to the Arab Force in

Lebanon in 1976, neither to the Inter-American Peace Force in the Dominican Republic in 1965, as it did to the Inter-Africa force. It is perhaps not difficult to understand why the Security Council was forthcoming on this matter. Three of its permanent members, France, the UK, and the USA were anxious to keep Libya out of Chad. The Soviet Union was not overtly interested in the matter. The final irony, however, was that the funds did not reach the force in time, which was demobilized within two months of the UN initiative (Tordoff, 1984: 225; Cassesse, 1986: 173).

Eventually, the conflict subsided because of the superiority of Habre's forces, which took the capital, Njamena in June 1982, paving the way for the installation of Habre as the new president.

Bukarambe maintains that the call for UN assistance suggested evidence of a lack of resources available to the OAU to embark on peacekeeping missions (1983:54). Another negative aspect about the IAF initiative was that many anti-Libyan African states continued to offer support to Habre even after the withdrawal of the Libyans. African leaders, according to Calvocoressi, (1987: 353) "became alarmed by Gaddafi's activities and his vision of a great Islamic Saharan empire" stretching as far as Senegal in the west, Zaire in the south, and Uganda in the east. As it was, there is validity in the general assessment of the conflict that the major role of the Inter-Africa Force was to permit the orderly transfer of power from Goukouni to Hissene Habre.

6. 6 CONCLUSION

The preceding discussion focussed on the geopolitics of regionalism, or the behaviour of regional organizations involved in the maintenance of international peace and security. The period under review was the Cold War era, lasting from 1945 to 1990, and the organizations selected for study were: the OAS, the Arab League, NATO, the Warsaw Pact, and the OAU. All these regional arrangements were actively involved in the quest for peace in their respective regions when the universal body was mostly paralysed, due to Cold War calculations, to perform its primary responsibilities of maintaining international peace and security. Some found themselves engaged in a hostile relationship with the world body because of the issue of jurisdiction. Others enjoyed harmonious relationships because the element of superpower rivalry did not feature prominently in the crises they had to deal with.

For the OAS, the oldest of the regional groups, the relationship with the UN was characterised mainly by conflict because of that regional organization's insistence on pre-eminence in the western hemisphere. In all the cases concerning the OAS, with the obvious exception of the Falklands/Malvinas war, the United States had arrogated jurisdictional claims for the OAS over the UN. Those universal-regional conflicts led to the so-called "Charter amendment theory".

The Arab League did not experience any jurisdictional clash with the UN, thanks largely to the absence of a hegemon who would have insisted on playing the role of a regional foreman, thereby denying other states recourse

to the UN. Also, the cases that the Arab League dealt with did not carry Cold War proportions. The Arab League, the study found, was debilitated by lack of unanimity in dealing decisively with regional conflicts.

NATO, according to the period under review, did not play any active role in the maintenance of international peace and security in terms of Chapter VIII of the UN Charter because, in the first place, it was established as an Article 51 alliance. However, the Cyprus civil strife of 1964 was the nearest that NATO could have been drawn into Chapter VIII activities.

As for the Warsaw Pact, even if established as an "Article 51 organization" like NATO, it found itself earning negative judgments owing to its intervention in the internal affairs of member states, Hungary and Czechoslovakia. Those interventions became abiding symbols of the darker side of the former Soviet Union. The sheer hegemony of the Soviet Union in the Warsaw Pact eclipsed that of the USA in the OAS.

The last organization looked at in this chapter, the OAU, registered a positive relationship with the world body. From its early years, the OAU succeeded in instutionalizing the "Try OAU First" principle in the efforts to maintain peace and security in Africa. The OAU also succeeded in dealing with African problems guided by the principles of the OAU Charter. The "Try OAU First" formula, however, was never successful in situations where the provisions of Chapter VII of the UN Charter had to be implemented to deal with a situation. The formula, it is submitted, was severely limited to Chapter VI adjudication.

The next chapter deals with regionalism in the New World Order, following the collapse of the Soviet Union and therefore the end of a bipolar world of the Cold War. Focus will be on the rise of regionalism in this period, as exemplified by NATO's out of area activities, and the expansion of the tasks of ECOWAS and SADC.

NOTES

1) Akehurst comments: "US forces in the Dominican Republic had grown to a size far larger than that needed for the evacuation of US citizens and other foreigners, and were openly intervening on the side of the right-wing forces" (1967:204).

2) But as Al-Khadhem correctly asserts, the provision of more strict obligations in a treaty, such as the ones the OAS has, does not necessarily mean that the organization has been more effective in dealing with inter-member disputes.

3) This discussion will be limited to the 1964 incident of the Cyprus conflict and will not refer to the more serious crisis of 1974 when a coup supported by Greece led to Turkish invasion of the island. NATO was not involved in the matter, and therefore the 1974 crisis falls outside the scope of this thesis.

4) An enormous and illuminating literature exists on this historical case. Many sources were consulted throughout this research but the information distilled for this sub-section is from Wild (1966), and Touval (1967), which were regarded as most authoritative.

5) Among the considerations of the resolution was "the imperative need of settling all differences between African states by peaceful means within a *strictly African framework*" (Wallerstein, 1966:775; emphasis added). It is submitted that this was the first specific allusion to the "African framework" that was to serve the OAU well in the pacific adjustment of disputes.

6) According to Touval (1967:107) the two disputants claimed victory from the Bamako Agreement. Morocco expressed content over Algeria's acceptance of the examination of the borders and the cessation of propaganda attack. Algeria, at the same time, triumphed over Morocco's withdrawal of troops to the status *ante bellum* and that the solution was sought within an Africa framework.

7)   Zacher adds: "Ethiopia wanted the Council to take an explicit stand on the conflict, but the members, being hesitant to alienate any members and thus weaken the organization, refused to criticize the Somali claims and actions" (1979:253).

8)   Lumumba, who had fervently contested the legality of his dismissal, was arrested and handed over to the Katangese forces, by whom he was murdered in February 1961.

9)   See Jean-Pierre Cot's article in Cassesse (1986).

CHAPTER SEVEN: REGIONAL ARRANGMENTS IN THE NEW WORLD ORDER

7. 0   <u>INTRODUCTION</u>

The primary purpose of this chapter is to bring the discussion on regionalism to the immediate present by looking at new developments in the post-Cold War era through the analysis of recent cases involving regional arrangements in the maintenance of international peace and security.   It is the second stage, as it were, in the continuum of the historical perspective followed in this thesis, the first (the past) having been illustrated in the previous chapter; and the third (future) forming part of the concluding chapter.

What is known as the New World Order, it is generally assumed, was occasioned by the end of the Cold War, and is tentatively dated from 1990 following the fall of the Berlin Wall.   Other significant events which date the emergence of the New World Order include revolutions in Eastern and Central Europe, in particular, the break-up of the former Republic of Yugoslavia, the dissolution of the Soviet Union, and the resultant creation of new states which adopted liberalization policies in that region. The Allied effort in the Gulf War (1991) symbolised the new order in international relations.   The pre-eminent milestone was, without controversy, the demise of the Warsaw Pact, which later some saw of its member states tripping over themselves to join the erstwhile ideological enemy, the North Atlantic Treaty Organization   Thereafter, "the framework for security policy ... altered dramatically" (Simma, 1995:701).

Jacobsen, however, interprets events differently. He points out that the predominant view of the post-Cold War era is that of Western Powers: "The 1991 proclamation of a New World Order rested on the thesis that Communism had died (and thus also the Cold War), that Soviet successor states had made final choices favouring democracy and capitalism" (1996:11). It is submitted that there is some validity in Jacobsen's view because throughout the 1990s, some, or even most, of the Eastern and Central European nations have returned erstwhile Communists to power, albeit democratically. It is also worth mentioning that the United States in particular, has been deeply involved in the electoral process of these countries, so as to influence the outcome in favour of the so-called anti-Communist political formations.

In essence, the New World Order means the realignment of inter-state and intra-bloc relations, consequent to the new-found rapprochement among the permanent five in the Security Council. As far as regionalism is concerned, intra-bloc co-operation meant also the end of the active use of the veto throughout the Cold War period to prevent the utilization of the Security Council as anticipated in the Charter so that the United States and the USSR could keep certain disputes out of the United Nations (MacFarlane & Weiss, 1992:8). For the United Nations, it could not be "denied that the organization enjoys a higher profile than it did during the Cold War, and correspondingly its members have increased expectations as to its capabilities" (Fawcett & Hurrell, 1995:18).

Nonetheless, there were earlier signals that the Cold War was about to end. White observes: ' the coming to power of Mikhail Gorbachev in the Soviet Union in 1985 started a slow, sometimes an imperceptible warming of East-West relations, until the dramatic climax which led to the collapse of the Soviet Empire [...] in the late

1980's, inevitably leading to the demise of the Warsaw Pact in 1991" (1993: 25). Cooperation in the Security Council in the new era led to almost a doubling of peace-keeping operations as well as full military and economic enforcement action against Iraq after its invasion of Kuwait in August 1990.

The new-found co-operation among the Big Five has had its cost, unfortunately, which is the apparent domination by the Western Three, which are France, the United Kingdom, and the United States. To qualify this observation, it is submitted that France thus far has not displayed such domination to the extent comparable to that of the USA and the UK. By and large, the unfavourable perception is that the domination of the Council by the three Western powers means that its authority is abused to take action against anti-West pariah states, for example Iraq, Libya, and Yugoslavia/Serbia. What this means for regionalism, it should be added, is that in the New World Order, the Security Council is perceived to act only in regions where Western interests are at stake, and other conflicts are ignored, meaning that the relevant regional organizations are left to their own devices. That is particularly true for Africa, as the ensuing discussion will reveal.

7. 1 REGIONALISM AND THE NEW WORLD ORDER

Today there exists very little argument that the end of the Cold War reinvigorated the United Nations while at the same time the trend towards regionalism in terms of security was reinforced. The role of regional arrangements in maintaining international peace and security has "commanded renewed attention in policy and intellectual communities in the post-Cold War era" (Weiss, 1998:4). Attention on the rise of regionalism has shown a marked difference between regionalism in the formative years of the United Nations (and the brewing stage of the Cold War) on

the one hand, and regionalism in the New World Order. In the formative years there was competition between the world body and regions; today, "it is widely accepted that global and regional institutions can and should work together in promoting international peace and security" (Weiss, 1998:4).

The overall effect of the bipolarity caused by the Cold War was to deprive regional arrangements independence and self-sufficiency because superpower rivalry was not concerned about how the regions dealt with a particular dispute but with the outcome of the resolution. The main calculation was whether the result was acceptable to Washington or Moscow. As Rosecreance comments, "now that bipolarity has been irrevocably broken down, some believe autonomy has been restored to separate regions of the world" (1991:373).

Rosecreance, however, cautions against an unqualified welcome of the end of bipolarity. The event has to be examined more closely, focusing on how it came to be. If bipolarity and the Cold War collapsed or ended in a draw, or both sides withdrawing from their advanced positions, then the outcome of regional sovereignty could be quite possible. But as everyone knows, the Cold War ended with victory for one side, the Americans. Today the Soviet Union has disappeared, and its successor-state, the Russian Federation, was humiliated internationally when in August 2000 it failed to rescue a stricken missile-submarine, the *Kursk*, thereby leaving nearly 120 seamen to their fate. The most telling act was when two members of NATO, Britain and Norway, were called in to help. Other instances of Russian decadence include the protracted war in Chechnya and the participation of Russia in the Group of 7 (G7) summits. The war of attrition in Chechnya would have been unthinkable during the days of Soviet might. The participation of the former cradle and bastion of communism today at

the summits of the leaders of the capitalist world, the more so as a co-opted member rather than an equal partner, speaks volumes about the state of the one-time superpower. In the end, bipolarity has been replaced by a uni-polar world.

According to Fawcett, the collapse of the bipolar system has thrust the new regionalism to the centre of international politics:

> Regional organizations today...tend to be regarded as a natural outgrowth of international co-operation, compatible with the UN and indeed an indispensable element in its successful growth and functioning   (Fawcett & Hurrell, 1995:19).

The all-important issue of "task sharing" or "burden sharing" between the United Nations and the new regionalism was given currency and wider circulation by the former UN Secretary-General, Dr. Boutros Boutros-Ghali in his monumental report of 1992, *An Agenda for Peace*. In January 1992, when the Security Council was for the first time attended by Heads of Government instead of the usual ambassadors or foreign ministers, the Secretary General was given an awesome task.. He was asked to prepare an analysis and recommendation on ways of strengthening and making more efficient the capacity of the United Nations for preventative diplomacy and for peace-keeping. **(1)**

The Secretary-General issued his report on 17 July 1992, and in it, he urged the strengthening of the regional approach to the maintenance of peace, "based on experiences gained from a series of regional conflicts, serious financial difficulties and shortage of personnel".

The Report reads in part:

Paragraph 61:

[The] Charter deliberately provides no precise definition of regional arrangements and agencies, thus allowing useful flexibility for undertakings by a group of States to deal with a matter appropriate for regional action which could also contribute to the maintenance of peace. **(2)**

Paragraph 64:

[Regional] action as a matter of decentralization, delegation and co-operation with United Nations efforts could not only lighten the burden of the Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs.

Paragraph 65:

[S]hould the Security Council choose specifically to authorize a regional arrangement or organization to take the lead in addressing a crisis within its region, it could serve to lend the weight of the United Nations to the validity of the regional effort [...] it being essential to continue to recognize that the primary responsibility will continue to reside in the Security Council.

What could be gathered from these observations is that the Report has thrust regional arrangements to the core of the world system to maintain international peace and security. It confirms that regional organizations, whether military alliances, multiple groupings, or economic communities, are intrinsically equipped to deal with dynamics of regional conflicts. Here is also an admission that the United Nations is over-stretched and therefore, with the rapidly declining political will of the Big Powers committing themselves in non-strategic regions, the hour of regionalism has come. Paragraph 65, however, raises the importance of the principles underlying UN-regions relationships: first, any regional action should get the nod of the Security Council, second, no matter the extent and depth of regional involvement in a crisis, the Security Council continues to retain primary responsibility in dealing with disputes and situations.

By and large, it is worthwhile to bear in mind that even in the New World Order, the Western members of the Security Council continue to apply selective morality in implementing the provisions of the UN Charter. Vestiges of the Cold War are there when the Council has to decide on whether to unleash the full force of Chapter VII provisions upon an aggressor, or merely to ask a (most inefficient) regional arrangement to "take the lead" in dealing with the situation.

This is particularly true of the developing regions that had to adjust to the ideas that regional conflicts are no longer conditioned by the needs of super-power politics. On this matter, Fawcett says:

> Developing countries have lost their value as bargaining chips in a world where the USA and the Soviet Union had once courted them for their favors [...] Neither aid, nor trade, nor security are assured

in the post-Cold War order. The developing countries must compete with the newly emerging states of Eastern Europe and the former USSR for loans, markets, and even humanitarian assistance (Fawcett & Hurrell, 1995:22).

These comments are unambiguous and they serve mainly to restate the obvious. The next section will focus particularly on Africa's condition and position in the New World Order.

7. 2. 1   <u>Africa in the New World Order</u>

That Africa was a pawn on the chessboard of superpower rivalry cannot be argued, and it is now a historical fact. Some governments were propped up by intervention of either superpower, and their longevity was determined mainly by their importance in the East-West equation. The United States did not have any qualms about throwing a lifeline to discredited political leaders such as Mobutu Sese Seko and Jonas Savimbi, and other rebel movements which were deemed conservative and anti-Communist. On the other hand, the Soviets supported presumed Marxist regimes, such as Angola's MPLA and Haille Mariam's government in Ethiopia. What the consequences were to the citizens of those countries did not matter to Washington and Moscow. **(3)**

In the post-Cold War era, however, African leaders were given a rude awakening to the new realities in the international scene: the end of ideological contest between the West and the East meant that those leaders had lost their significance in East-West relations. On this matter, Keller points out the new realities:

> Faced with a severe economic crisis, intensifying pressures from abroad for economic and political reform, escalating popular

protest demanding an end to authoritarian and corrupt leadership, and the uncertain implications of the demise of the Cold War, African leaders were forced to ask soberly the question: If the Cold War has ceased, what does this mean for Africa? Will there be a peace dividend that will enable Africa to recover from its debilitating economic crisis? Or will Africa simply be relegated to the dustbin of history? (in Keller & Rothchild, 1996: 1).

On the issues raised by Keller, it is safe to remark that "peace dividend" did not come Africa's way. Contemporary domestic and regional conflicts in Africa tend to become internationalized. These wars create refuge crises, and most alarming, armed combatants usually cross national borders to set up rear bases in neighbouring countries, for example, Interahamwe rebels from Rwanda taking up base in eastern DRC, and the RUF rebels from Sierra Leone setting up base in Liberia.

These events occurred as recently as the conflict involving three West African countries, Liberia, Guinea, and Sierra Leone; and also the DRC refugee problem spilling over into Zambia. The refugee crisis in West Africa is now described as the most dramatic that the UNHCR is dealing with at the present time. Nearly a quarter of a million innocent civilians are boxed in from all sides by combatants armed to the teeth, causing catastrophic food and health crises and gross violations of human rights. As it is the case, "today domestic conflict is the most serious threat to regional and national security, and it will continue to be in the foreseeable future" (Keller & Rothchild, 1996:11).

As mentioned earlier, the dissolution of Eastern Europe as a Socialist bloc which was followed by radical political transformations, was a signal event of the post-Cold War era. The West became attracted by the unfolding events, and hastened to make massive investments in the former Soviet client state, perhaps also

inspired by Cold War calculations of eliminating traces of Communism if opportunity allowed. The net result was that the poorer and needier countries were left by the wayside as the rich countries rushed to rescue Eastern Europe from Communist domination.

On the political front, regional organizations such as the OAU and ECOWAS realized that "they are on their own". They could no longer rely on the United Nations to intervene in African conflicts. Throughout the 1990s, the world body, in particular the Western-dominated Security Council, was deeply preoccupied with the Iraqi crisis, and the attention given to the Yugoslav conflict remained unprecedented. Consequently, African leaders were left to their own devices as wars raged in Liberia (at the same time as the Gulf War), the Great Lakes, and the Horn of Africa.

During his historic African Safari in October 1996, the former US Secretary of State, Warren Christopher touted the formation of an African Crisis Response Force (ACRF). The United States proposed to support a 100 000-strong "protection army", which would "intervene to set up safe havens for civilians during any conflict on the continent". **(4)** Christopher was quoted as saying: "It would not be a standing force but one that could be assembled quickly, led by Africans, and deployment under UN auspices". The OAU's Secretary-General, Salim Ahmed Salim, welcomed the proposal but urged more clarity on the scheme.

The former South African President, Nelson Mandela, however, received the proposal with caution and skepticism. He announced that South Africa could only support the African task force if initiated by the United Nations, and not by the United States. Furthermore, Mandela said that the task-force should not be

"American led", and neither should it be financed by Western countries. As reported: "America has undertaken to pay a quarter of the estimated $40 million it will cost to train a pan-African force and has pledged an additional $10 million. Britain, Canada, Ireland, and Belgium have also promised financial support". For Mandela, that was the weakest spot in the scheme. In the end, he insisted that the force should be funded and equipped by the United Nations. **(5)**

It is submitted that the US initiative was a clear expression of the world's only remaining superpower that it would not send its troops to intervene in African conflicts. The proposal meant that, in the main, non-African forces should no longer form part of UN-sponsored peace-keeping or peace-making missions to Africa.

During the historic Millennium Summit in September 2000, Africa was singled out in the all-important Resolution 1318 (2000) passed on 7 September 2000. The Security Council met at the level of Heads of State and Government to discuss the need to ensure an effective role for the Security Council in the maintenance of international peace and security, particularly in Africa. The Resolution is divided into eight parts. In Part II, the Security Council

> *Reaffirms its determination* to give equal priority to the maintenance of international peace and security in every region of the world and, in view of the particular needs of Africa, to give special attention to the promotion of durable peace and sustainable development in Africa, and to the specific characteristics of African conflicts;

In Part VII, the Security Council

> *Calls* for the strengthening of co-operation and communication between the United Nations and regional arrangements, in accordance with Chapter VIII of the Charter, and in particular, in respect of peacekeeping operations;

> *Emphasizes* the importance of continued co-operation and effective co-ordination between the United Nations and the Organization of African Unity and African sub-regional organizations in addressing conflict in Africa.

The scope of Resolution 1318 (2000) is far-reaching and touches on many aspects of the maintenance of international peace and security. What is striking about the resolution is its specific mention of Africa and its regional arrangements. No other regional organization receives singular attention. It is submitted that the singling out of Africa could be interpreted in two ways that are not complimentary. First, it may mean that finally the United Nations has realized that for too long Africa was left mainly on its own to deal with its conflicts while the world's attention was deflected elsewhere. Second, it may say that, of course, African problems are unique and therefore, the Security Council must "encourage" African regional arrangements to deal, in their unique ways, with those problems without much interference from the world body.

At this point, the discussion will look at individual cases involving regional arrangements in the New World Order. These are: Kosovo (NATO), Liberia (ECOWAS), and Lesotho and the Democratic Republic of Congo (SADC).

7. 2 <u>NATO AND KOSOVO</u>

The war that erupted in the southern Serbian province of Kosovo is unique in that it was for the first time that the world's most powerful fighting machine, NATO, went into full combat, and more importantly, without a clear authorization from the Security Council.   The speed with which Kosovo replaced Iraq as the object of the West's concern was amazing.   Rising bloodshed in the province threatened to undermine the hard-won, and still fragile peace in the Balkans.   When the former Yugoslav Republic started to disintegrate in 1990, and wars erupted in the constituent republics of Slovenia, Croatia, and then the most difficult of them all, Bosnia-Herzegovina, the West did not seem to care about the problems of the Kosovo Albanians.   As a concern, Kosovo was always subsidiary to Bosnia, where the major powers had devoted thousands of NATO-led troops and millions of dollars **(6)**

The discussion on the Kosovo War is divided into three sections. First, focus falls on the historical background to the conflict; secondly, on NATO's involvement in the Balkans; thirdly, on NATO's involvement in the Kosovo conflict.

7. 2. 1   <u>Background to the Conflict</u>

Yugoslavia, or the lands of the Southern Slavs, was always seen by historians as the dividing line between Roman civilization in the West and Byzantium civilization in the East. In terms of religion, it has embraced both Christianity and Islam. Within Christianity it the dividing line between Catholicism and the Orthodox church. Its two major constituent republics, Serbia and Croatia,

represented the two major civilizations and the Christian churches. Serbia symbolized the Byzantium influence and the Orthodox Church, and also uses the Cyrillic script; whereas Croatia reflected Roman influences, the Catholic Church, and the roman alphabet. The arrival of the Ottoman Empire in the fourteenth century brought in Islamic culture and religion. These divisions erupted at the end of the twentieth century and chaos returned to the Balkans (Jacobsen, 1996: 37).

There is a general consensus that the Kosovo crisis itself can be traced to a momentous event in 1389 when the Serbs were defeated at the Battle of Kosovo Skopje. Prince Lazar, a legendary Serbian leader was killed while heroically resisting a vastly superior Turkish army. The defeat's mythology would ultimately be nation-defining and the region became a shrine to Serbian nationalism. **(7)**

During World War II, the Germans identified Serbia and the larger dispersed Serbian population as its main enemy in the Kingdom of Yugoslavia. The Nazi strategy was to divide and split Serb lands, restore Croatia as a self-governing territory by detaching Bosnia from Yugoslavia and giving it to Croatia. As Jacobsen narrates; "Kosovo to the south, was also detached, its Serb ethnicity diluted through expulsion of 200 000 Serbs, and importation of over 300 000 Muslims from Italian-occupied Albania" (1996:37). Those wartime German relocations were followed by further growth in Muslim members, increased by refugees from the repressive regime of Enver Hoxha in Albania. The demographic consequences set the stage for Muslim separatism and Serb fears in the province.

After World War II, however, the new Yugoslav leader, Marshal Josep Tito, embarked on a large-scale mission to eradicate any forms of nationalism. He

forged a federation following his victory over Croat fascists and Serb royalists. Peace returned to the region when the federal republic was set up, consisting of six republics: Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. Kosovo was included in Serbia but as an autonomous region. The constitution of Yugoslavia permitted secession along fixed boundaries. The federation, nonetheless, lasted until the death of Tito in 1980.

After Tito's death, the federation began to dissolve. Benefiting from the collapse of the Soviet bloc, Yugoslavia held its first free elections in 1990 which brought nationalists into power in the constituent republics. Slovenia and Croatia opted for independence in June 1991. Slovenia was fortunate to have a peaceful secession, but a war in Croatia lasted six months with over 10 000 people killed. At the same time, the USSR had dissolved, and the constituent republics formed a loose grouping, called the Commonwealth of Independent States. On the question of the West's hasty recognition of the new independent republics, Jacobsen comments;:

> The 1991-1992 rush to recognize the independence of [these republics] within their existing boundaries was perceived by many as a moral imperative. For that reason, obstacles of international and national law were also set aside. To some extent...the haste was a post-Cold War yet quintessentially Cold War reflex, assuming the democratic credentials of anti-communist dissidents (1996: 40). **(8)**

The stumbling block in some cases was that Slovenia, Croatia, Bosnia, and Macedonia did not have uncontested control of their borders and their minorities (read Serb) clearly opposed independence.

The modern Kosovo conflict was ignited in 1989 when the new Serbian leader, Slobodan Milosovic, visited the 1389 shrine, and during an anniversary speech celebrating Serb culture, he announced the Serb government's decision to revoke Kosovo's autonomy. As reported, "with that speech he lit the fuse for the explosive end to Tito's federation". **(9)** Events unfolded dramatically. Belgrade sent in the troops as response to the increasing violence in Kosovo. Kosovo-Albanian legislators in the province acted in response by declaring independence in 1990. The stage was set for a civil strife because Belgrade did not countenance in any way the idea of Kosovo independence. But a civil war, as predicted, did not flare up. Instead, over the next eight years, limbo descended on Kosovo, while all around it, bloody wars raged in the former Yugoslav republics, as the new Yugoslavia President Milosovic, continued to fuel nationalism and genocide.

7. 2. 3   **NATO involvement in the Yugoslav Wars**

The following is a synthesis of NATO's entry into secession wars in the former Republic of Yugoslavia. Before NATO could participate in the relentless wars in the Balkans, it had to legitimize the so-called "out-of-area" operations. It should be recalled that NATO is restricted by its treaty to the collective defence of its members and within the North Atlantic Area and the Mediterranean. Neither substantively, nor geographically does the treaty authorize NATO to conduct peace and support operations in the Balkans and the former Soviet Union.

NATO leaders, however, went over the treaty with a fine-tooth comb and discovered that non-defence activities could conceivably be covered by Article 2:

"The parties will contribute towards the further development of peaceful and friendly international relations by...promoting conditions of stability and well-being". Following the collapse of the Soviet Union, the alliance had to justify its existence, and the justification came instantly, in the form of instability and conflict which erupted in the Balkans. NATO governments, at the summit in Rome in November 1991, convinced themselves that so long as nearby conflicts might spill over or disrupt European stability, NATO's "stabilizing effect" might be the central benefit of its continuation (Chayes & Chayes, 1996:385).

In June 1992, NATO's explicit acceptance of a peace-keeping role was endorsed at its Oslo meeting. Thereafter, it offered its assets to the Conference on Security and Co-operation in Europe (CSCE), to *support, not to undertake* peacekeeping activities on a case-by-case basis. The decision meant a military role for NATO beyond its treaty areas" (Warner, 1995:175).

NATO's new mission gained momentum at the same time as the Secretary-General's report, *An Agenda for Peace* was being circulated but it needs to be mentioned that the report did not mention NATO, for obvious reasons. Up to that time, NATO and the United Nations had little institutional contact. Be that as it may, on 17 December 1992, the Secretary-General of NATO wrote to the UN Secretary-General, notifying him of NATO's readiness to support peace-keeping under the authority of the Security Council.

Thus the alliance resolved the question of the legal basis for its "out-of-area" operations by seeking an enabling clause from its treaty and by restricting its activities to the cases where *it receives request* from the United Nations rather than undertake the mission itself. But according to Chayes and Chayes, the missions of

NATO and the UN are in the main different. NATO is structured to engage a very clearly defined enemy and to identify a victory to win. The UN, on the other hand, interprets its mission in largely humanitarian terms and not as a party to the conflict: the UN is "in a war but not at war" (1996:412).

The following are important dates that chronicle NATO's involvement in the Balkan Wars.

On 16 July 1992, as part of the CSCE operations under UN authority, NATO forces were involved in Operation Maritime Monitor which monitored compliance with Resolution 713, and Resolution 757 (economic sanctions). In April 1993, through the provisions of Resolution 816 (1993) which strengthened the ban on military flights, NATO joined operations with UNPROFOR in the enforcement of Operation Deny Flight. Thus NATO moved from *monitoring* compliance with UN resolutions in July 1992 to *enforcing* UN decisions in May 1993.

Operation Deny Flight was meant to deny all factions in the Balkan War the use of air power as an instrument of war. It was the action of 28 February 1994 which crystallized NATO's involvement in the war. NATO shot down four Serbian war-planes, justifying it as "necessary to preserve the effectiveness of the deterrence and to preserve the credibility of UN Resolutions" (Warner, 1995:174). In subsequent months, NATO pilots conducted limited bombing missions against Bosnian-Serb units that had ignored UN-authorized "safe areas" in terms of Resolution 836 (1993).

In 1995, it was the diplomatic front that was foremost in international efforts to end the Bosnian war. The signing on 14 December 1995 of the General Framework

Agreement for Peace in Bosnia-Herzegovina, popularly known as the Dayton Accord, symbolized NATO's will-power and determination that involvement in a conflict had to be ensured of success. On 20 December 1995, pursuant to Resolution 1031 (1995), the Security Council terminated Operation Deny Flight, and transferred the authority of UNPROFOR, to the NATO-initiated I-FOR (Implementation Force). **(10)**

Henceforth, a new relationship existed between NATO and the UN, as clarified by Leurdijk: "After Dayton, the lead role of the Security Council was replaced by the North Atlantic Council, which became the key policy-making instrument under the Dayton Peace Accord" (in Weiss, 1998:63). Before the Dayton Accord, NATO's role in the Bosnian War was confined to responding to invitations from the Security Council but thereafter, the Security Council was reduced to rubber-stamping IFOR activities. As matters stood, "the I-FOR Commander had the authority to do what he judged necessary, including the use of military force, to protect I-FOR and to carry out the responsibilities, but the operation was under the political guidance of the North Atlantic Council, and not the Security Council" (Weiss, 1998:64). It is submitted that henceforth, NATO had the carte blanche to exercise its will in the Balkans, and when the Kosovo ethnic war burst in 1997, the alliance sat on the sides for a few months and then got involved with all its determination to stamp its authority. From the beginning, Milosevic replaced Sadam Hussein as the *bete noir* of the West, and the alliance took up the Kosovo case with characteristic vigour.

7. 2. 3   NATO and the Kosovo Conflict

The recent Kosovo crisis can be traced to the provincial legislature's response to Milosevic's speech at the Skopje in 1989.   Their quest for independence was met with some of the most brutal state repression in recent history.   Ethnic Albanians found themselves driven into the arms of the Kosovo Liberation Army (KLA) which agitated for independence.

A coalition of states, calling itself the Contact Group, made up of Britain, France, Germany, Italy, the United States and the Russian Federation, took upon itself to deal with the new crisis in the Balkans.   The Contact Group held a series of meetings in London, Bonn, Rome and Paris, with a view to seeking a peaceful solution to crisis affecting ethnic Albanians (or Kosovars) in the province. Throughout the time, Milosevic held his ground, saying that Kosovo was an internal matter for the Yugoslav Republic and Serbia.

At all its meetings, the Contact Group maintained its fundamental position: "We support *neither independence nor the maintenance of the status quo* as the end result of the negotiations" (Emphasis added).   Thus for the KLA, they should not hope for independence, (which they were actually fighting for) and for Milosevic, there was no way that things would remain as they were in his country (something which he was fervently fighting for). **(11)**

On 31 March 1998, the Security Council passed Resolution 1160 (1998) on the imposition of an arms embargo against Yugoslavia.   Acting under Chapter VII of the Charter of the United Nations, the Council;

[Called] upon the Federal Republic of Yugoslavia immediately to take further necessary steps to achieve a political solution to the issue of Kosovo through dialogue and to implement the actions indicated in the Contact Group statements of 9 and 25 March 1998.

The Council also called upon the Kosovar Albanian leadership to condemn all terrorist action and emphasized that all elements in the Kosovar Albanian community should pursue their goals by peaceful means only. Council again decided that all states should, for the purposes of fostering peace and stability in Kosovo, prevent the sale or supply of ammunitions to Yugoslavia. In the end, it emphasized that failure to make constructive progress towards the peaceful situation would lead to the consideration of additional measures.

At their meeting in Rome on 29 April 1998, the Contact Group declared:

If unresolved, the situation in Kosovo threatens to spill over into other parts of the region...It is of particular importance that developments in Kosovo should not disrupt progress in implementing the Dayton/Paris Peace agreement in Bosnia, to which the government in Belgrade is committed. The Contact Group will contribute to the strict implementation of Resolution 1160 (1998). **(12)**

There is a discernible pattern linking the United Nations and NATO/Contact Group in the continuous cross-references between the two organizations. As mentioned earlier, UN involvement went only as far as legitimizing NATO initiatives, this time under the guise of the Contact Group, which

included Russia as the only non-NATO member. Throughout the meetings of the Contact Group, Russia had been steadfast in its refusal to apply sanctions against Yugoslavia, most evidently because of politico-cultural links. At the London meeting on 12 June 1998, the Russian Federation did not associate itself with the decision to implement the ban on new investment in Serbia and to freeze funds held abroad by the former Republic of Yugoslavia.

Frustrated by Milosevic's intransigence, the Contact Group announced in Bonn on 8 July 1998 that it would pursue the Security Council to make it obligatory for Belgrade to honour the commitments it made on 16 June 1998 in Moscow. There, Milosevic had promised President Yeltsin that he would, *inter alia*, resolve existing problems by political means, provide full freedom of movement for everyone in Kosovo and unimpeded access for humanitarian organizations. Holding the stick, the Group declared an undisguised threat:

> Should the required steps not be taken, the Contact Group will consider further action under the Charter of the United Nations, *including action that may require the authorization of a Security Council resolution* to bring about compliance by those who block the process (Emphasis added). **(13)**

In due course, the Security Council did in fact pass Resolution 1199 (1998) on 23 September 1998, demanding that Yugoslavia implement the measures towards achieving a political situation in Kosovo as contained in the statements of the Contact Group.

To show that the Contact Group was in fact NATO in thin disguise, the drums of war began to beat once diplomacy was presumed to have failed. The last hope for peace before the impending war was the U.S diplomat, Richard Holbrook. He began a shuttle diplomacy between Belgrade and Brussels, NATO Headquarters. In October, when NATO threats to bomb Serbia were just about to be a reality, Holbrook secured an agreement with Milosevic which was transformed into Security Council Resolution 1203 (1998): on arrangements for the verification of compliance with the provisions of Resolution 1199 (1998) on the situation in Kosovo.

What is instructive about the Holbrook-Milosevic deal was that it actually paved the way for the Kosovo Verification Mission Agreement between NATO, represented by General Wesley Clark (Supreme Allied Commander, Europe), and the Federal Republic of Yugoslavia, represented by Col. General Perisic, Chief of General Staff. There was no one to represent the United Nations. Its role was simply to endorse, rather slavishly, the agreement as Resolution 1203.

The Serbs began to pull out, but the withdrawal did not satisfy NATO. What worsened the situation was the resurgence of low-level fighting between the Serb population (backed by some remnants of Serb forces) and ethnic Albanians, led by the KLA. It was to be the killing of 40 Albanians in mid-January 1999, in the village of Racak, which precipitated NATO re-entry into the conflict. Meeting in London on 29 January 1999, the Contact Group summoned the warring sides to Rambouillet Castle in France for direct talks by 6 February 1999. The talks were to be co-chaired by the

British and French foreign ministers. In the end, the failure of the talks meant the end of the diplomatic phase.

On 23 March 1999, NATO began a bombing campaign against Serb strategic sites that lasted for 78 days. As *Time* reported: "For now the official objective is to smash Milosevic's war machine so badly that it will be unable to continue its genocidal onslaught against the KLA and Kosovar villages. **(14)**

The intervention of the Finish leader, Marti Ahtisaari, representing the European Union, and Viktor Chernomyrdin, the former Russian Prime Minister, in early June helped to halt the air raids. One of the provisions of the agreement, reached on 3 June 1999 reads: "The international security presence with substantial North Atlantic Treaty Organization participation must be deployed under unified command". Thus, even in the post-bombing period, NATO staked a highly visible role and presence for itself.

On 10 June 1999, the Security Council approved Resolution 1244 (1999) on the deployment of international civil and security presence in Kosovo. In essence, it gave NATO the green light to do its will in terms of "security presence" in Kosovo.

A few lessons emerge from the Kosovo crisis. First, it represents NATO's undertaking, and not support for, a peace enforcement action. It was a reminder of the Bosnian War, which could only be terminated by NATO's resolve to match words with deeds. NATO sought to enforce respect for international law, but its very actions violated those very principles it set out,

ostensibly, to protect.   It was a clear matter that NATO did not seek Security Council authorization, being fully aware that Russia would veto it. Thus, in Cold War fighting spirit, the Western powers marginalized Russia (and only tagged it along for wider credibility) when consensus was required on the issue.   For the future, NATO has expanded its activities into "out-of-area" operations and has replaced the United Nations in Europe as the regional manager for conflict resolution.

7. 3 <u>ECOWAS AND THE LIBERIAN CONFLICT</u>

The Liberian civil war earned its place in history books by being the first African intra-state conflict to attract interest and intervention by a regional arrangement other than the OAU.   It is also historically important because, two years into the conflict, the regional arrangement was joined into a partnership by the world body, the United Nations.   In passing Resolution 788 on 19 November 1992, the Security Council was responding to the euphoria that greeted Secretary-General Boutros-Ghali's *An Agenda for Peace* that called for task-sharing between the UN and regional arrangements.

The discussion on the Liberian War and subsequent ECOWAS involvement will be divided into two sections. first, focus will fall on the historical context of the war, and secondly, attention will be on the involvement of the regional arrangement, which will, in turn, be subdivided into the two main phases of this involvement.

7. 3. 1   Background to the Liberian Conflict

Even though the recent conflict is traditionally dated from 1989, the time of the invasion from the north by Charles Taylor, it is conceivable to trace its roots from the time when Samuel Doe deposed and assassinated President William Tolbert in 1980.   Sticklers for historical influences would argue that the seeds of the conflict in Liberia were sown when freed American slaves were brought to the territory to found a new state, Liberia, causing the ensuing ethnic disparities between the natives and the foreign tribes. Throughout its history until Samuel Doe took power by force, Liberia had been ruled by the descendants of freed slaves, and the natives were regarded as the subalterns in power relations.

The repatriates monopolized not only the politics but also the military.   As Tarr explains: "The Armed Forces of Liberia's typical officer was a settler. Recruits were from the tribes.   Traditionally, soldiers were personal servants of senior government officials" (1993:74).   The main tribes from the north of the country are the Gio and the Mano, and those from the south are the Krahn.   Samuel Doe, called a de-tribalized Krahn, deposed Tolbert, who was then the chairman of the OAU, on 22 April 1980.   Doe also murdered the foster son of Tolbert, who was married to the niece of the Ivorian President, Felix Houphouet-Boigny.   These were the ingredients that were to mix horribly in the ensuing conflict that ravaged Liberia in ten years' time. Doe reclaimed ethnic Liberians' right to rule themselves and he was widely popular among the masses.

In 1985, Samuel Doe attempted an exercise in democracy by calling for elections. The subsequent verdict of commentators was that he stole the election from Thomas Qwiwonkpa, an ethnic Gio from the North. The scene was ready for an ethnic conflict. The Krahn-dominated AFL began a brutal campaign against the Gios in the north, on the ground that they supported the defeated Qwiwonkpa, who was bent on overthrowing Doe.

Apart from rampant brutality and gross violation of human rights, the Doe regime failed to address fundamental issues such as, domestic, social, and economic inequalities between the settlers and the natives; liquidation of the opposition, and increasing militarization of the political process (Yoroms, 1993:86).

The escalating civil war took a turn for the worse when Charles Taylor, a former officer in the AFL, infiltrated the country through the Ivorian border, after receiving support and training for his rebels from Libya and Burkina Faso. The invasion took place on 24 December 1989. In Derryck's opinion, Taylor had no ideological differences with Samuel Doe because he never campaigned to change Liberia into a better managed, more secure, or more socially just and equitable country. In fact, he merely aspired to avenge a personal vendetta (1993:71).

The conflict in Liberia did not attract any international interest in early 1990. The United States, expected to intervene as the patron of the Liberian state, was preoccupied with global changes in Eastern Europe at the time. The OAU, for its part, "merely dusted up its Articles on non-interference in the internal affairs of member nations" (Adibe, 1998:67). It was left to the

regional organization, ECOWAS, to take a decisive action to halt the inter-tribal massacre.

7. 3. 2   ECOWAS involvement in the Conflict

Through the efforts of the Nigerian leader, Ibrahim Babangida, the Liberian conflict was considered at the ECOWAS Summit in May 1990, in Banjul, the Gambia.   For the past six months, ECOWAS had treated the crisis as an internal matter for the Liberians.   At the meeting, members were informed of "subterranean activities of some member states in providing arms and bases for the rebel attack against the government of President Doe". Perhaps it was the issue of rebel support by "some member states" that triggered ECOWAS into action. It noted that the principle of non-interference had been violated. Nigeria proposed the setting up of the Standing Mediation Committee (SMC) to look into the nature and character of the conflict and the possibility of tackling it (Yoroms, 1993:86-87).

The committee was made up of six countries, namely: the Gambia, Ghana, Mali, Nigeria, Sierra Leone, and Togo. As such, there were four anglophone members, and only two francophone members, being Mali and Togo. Immediately, the Committee called for an All-Party Conference of Liberians to discuss all aspects of the civil strife and its underlying causes. The Committee did not register any success nor determine initiatives even though the violence escalated to horrific levels.

By and large, the decision of the SMC to establish ECOMOG was prompted by a letter dated 14 July 1990 from Samuel Doe to the Committee. The letter was an appeal for help:

> Any attempt by Mr. Taylor's NPFL to subvert the process of democracy through force of arms, could lead to an endless succession of armed insurrection, bring more deaths and destruction, as well as disrupt the socio-political and economic tranquillity, not only in Liberia, but also the sub-region of the ECOWAS as a whole [...] It would seem most expedient at this time, to introduce an ECOWAS Peace-keeping Force into Liberia to forestall increasing terror and tension and to assure a peaceful transitional environment (cited in Garba, 1997:79).

Meeting in August in Banjul, the SMC decided to create ECOMOG and to send it into Liberia in response to Doe's plea. But as Mortimer says, "ECOMOG took shape in the shadows and interstices of regional politics, a factor that explains some of the difficulties that it encountered" (in Keller & Rothchild, 1996:150). When ECOMOG was launched on 24 August 1990, there was no real consensus between ECOWAS' francophone and anglophone members. The two francophone members of the SMC, Mali and Togo, did not contribute troops and the small contingent sent in by Guinea did not dispel fears that the operation was essentially the affair of the region's anglophone governments, mainly Ghana and Nigeria. In the circumstances, Senegal expressed misgivings that Nigeria might use ECOMOG to complete an ambitious design in the sub-region (Yoroms, 1993:87).

The Nigerian factor was paramount in the launching of ECOMOG: Nigeria was instrumental in fashioning ECOWAS decision to set up ECOMOG in response to the Liberian crisis; and it provided the bulk of the troops and the finance. But as Mortimer reports "however high their moral ground, Nigeria's leaders had to realize that any operation mounted from Lagos risked exacerbating West Africa's fears of Nigeria's regional hegemony" (in Keller & Rothchild, 1996:151). The Nigerian domination of the operation aroused antagonism because it was regarded as a rescue mission for the discredited Doe government.

The Nigerian element notwithstanding, the region's efforts were plagued by the stance taken by Cote d' Ivoire and Burkina Faso. Ivory Coast had provided a border base for the Taylor rebels to infiltrate Liberia. In turn, the rebels had been trained in Burkina Faso and the Libyan-supplied arms transited through Burkina Faso. More damaging to ECOMOG was the Burkinabe leader, President Blaise Compaore's much acknowledged rejection of the task force. Compaore made no secret of his intention to continue supporting Taylor. Houphouet-Boigny maintained a more diplomatic dismissal, and his anti-Doe stance was made more acute by his relation-by-marriage to the assassinated Tolbert. The Doe-Babangida relationship was no secret either. The Nigerians had invested massively in sustaining the University of Liberia, and there was reciprocal naming of public institutions in Monrovia and Abuja after the two leaders (Weiss, 1998: 81-82).

ECOMOG did, however, manage to put up a transitional authority, called the Interim Government of National Unity, led by an academic, Tom

Sawyer. The IGNU had no basis for support and was rejected by local militias as a puppet of ECOMOG. The setting up of the IGNU followed the dramatic killing of Samuel Doe on 9 September 1990 by the rival faction of the NPFL, the INPFL, led by former Taylor cadre, Prince Johnson.

7. 3. 2. 1   The Yamoussoukro Process

What became known as the Yamoussoukro Process was inspired by a clutch of francophone members of ECOWAS to de-Nigerianize the region's efforts to combat the Liberian crisis. At the ECOWAS summit held on 4-6 July 1991 in Abuja, the leaders decided to appoint a Committee of Five, as it were, to counterbalance the Standing Mediation Committee. It was made up of: Cote d' Ivoire, Senegal, Togo, Guinea Bissau, and the Gambia. The composition - three francophone, one lusophone, and one anglophone was meant "to restore a major diplomatic role to the Francophone states" (Keller and Rothchild, 1996:154). Effectively, the Committee replaced the SMC on the diplomatic front.

The first US attempt to play some (marginal) role in the conflict started in September 1991. President Bush invited President Diouf of Senegal to the White House and strongly urged him to contribute his troops to ECOMOG, pledging substantial US support if Senegal agreed. Finally, in addition to the $15 million worth of military equipment for the Senegalese peacekeepers, the United States wrote off Senegal's $42 million public debt (Keller & Rothchild, 1996:155).

Far more than the desired effect of Senegalese troops sent in to reinforce ECOMOG's peace-keeping activities, it was the inclusion of the Burkinabe troops that built in more confidence so as to persuade Taylor that the task force had honest intentions (Da Costa, 1993:20). The Yamoussoukro meetings, which at least were attended by the factions, sought to establish ECOMOG authority throughout the whole of Liberia. On civil matters, it tried to set up an electoral commission and an *ad hoc* Supreme Court to deal with subsequent electoral litigation. As the Committee implored: "All parties involved must accept and recognize the absolute neutrality of ECOMOG" (N'Diaye, 1993:72). Like the efforts of the SMC before it, the scheme devised by the Committee of Five failed, mainly because Taylor did not trust ECOMOG.

With the decline of the health of the ageing Houphouet-Boigny, the Yamoussoukro Process began to lose momentum. The Committee even held a meeting in Geneva in April 1992, where the Ivorian leader, and chairperson, was seeking medical assistance. In addition, the Senegalese despaired over the whole diplomatic processes, and wrote privately to the Americans: "The best solution to the Liberian problem would be to eliminate Taylor". The United States replied that their policy was not to back assassinations (Da Costa, 1993:20).

Ironically, it was the killing of five American nuns following Taylor's Operation Octopus in October 1992 that international attention was brought to the resurgent war. ECOWAS was ready to involve the OAU and the United Nations.

7. 3. 2. 2   ECOWAS-OAU-UN Involvement

On behalf of ECOWAS, Benin's Foreign Minister, Theodore Holo, brought the case to the Security Council.   For the past two years, ECOWAS, to all intents and purposes, had been doing the work of the Security Council in trying to promoting peace and security in the region.   The argument was that it was time the international community established peace in Liberia.

The response of the Council was unanimous and it adopted Resolution 788 on 19 November 1992 that effectively approved and legitimized previous ECOWAS sanctions against the warring factions.   The Council decided, under Chapter VII of the United Nations Charter, that all states shall, for the purposes of establishing peace and stability in Liberia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Liberia (paragraph 8).   Paragraph 9 excluded ECOWAS from the embargo.   The Resolution, in its preamble, reaffirmed Council's belief that the Yamoussoukro IV Accord of 30 October 1991 offered the best possible framework for a peaceful resolution of the Liberian conflict that constituted a threat to international peace and security, particularly in West Africa as a whole.

Taylor, for his part, called for the West Africans to be replaced by a UN Force.   The embargo failed, however, because the NPFL took advantage of the stalemate afforded by the November 1990 ceasefire so as to stockpile a formidable array of weapons, many of them unconventional (Da Costa, 1993:20).   But Ivorian policy was to ensure the failure of the UN initiatives. Although it signed the Yamoussoukro Accords, Ivory Coast was giving *de*

facto recognition to Taylor's government. ECOMOG, however, openly regarded Taylor himself as a legitimate target. Nigerian jet fighters bombed NPFL territory and convoys in which Taylor was thought to be travelling (Hubard, 1993:31).

The United Nations designated the Jamaican, Trevor Gordon-Somers as its Special Representative. He managed to convene a meeting in Geneva of all parties involved in June 1993. In fact, the meeting was co-chaired by Gordon-Somers, representing the UN, ECOWAS Executive Secretary, Abass Bundu, and the OAU Special representative, former Zimbabwean President, Canaan Banana. As Mortimer opines, Gordon-Somers decided that the shores of Lake Geneva, far from the killing fields of Liberia, might provide the calm and the perspective necessary to achieve an enforceable agreement. For the first time the talks were held under the auspices of regional, continental, and global organizations (in Keller & Rothchild, 1996:160).

The negotiated items were later signed on 25 July 1993 in Cotonou, Benin. In the accord, the UN promised an observer mission and the OAU sent in troops from Tanzania and Uganda, which withdrew as soon as they arrived in December 1993/January 1994. The UN participation, however served to assuage the concerns of the NPFL. On 10 August 1993, the Security Council adopted Resolution 856 (1993) that approved the decision of the Secretary-General to send in a technical team to prepare for the establishment of UN Observer Mission in Liberia (UNOMIL). UNOMIL was established pursuant to Resolution 866 (1993) for a period of seven months. The resolution also defined the specific roles of the UN

contingents and the ECOWAS force. It also welcomed ECOMOG's stated commitment to ensure the safety of UNOMIL observers. As plainly as anyone could see, UNOMIL was to be deployed as an adjunct to ECOMOG, rather than replace it.

The war did not stop and UNOMIL's mandate was extended periodically. Taylor continued to have the upper hand, both militarily and politically. In August 1996, the Liberian Council of State was instituted, with Ruth Sando Perry as its head, thus becoming *de jure* the first woman to be head of state in Africa. In the elections of May 1997, Charles Taylor won by a landslide.

As Mortimer correctly observes, "ECOMOG is an important episode in post-Cold War inter-Africa relations...Yet as a case in regional peacekeeping ECOMOG is problematic" (in Keller & Rothchild, 1996:162). Following ECOWAS' honourable intentions in preventing the regional spread of the conflict, the United Nations stepped in (and very late indeed) to demonstrate global support for the efforts of the region and Liberia to establish peace. But the main lesson, according to Adibe is this:

> [If] the UN must accept the invitation of regional organizations to intervene in regional conflicts, following the exhaustion of local initiatives, the world body should invest its resources into crafting an alternative peace initiative, rather than merely becoming a rubber stamp of failed plans" (in Weiss, 1998:83).

The Yamoussoukro Process was a political machination that was clearly underlined by the Anglo-Franco divide. By and large, it was more

favourable to Taylor's cause than the defunct SMC. Thus when the UN took up the case, it merely endowed it with legitimacy and did not alter any of the provisions of the Yamoussoukro Accords.

The United Nations also, when it passed Resolution 788, gave *post facto* authorization to the activities of ECOWAS/ECOMOG and thereby sent out mixed signals about the application of Article 53. In the end, the question remained as to whether "the Liberia case represented a good example of systematic co-operation between the United Nations and a regional organization, as envisaged in Chapter VIII of the Charter" (Simma, 1995:707).

7. 4 SADC AND THE CRISIS IN LESOTHO

Since its independence from Britain on 4 October 1966, Lesotho has experienced one political crisis after the other. The discussion in this section, however, will be on the 1998 crisis that followed hard on the heels of the general election of 23 May 1998. The discussion itself needs to be contextualized within the history of the kingdom's political processes. Focus will then shift to SADC's first intervention in the internal affairs of a member state in 1994. A substantial portion of the analysis will be devoted to arguments surrounding the SADC Organ for Politics, Defence and Security, as a prelude to the military intervention of 1998.

7. 4. 1   Lesotho's Political Process: A Brief History

Lesotho is one of the two monarchies in the SADC region, the other being Swaziland.   The difference between Lesotho and Swaziland, however, is that the former is a constitutional monarchy while the latter is an absolute monarchy. Within the constitutional monarchy, there is always an inherent struggle for supremacy between the monarch and parliament, especially when the constitution is not formidable enough to withstand such a test of power. Lesotho is no exception to this crisis.

At independence, the kingdom was ruled by King Moshoeshoe II and the head of political affairs was Chief Leabua Jonathan whose party, Basotho National Party (BNP) had narrowly won the all-important election over the rival Basutoland Congress Party led by Ntsu Mokhehle.   Opinion was rife that the BNP was massively bankrolled and promoted by powerful forces such as the Roman Catholic Church, the British Colonial administration, and most objectionably, the National Party of South Africa.   The BNP had used and sold its conservatism, anti-nationalist, and anti-Communist credentials successfully, to attract such backers.   One of the low points of the election campaign was that the South African Government allowed only the BNP to canvass support in mining compounds, thereby effectively robbing the BCP of any potential voters.

Consequently, right from the beginning, an unsavoury relationship existed between Lesotho and its hegemonic neighbour. When the first post-independence elections were held in January 1970, the BCP defeated the BNP, but on 30 January 1970, Chief Leabua Jonathan contradicted his

national broadcast congratulating the people for a peaceful and quiet

. He declared a state of emergency that lasted until July 1973.

okhehle fled the country in January 1974 following an abortive BCP-

ising that was put down by the Police Mobile Unit. Effectively, in

he BCP transformed itself into the Lesotho Liberation Army (LLA),

aligned itself very closely with the South African liberation

ent, the Pan Africanist Congress of Azania (PAC).

hout the 1970s, there was a gradual but noticeable change in

n's relations with South Africa and, further afield, Black Africa.

ternal opposition out of the country, the BNP government decided to

ridges to the outside world. The most high-profile attempt was

n's visits to North Korea and the Peoples' Republic of China in 1983.

it incurred the wrath of the Catholic Church and South Africa. The

id regime began a systematic destabilization of the country by

ing the infiltration of the LLA into Lesotho, which inflicted heavy

es on the Lesotho Army.

litary became weakened by the low-level war and when it could not

y more tangible support from the BNP government, tensions arose

n the two. As a response, Jonathan began to arm his Party's Youth

and transformed it into militias with military authority. The revenge

h Africa came on 20 January 1986 when it sealed Jonathan's fate by

ling the land-locked kingdom. In the aftermath, a coup led by

l Metsing Lekhanya ousted the civilian government, bringing Lesotho

military rule for the first time. A general amnesty was declared,

g the exiled BCP leadership to return.

whatever when the ousters took place in 1986 and 1991. As mentioned in the previous chapter on SADC's early developments, the organization was ill-equipped, constitutionally, to delve into political matters of member states and the OAU's principle of non-interference was then almost sacrosanct.

The crisis of 1994, however, was not treated as the earlier ones because of major developments in the SADC region. First, the revitalized treaty transforming the Conference into a Community included significant clauses relating to the promotion of peace and security. Article 4 of the SADC Treaty lists solidarity, peace and security, and peaceful settlement of disputes as some of the key principles of the Community. Article 5, in turn, states that the objectives of the organization include the evolvement of common political values, systems and institutions, and the promotion of international peace and security. The organization was thus legally competent to intervene diplomatically in the affairs of its member states. Another important development was South Africa's accession to the Treaty following the attainment of majority rule in 1994. That made it possible for SADC to replace its objective of the total eradication of colonialism and racism in the region with the twin-objectives of economic development and regional stability.

King Letsie III removed from office his Prime Minister, Ntsu Mokhehle on 17 August 1994, citing popular discontent with the administration as the reason for his action. The monarchist parties and the BNP, which had lost everything in the 1993 poll, welcomed the palace coup, for obvious reasons. The leaders of the region however did not approve of the action, which clearly went a long way to undermine the hard won re-emergence of

democracy in Lesotho. SADC appointed a troika, to be known as "the guarantors of democracy" in Lesotho. The leaders were Nelson Mandela, Robert Mugabe, and Sir Ketumile Masire of Botswana. **(16)**

With the coming to power of Mokhehle's BCP, the military were not happy at losing their influence and by courting the King's favour and the disgruntled opposition, strategized to return the country to despotic rule. But it was not to be. Pressure from the SADC troika resulted in the BCP government reinstated on 14 September 1994. The agreement reached between King Letsie and SADC included the reinstatement of his father, King Moshoeshoe II. One of the key points in the agreement was the move towards ensuring loyalty of the security forces to the State. **(17)**

At the 1995 Summit in Johannesburg, Mokhehle thanked the leaders of the region for their contribution to the resolution of the Lesotho crisis, informing them that relative stability had returned to the kingdom. **(18)** Events however, were to take a more sinister twist when the army mutinied to the point of a *coup d' etat* in 1998, and that time, diplomatic intervention was deemed insufficient.

7. 4. 2   The Lesotho Crisis of 1998

Prior to the political crisis that engulfed Lesotho between May and October 1998, SADC had added another legal weapon to its arsenal in dealing with regional instability: the Organ for Political Defence and Security. The launch of the Organ was recounted in Chapter Five. The discussion here

will be on the development of the Organ as an instrument of policy of SADC and the attendant controversy surrounding it.

At the outset, it is sufficient to summarize that the Organ did not receive favourable contemporary comment. The main sticking point, it was argued, was the provision in its institutional framework that it would operate independently of SADC structures. Consequently, from the beginning it was regarded with suspicion as a loose canon. Furthermore, it was meant to operate "informally" along the lines of the Front Line States.

The Organ has attracted criticism because of the following arguments: If it were to operate independently of other SADC structures and at the Summit level, it would create a crisis where the SADC Chairperson, then South Africa, would lose that status if the chair of the Organ were to call Summit meetings. That did finally take place in Luanda in October 1996 (Van Aardt, 1997:148). The Organ also lacks political and diplomatic institutions that are crucial for it to secure regional peace. There are no institutionalized structures as there are in other SADC sectors. As Van Aardt notes, "the habit of informality and reactive responses may persist in the future, not only due to force of habit, but also because of the role of personality" (1997:151). It is submitted that the leadership qualities of the chair of the Organ, President Robert Mugabe, have tarnished the image of the Organ. Mark Malan, the Organ's harshest critic, observes that the *Ad hocracy* of the Organ would mean that it "would not be based on the type of firm legal principle that is required for intervening in conflicts" (1998:91).

There was wide political comment on whether the Organ actually continued to exist after its launching. At the Summit in Blantyre in 1997, President Mandela threatened to resign as SADC Chairperson if the Organ was not brought under the control of SADC. As a result of the dispute, the Organ was suspended. **(19)** It is submitted that the SADC Communiqué of 8 August 1997 does not mention the Organ in any way. On 2 March 1998, at an extraordinary meeting of SADC leaders in Mozambique, the vexing question of the Organ was not fully decided but the host, President Joachim Chissano, promised that a select group, comprising Malawi, Mozambique and Namibia, would be tasked with redefining the concept of the Organ (Malan, 1998:91).

It was thought that the work of the select group would be used at the Mauritius Summit in September 1998 to settle the matter to a satisfactorily. But once again, the issue was not discussed. On the eve of the Summit, media speculations predicted a showdown between Mandela and Mugabe. The showdown did not materialize. In fact, the crisis in the DRC had stolen the thunder from the question of the Organ. Thus without any redefinition of its vital instrument to deal with security problems, SADC, immediately after the Mauritius Summit, intervened militarily in Lesotho on 23 September 1998.

The seeds of discontent were sown in May after the elections. The ruling party was the victorious splinter of the BCP, called Lesotho Congress for Democracy (LCD). It won the election by a landslide and, in the country's first-past-the-post system, captured seventy-nine out of eighty seats in parliament. The opposition cried foul and began to stage protests even

going so far as picketing the King's Palace. Although the elections had been declared fair, there were a host of inconsistencies that pointed towards vote rigging. The voters' register was considered to be the site of the greatest controversy. Recourse to the local courts did not help the campaign of the opposition. By August, Lesotho was on a knife-edge. **(20)**

In the course of action, the opposition called for a mass stay-away until democracy had been installed; and also called for King Letsie III to pronounce a royal *coup* once again and dissolve the government, just as he had done in 1994 (Mathoma, 1999/2000:72). The then Deputy President of South Africa, Thabo Mbeki, visited Lesotho in August and he succeeded in persuading the government to agree to a review of the election results by an independent SADC Commission. The Mbeki initiative was co-sponsored by Botswana and Zimbabwe, thereby giving it a multilateral colour. It was the first step in SADC involvement in the Lesotho crisis.

The Commission, led by a South African Constitutional Court judge, Pius Langa, handed its final report to President Mandela, as Chair of SADC, just prior to the summit in Mauritius in September. Mandela did not make the report public but instead chose to present it to the Summit. The main findings of the Langa Commission was that there were several administrative irregularities in the electoral commission's conduct of elections, but these were not sufficient to declare the election results null and void (Mathoma, 1999/2000:74). That was enough to re-ignite opposition discontent throughout Lesotho.

The Mauritius Summit merely "welcomed the mediation initiative led by the South African government, that resulted in the setting up of a SADC committee of experts to investigate the validity or otherwise of allegations that elections were fraudulent". **(21)**

Reports of mutiny emerged from Maseru. Once more the military - this time junior officers - stepped into the political crisis. The army's Chief, Lt. General Mosakheng and other senior officers were besieged by their subordinates. According to one report, "the officers said they were not staging a mutiny or a coup. They said they were merely trying to create a non-partisan defence force by ridding the army of a top structure loyal to the ruling Lesotho Congress for Democracy". **(22)** When the top military men were forced to resign, the armed forces became a law unto themselves, and the Prime Minister ultimately appealed for help to the SADC leadership.

In South Africa, the Mayday call was taken by the hapless Acting President, Mangosuthu Buthelezi. After frantic telephonic consultations with his principal who was on a visit to North America, and the SADC leadership, Buthelezi gave the go-ahead for South African troops to be deployed on foreign soil for the first time since independence in 1994. The SADC intervention, known as Operation Boleas, was formed by troops from South Africa and Botswana. Despite the general criticism of the *manner* of operation, there was very little doubt that the intervention was a regional one, and not a fig-leaf for South Africa's unilateralism. Once the military question was resolved by the crushing of the mutiny and the restoration of law and order in the army, the politicians were left to settle the constitutional

issues in a peaceful manner. No matter the amount of criticism, the intervention restored calm and stability.

Political and academic comment began on the legality of the intervention. In the absence of a functioning Organ, the SADC leadership could not put that forward as a convincing legal basis. However, SADC relied on its 1992 Treaty, and the Memorandum of Understanding in 1994, guaranteeing Lesotho's democracy. Internationally, the intervention was questioned on its violation of the UN Charter, in particular, Article 53. There SADC could not evade the charge. It is submitted, however, that the intervention was not an "enforcement action" pursuant to a particular resolution. It was a classic case of intervention by invitation, which was legal under customary international law (Harris, 1991: 842 - 844). The conclusion reached here is that the intervention was within legal bounds and was absolutely urgent.

7. 5 SADC AND THE WAR IN THE CONGO

At the outset, it should be pointed out that SADC's involvement in the war in the Democratic Republic of Congo is a fiction. It is submitted that SADC did not intervene in the Congolese conflict which sucked in five other regional states. Angola, Namibia and Zimbabwe lined up on the side of the Kabila government, and Rwanda and Uganda supported the rebels. SADC found itself perceived to be involved in the war owing to four main developments.

First, South Africa was the chief peacemaker between the former Zairian leader, Mobuto Sese Seko and the rebel leader, Laurent-Desire Kabila in early 1997. Second, following the success of the first revolution that led to Kabila's accession to power in May 1997, the newly-named DRC was admitted into the Southern African fold, rather than make efforts to revitalise the Economic Community of the Great Lakes Countries (Burundi, Rwanda, and Zaire) set up in September 1976. The other possible option might have been to extend to, and strengthen ties with East African countries. Thirdly, in the aftermath of the second revolution of 2 August 1998, three SADC countries hastened to the rescue of the beleaguered Kabila regime. Lastly, the signing of the staggering Lusaka Accord of 7 July 1999 was presided over by the Zambian leader, President Chiluba. These developments will be explained in turn.

In early 1997, Nelson Mandela, in his personal capacity, entered the political fray in Zaire by posing as a mediator between the besieged Mobuto and Kabila. The mediations did not have the authority of SADC, nor were they carried out on its behalf. Zaire was never conceived as part of Southern Africa, therefore, its conflicts were seen rather as an enlargement of the horrific massacres of the Great Lakes region in the mid-1990s. Mandela was playing the classic role of mediation-by-head-of-state much favoured by the OAU. His success in bringing the two deadly enemies aboard the South African naval ship *Outeniqua* on 4 May 1997 was a masterpiece of statesmanship in appearances only. In essence, the talks did not bear any fruit, and Kabila was intransigent, believing that Mandela's mediation was a delaying tactic to deprive him of the triumphant march into Kinshasa.

Kabila did march into Kinshasa and, on 27 May, declared himself president. Henceforth, Mandela's role, and also that of South Africa, was eclipsed by unfolding events in the beleaguered country. Since Kabila came to power riding from the east on the back of Rwandan and Ugandan forces, he did not immediately look south for company in inter-state relations. He appointed to top positions many of the Tutsis from his Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL). In the machiavellian world of politics, that was a reasonable price to pay. But for the vast majority of the native Congolese, that was not fair at all. They felt they were ruled by an army of occupation, and as a result, Kabila, "in search of popularity, began to remove all Tutsis from the government" (Naidoo, 2000:330).

After severing ties with his former allies, Kabila found refuge in the company of Angola's Eduardo dos Santos, and Zimbabwe's Robert Mugabe. There is general consensus that Angola had a more valid claim to enter the war. It supported the Kabila government to cut off the supply lines of arms and ammunition to UNITA and to avoid instability in the northern part of the country caused by conflict spill-over. As for Zimbabwe, its decision to send its troops to the DRC has been followed by all kinds of speculation. For example, President Mugabe has been dogged by allegations that his intervention was to make huge profits for the elite of his ruling party through concessions to exploit the vast mineral wealth of the DRC. **(23)**

Before the outbreak of the second rebellion, the DRC had applied for, and was granted membership of SADC, in 1997 and 1998 respectively. When war broke out, Zimbabwe, as chair of the Organ, suggested that SADC members should come to the rescue of one of them. His proposal was

accepted by Angola and Namibia, but was rebuffed by the majority, most notably, South Africa and Botswana.

SADC initiatives were divided, and each faction was headed by a prestigious leader. Mugabe, the hawk, led the military interventionists, while Mandela, the dove, led the diplomats. The military interventionists held their meetings in Victoria Falls, and the diplomats (including Kabila's enemies, Uganda, Rwanda and the rebel movements) met in Pretoria in late August. Thus these initiatives, though divided, created a false impression that SADC was seized of the matter. As reported, "South Africa's objective was to secure an immediate cease-fire that would freeze all troop movements" so as to introduce talks involving all sides in the Congo and Rwanda. **(24)** In the end, Kabila's tottering regime, symbolized by the siege of Kinshasa, was salvaged from collapse by the intervention of the Angolan, Namibian and Zimbabwean forces. President Mugabe defended his position on military intervention by saying: "If it was right for European countries to get involved in Bosnia, and to think of getting involved in Kosovo, why should it not be right for us?" **(25)**

What is instructive about the intervention is that the three SADC members fought on the side of the government while no other member of the Community elected to give aid and support to the rebels. As such, there existed sufficient evidence to create a perception that the intervention was a SADC affair. SADC did not reach the position where they could have mounted a unified onslaught against the rebels threatening the government of a member state because of the divided policies of the diplomats and the militarisits. Much as in the case of Angola, a military offensive to salvage

the government of a member state has not received unqualified support. It is submitted that the position of SADC on the crisis in Angola is not satisfactory. It has thrown the matter into the lap of the ineffective United Nations for far too long. It is submitted also that Mugabe's stance might have been informed by the experiences in Angola.

When President Mandela made an about-turn at the Non-Aligned meeting in Durban 1998, he saved Mugabe's face, rather than played the fool, when he announced that Kabila's allies in the DRC had the blessing of the SADC. He said that in the face of aggression, President Kabila had the right as a sovereign leader to call for military assistance from his allies. In his support for the intervention by three SADC members, Mandela, however, did not shift his position on seeking diplomatic means to broker a cease-fire in the DRC. South African official policy was that diplomatic initiatives could work hand-in-hand with military intervention. **(26)**

A dramatic turn of events came about when the Mauritius Summit in September welcomed both the Victoria Falls and Pretoria initiatives in the restoration of peace in the DRC. Also, the Summit "commended the Governments of Angola, Namibia and Zimbabwe for timeously providing troops to assist the Government and people of the DRC to defeat the illegal attempt by rebels and their allies to capture strategic areas". **(27)** It is submitted that SADC commendation of the timely intervention did not signal ratification of the military offensive because the Community did not have the powers of the Security Council under Article 53 of the UN Charter to authorize military action. SADC position was merely to commend the

effects of intervention by invitation, as understood in customary international law.

The last misconception arose over the signing of the Lusaka Accord presided over by President Chiluba on 11 July 1999. The event had the characteristics of another run-of-the-mill SADC affair. The new participants, however, lent it extra-regional dimensions. Kabila's adversaries, Uganda's Yoweri Museveni, and Rwanda's Paul Kagame, attended the peace meeting as full participants. In truth, the Lusaka Accord was not held under the auspices of SADC. It was the culmination of a series of talks held under the auspices of the OAU to deal with the Congo crisis: Addis Ababa (12 September 1998); Lusaka (28 October 1998); Gaborone (24 November 1998); Burkina Faso (18 December 1998); and Sirte, Libya (20 April 1999). It was at the Burkina Faso summit that President Chiluba was appointed as the overseer of the process leading to the peace accord.

A few of the misconceptions about the Lusaka Accord **(28)** as being a product of SADC could be dispelled by merely looking at the document itself. Nowhere in the text is there reference to SADC except where its representative, among four others, has to sign as a *witness*. SADC is not a signatory to the Lusaka Accord, but the six countries involved in the war are. The preamble makes references to the OAU, the UN Charter, and other international conventions. It is rather interesting that reference is made to Article 52 of the Charter when, in fact, there was no regional organization which could claim oversight of the process, with the OAU perhaps being a possible candidate for that task.

The Joint Military Commission (JMC) to be constituted in terms of Article III of the Accord, does not envisage a SADC task force but instead those of the UN and the OAU. At its Maputo summit on 18 August 1999, the Summit praised President Chiluba, the OAU, and the UN for their efforts, and also expressed its appreciation to the European Union for the final support provided to SADC negotiation process on the conflict. The conclusion is that the DRC was never a SADC concern on a united front. It was a hotchpotch of diplomatic manoeuvring of select states with their own agenda dressed badly as regional policy.

7. 6 CONCLUSION

The preceding discussion attempted to update the concept of regionalism by looking at regional arrangements in the New World Order. Attention was also given to the re-enforced role of regionalism in the maintenance of international peace and security.

The study showed that the New World Order was characterized mainly by the collapse of the Communist bloc in Eastern Europe. The most symbolic events were the fall of the Berlin Wall and the disappearance of the Soviet Union that resulted in a number of successor states claiming their own independence. In security matters, the demise of the Warsaw Pact ended the Cold War era.

In the post-cold War era, the stature of the United Nations increased considerably because it was thought that the Security Council would no

longer be paralysed by East-West confrontations. A new-found co-operation meant the Council would execute its primary responsibility of maintaining international peace and security. The publication of *An Agenda for Peace* restored trust in international peace-keeping and also ushered in an era of task-sharing between the UN and regional bodies.

Encouraged by the pronouncements of *An Agenda for Peace*, regional arrangements from diverse parts of the world revitalized their treaties, or re-examined their provisions, to take up an active role in the maintenance of international peace and security.

In 1992, NATO, for its part, made a thorough re-evaluation of its reasons for existence and decided that instabilities in Europe required a determined response. NATO embarked on an ambitious mission to restore stability in the former Yugoslavia. The so-called "out-of-area" activities signified the expansion of tasks in the New World Order. It is submitted that in certain cases, as in the Kosovo bombings, NATO had clearly exceeded its mandate. It was no longer sharing tasks with the UN, but was acting as a law unto itself.

African regional arrangements finally came out of the shadow of the OAU and took matters into their own hands. Fully recognizing that Africa was on its own in the New world Order, and that the Mother Body on the continent would be tardy in resolving conflicts, new-age groups such as ECOWAS and SADC revitalized their treaties.

ECOWAS, hitherto an insignificant economic regional body, attracted world attention when it went headlong into the Liberian civil war. The war had failed to win the attention of the world community because of events in Eastern Europe and the Persian Gulf. In the end, however, despite some drawbacks in the peace enforcement mission, ECOWAS acquired some reputability in international affairs.

SADC also expanded its tasks when it intervened in the conflict in Lesotho and putatively in the DRC. Taking a leaf from their experiences as leaders of the Front Line states, the SADC Heads of State and Government resorted to diplomacy in the earlier crisis, and when military intervention was allowed by the treaty, force was used.

NOTES

1) Chapter II of *An Agenda for Peace* defines the following:

Preventative Diplomacy: action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur;

Peacemaking: action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the United Nations Charter;

Peacekeeping: it is the deployment of a United Nations presence in the field, hitherto with the consent of all parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well.

2) Among the examples of "group of States" mentioned, the Report cites "organizations for a general regional development or for cooperation on a particular economic topic or function". These non-political organizations are seen as capable of maintaining international peace and security.

3) Obasanjo traces the roots of regional instability to United States and Soviet Union reasons for intervention in Africa. Though they were not colonial powers in the classical sense, they carved themselves spheres of influence on the strength of their ideological and military support. The Soviet Union's economic and military support helped the liberation struggle between the 1950s and the 1970s. The West supported the most repressive regimes in the search for allies (in Keller & Rothchild., 1996:11).

4) *The Star*, 11 October 1996.

5) *Sunday Independent*, 13 October 1996.

6)   *Sunday Independent*, 8 March 1998.

7)   *Sunday Times*, 4 April 1999.

8)   Jacobson also takes a jibe at the United States, which, in the 19th century fought a civil war to deny secession to the south, and since then, had consistently opposed secession aspirations.

9)   *Sunday Times*, 4 April 1999.

10)   The Bosnia conflict ended when, on 1 October 1996, the United Nations certified elections in Bosnia-Herzegovina and the Security Council lifted all sanctions

11)   Contact Group Meeting, Bonn, 29 March 1998 (UN Doc S/1998/272).

12)   Contact Group Meeting, Rome, 29 April 1998 (UN Doc. S/1998/355).

13)   Contact Group Meeting, Bonn, 8 July 1998 (UN Doc. S/1998/657).

14)   5 April 1999.

15)   *City Press*, 11.October1998.

16)   The SADC Communiqué reads: "The Summit expressed strong objections to the recent decision by His Majesty, King Letsie III to unlawfully dissolve parliament and disband the democratically elected government in gross violation of the constitution of the kingdom. The summit advised His Majesty to act in the best interest of his country and the region at large by immediately and unconditionally reinstating the legitimate Government of Prime Minister Mokhehle" (29 August 1994, Gaborone).

17)   *The Star*, 15 September 1994.

18)   SADC Communiqué, 28 August 1995.

19)   *The Star*, 18 September 1998.

20)   *Mail & Guardian*, 24 May - 1 June 1998; 31 July - 6 August 1998.

21)   SADC Communiqué, 13 - 14 September 1998.

22)   *Sunday Independent*, 13 September 1998.

23)   *City Press*, 6 September 1998.

24)   *Sunday Times*, 23 August 1998.

25)   BBC World Report, 4 December 1998

26)   BBC World Report, 3 September 1998..

27)   SADC Communiqué, 13 - 14 September 1998.

28)   UN Doc. S/1999/815 (23 July 1999).

CHAPTER EIGHT: CONCLUSION

8.O CONCLUDING REMARKS AND FINDINGS

This research attempted to investigate the emerging role of SADC and other regional arrangements in the maintenance of international peace and security from an historical perspective and through a comparative analysis. The historical approach encompassed the past, dating from the establishment of the United Nations and its Charter in 1945 up to the end of the Cold War in 1990. The present has its frame of reference in the New World Order. The future perspective will be outlined at the end of this chapter.

Chapter One of this thesis treated regionalism as a topical concept in present day international efforts to achieve peace and security in diverse parts of the world. It illustrated how some of the regional arrangements have moved to eclipse their superiors to help maintain international peace and security. For example: NATO has been performing the duties of the Security Council in Eastern Europe since 1995 after the Dayton/Paris Accord which effectively transferred UN powers to the NATO Council. When NATO bombed Serbia in 1999, it did not deem it necessary to seek Security Council approval, because, to all intents and purposes, it was acting as the *de facto* Security Council. For ECOWAS, in 1990 when the Liberian civil war reached horrifying levels and human suffering went beyond control, the option was not to seek assistance from the regional superior body, the OAU. The West African leaders were all too aware that the Mother Body of African affairs would dust up its articles on non-interference and sovereignty and declare that the matter was internal to the Liberians. Furthermore, an appeal to the

world body would not have been favourably met owing to a few reasons. First, the UN was obsessively occupied with events in Central and Eastern Europe. Second, the Security Council always looked to the OAU for the type of measure to take on African conflicts. In that situation, ECOWAS took its own initiative to set up ECOMOG. A similar, but far less catastrophic, situation faced SADC in the Lesotho and DRC crises. The leaders of Southern Africa also decided to by-pass the superior bodies, the OAU and the UN when they intervened militarily in Lesotho.

In Africa in particular, several regional attempts at peace-making were done outside the framework of the OAU. West African leaders brokered the Lome Peace Accord concerning Sierra Leone. The Lusaka Peace Plan was the result of regional diplomacy although under the auspices of the OAU. In both cases, however, there was the customary genuflection to the superior organizations. Even in the Kosovo crisis, it should be recalled, NATO ultimately had to defer to the United Nations taking overall, but symbolic, control of the civilian and security presence in the stricken province. The most important revelation was that despite spear-heading their own peace plans, regional arrangements have the obligation under international law to be seen to be working within the framework of established rules.

Another notable finding was the issue of "the expansion of tasks". It found increasing currency in the New World Order, as regional arrangements broadened their concerns to include those that were never conceived of at the time of their establishment. When NATO was founded in 1948, it was to be an alliance of capitalist states to protect themselves against perceived or real communist threats. It was not an organization for the enforcement of

peace, or even peacemaking for that matter. Before 1992 there was little or no contact between NATO and the United Nations. When NATO involved itself in peace enforcement operations in the former Yugoslavia, it signaled its move from its Article 5 operations to "out-of-area" activities. By and large it had expanded its tasks.

ECOWAS was founded in 1975 as a low-level regional organization concerned purely with economic development and the creation of a substantial regional market to attract foreign investment. Other purposes were the collapse of trade barriers among the region's nations, and a common monetary policy in the foreseeable future. A generation later, in 1990, the leaders found themselves dealing with a political crisis that needed large-scale intervention that only the UN could muster. But that was not to be the case. The regional organization was left to its own devices and it created its own peace- enforcing unit, ECOMOG. It is submitted that today, ECOWAS is known more internationally for its peace enforcing initiatives than for its economic successes.

The SADC region also began as a humble effort to dilute its economic dependence on the then racist South Africa in 1980. Unlike the ECOWAS, it had a history of political involvement in the liberation struggle of Southern Africa. Nonetheless, the original aims of the organization were not political at all, since these were delegated to the popular Front Line States, led by African luminaries such as Kenneth Kaunda of Zambia and Julius Nyerere of Tanzania. In the 1990s, however, SADC found itself intervening in the internal affairs of its member states.

Another development, especially for the two African regional organizations, was the new emphasis on security. The leaders realized that there would be no economic development in the absence of long-term security in the region. That emphasis was clearly accompanied by the concept of the expansion of tasks. For example, NATO leaders decided in 1991 to re-assess their relevance in the New World Order in the situation where the original threat of 1948 had disappeared. To justify their existence as an alliance, they looked to the instabilities of Eastern Europe as a new threat. In 1992 therefore, NATO Council emphasized European security as its *raison d'etre*. Similarly, ECOWAS and SADC laid stress on security as a twin-objective together with development. By migrating into the security realm, these organizations help, in whatever way, with the maintenance of international peace and security. Their activities, therefore, have to be within the framework of the UN Charter, in particular Chapter VIII provisions.

It was the business of Chapter Two to look at how the Charter legalizes regional arrangements to help maintain international peace and security. The discussion was limited to the constitutional relationship between the UN and regional arrangements as laid down in the Charter, without reference to political interpretation of the provisions.

At the outset, it was found that separating international law and international relations in United Nations discourse was an arduous task because of the historical facts which attended the founding of the United Nations and its Charter. The exposition revealed that the UN was conceived of in historical moments of high importance. The Second World War had just ended and the victors desired to design a political tool to deal with the aftermath of the war.

Inevitably, that legal tool was given legal status but the success was limited by the conflicting demands made by various regional blocs at the founding conference.

The discussion narrated the founding process so as to illustrate the influences of diverse blocs and pressure groups. Chief among them was the already well-established and functioning OAS, which agitated for specific mention in the proposed Charter. It was found that a similar demand by the Arab League led to the Conference turning down the OAS demand. The historical account also revealed the contentious question of the ultimate relationship between the so-called universalists and regionalists. The vexed issue concerned the degree of freedom to be assigned to regional arrangements to deal with conflicts of a local nature, and to escape the crippling effect of the veto in cases of immediate threats.

Compromise at the San Francisco Conference came in the form of Chapter VIII provisions and Article 51. In general, Chapter VIII was seen as a compromise to assuage regionalist claims because there were significant amendments to the Dumbarton Oaks Proposals that went in the direction of greater autonomy for the regions.

Article 52 (pacific settlement) was designed to encourage states involved in local disputes to utilize regional arrangements in their attempts to work out an amicable adjustment *before turning to the Security Council for help.* Article 53 (enforcement action) was an attempt to deal with the problem created by the existence of mutual defence pacts by providing for the utilization, where appropriate, of regional arrangements by the Security

Council for enforcement action. Article 54, however, was meant to remind regional arrangements that, in all instances, the Security Council continued to exercise control by demanding reports from them. Article 51 was the most important concession for it recognized the right of individual and collective self-defence against armed attack.

By and large, the findings of Chapter Two are that the outcome of the United Nations Conference on International Organization was to assign pre-eminence to the world body but also to recognize that regional arrangements possessed a potential that should be utilized in serving peacemaking functions.

Chapter Three focussed primarily on the theoretical suggestions why states forego part of their sovereignty and join an organization of several states. It also sought to explain the behaviour of states on the international plane. It linked with Chapter Two by looking at how and why regional arrangements are established within the framework of the UN Charter. The theories selected for the study were: Realism, Institutionalism, Regime Theory, Sociological Approaches, and Third World views.

The research concluded that the realist school tended to emphasize security issues because of the factor of "power interest". Realists believe that states form an organization mainly for the purpose of increasing their military and political strength on the world stage. Consequently, from a moral point of view, they do not allow international organizations a positive role in creating a better world. Another important finding was that the school was rooted in post World War II East-West power relations. The realists' views are

therefore appropriate for explaining the formation of military alliances or mutual defence pacts.

Another conclusion was that institutional theories concentrated on the ways in which strategic interaction may lead to the emergence of cooperation in a given area of international relations, such as security or economic development. In contrast to the realists, proponents of institutional theory emphasize the norms and shared understandings that constitute international society. Two of the most common institutions were political and economic unions. Within the broad institutionalist school, there were those who emphasized further: Liberal-functionalism, interdependence, or globalism. As revealed in the study, liberal-functionalits stressed the critical role of institutions in fostering and developing regional cohesion. For example, the SADC region is moving towards inspiring the "we-ness" among nationalities of southern Africa, and also inter-state relations in broader social and political goals. By and large, institutions are viewed as purposefully-generated solutions to different kinds of collective-action problems. The main purpose of the interdependence theorists was to search for forces that may lead states away from war and into more cooperative relations. The rationale was that military force would not be used by governments against other governments within the region where complex interdependence prevails. Globalism, for its part, stressed the principle of the interdependence of the entire world, and looked beyond the regions. It was seen as acceptable in terms of standard-setting, regulation, and enforcement of policies to tackle world problems, such as pollution, AIDS, conservation and others.

The study found that regime theorists desired to rehabilitate the credibility of international law, in particular classical international law. To achieve that in an anarchical international society which privileged national interests, the regime theorists had to excise some of the "state practice" doctrines such as the validity of treaties signed under duress, and the legitimacy of successful conquest. Another finding was that most states obey international law but for different reasons. Small states are protected by international law against stronger neighbours; great powers need to maintain the *status quo* because they are the ones who exercise inordinate influence over the content and application of the norms. For example, only the great powers in the Security Council can determine if a conflict poses a threat to international peace and security.

Sociological approaches looked at issues of the *sense of community, collective identity and constructivism*, and *democratization*. The study showed that with regard to "sense of community" focus should be on the cultural and historical forces that had fashioned the consciousness of society, and had molded perceptions of common values and purposes. The common-cultural tradition contributed towards increased common value systems such as order, justice, peace, and democracy. Collective identity and constructivism emphasized the "we-ness" that citizens of a particular region cultivate among themselves despite existing linguistic and cultural barriers. The theory looked at regional awareness and identity, and the shared sense of belonging to a particular regional community. Democratization reinforced the idea that "democracies rarely go to war with each other".

Third World views on international relations adopted from the beginning a Marxist orientation. It was found that they were particularly concerned with how international institutions could be used either as tools for the exploitation of the Third World, or as agents of liberation. The conclusion was that in Africa, regional organizations were instrumental in the liberation struggle.

Chapter Four examined four non-African regional arrangements, namely the OAS, the Arab League, NATO, and the Warsaw Pact. The examination was by way of an historical-comparative approach. The historical perspective embraced the Cold War period. It was found that more than at any time in modern history, regional arrangements emerged in the post World War II era. Although the United Nations Charter had promised the world in 1945 that the scourge of war would be removed, the world was never quite safe from the Cold War that ensued. All the four regional organizations were products of insecurity occasioned by the Cold War. The comparative approach selected the following criteria: treaties and their founding principles; acknowledgement of UN Charter principles; the presence of the hegemon; resources for conflict resolution; peaceful settlement of disputes; and, security provisions in the treaty.

The main conclusion arrived at was that all the organizations saw themselves as involved in the maintenance of international peace and security as "junior" United Nations in their respective regions or sphere of influence. The involvement entailed two duties: to provide the machinery for the pacific settlement of disputes within the region; and to provide adequate security on the occasion of aggression, whether internal to the organization

or external. The OAS and the Arab League, with comprehensive aims, attested that they were capable of performing both functions. NATO and the Warsaw Pact were concerned only with security arrangements.

About the aspects of comparison, the study found the following: in terms of the founding principles, all regional arrangements were formed with a purpose of taking advantage of common and unifying characteristics among member states so as to enhance their standing on the international stage on a particular issue. All the treaties were found to be compatible with UN Charter principles, at least in theory. In terms of the hegemon, it was found to be existent in two organizations, the OAS and the Warsaw Pact. Both instances were interpreted adversely by the international community because they had the effect of insulating unilateralism and its regional legitimization from Security Council control. The United States influenced the direction of the OAS to a disproportionate degree and had turned it into a rubber stamp of its unilateral actions. A similar situation existed in the Warsaw Pact regarding the former Soviet Union. Inside NATO, the United States did not exercise that inordinate influence. The bipolar divisions within the Arab League precluded the emergence of a hegemon in that organization.

The research found that in terms of the resources for conflict resolution and management, the organizations scored differently. In terms of material resources, the OAS had a formidable arsenal to deal with disputes. It had an elaborate constitution which covered all aspects of intra- and extra- regional conflicts: the Rio Treaty, the Charter of Bogota, and the Pact of Bogota. Financial and logistical support from the United States also reinforced the resources. It was found, however, that these powerful endowments did not

transform the OAS into credible forum for conflict resolution. As for the Arab League, its resources have been influenced largely by the strong historical-cultural links. It was expected that the organization would be a shining example of regional solidarity, but there was more dissent in that group than found elsewhere. The conclusion is that the Arab League is the weakest of all the groups studied. Besides disharmony between radical states and the monarchists, the voting formula entrenched in the treaty meant that no resolution could be passed unless it was by a unanimous vote.

Chapter Five dealt with three African regional arrangements, namely, the OAU, ECOWAS, and SADC. It maintained the historical-comparative perspective adopted in the previous chapter but with modifications where appropriate and applicable. In keeping with the historical approach, the discussion investigated the birth and growth of regionalism in Africa in the form of the OAU. The study revealed that the ultimate shape of the OAU after the Addis Ababa Summit of 1963 was largely pre-determined by African political blocs that had been crystallizing since 1958. The power relations between those factions determined the content and application of the OAU Charter. It was found that the conservative group was more influential owing to its numerical superiority. The majority of the principles of the OAU Charter complied systematically with the general principles of international law. These include, equal sovereignty, respect for independence and territorial integrity, as well as the all-important tenet of non-interference in internal affairs of other states. Victory for the radical group came in two forms, namely, a concerted effort to eradicate colonialism and racism from the African continent and the pledge to assist struggles for national liberation.

The study also concluded that the OAU, in terms of resources for conflict management, placed greater trust on *ad hoc* committees than on the traditional methods as enumerated in Article 33 of the United Nations Charter. Despite the setting up of the Commission for Mediation, Conciliation and Arbitration, which regrettably had not been used, the OAU utilized the charisma of its leaders to deal with disputes that arose between its members. However, when the dispute was likely to result in elements of action under Chapter VII of the UN Charter, the regional body would defer to the United Nations. The OAU, it was found, succeeded in institutionalizing its position on African borders and secession aspirations. The issue of colonial borders was dealt with at the Cairo Summit of 1964 which declared that the borders of African states, on the day of their independence, constituted a tangible reality. As far as self-determination and secession were concerned, most African states regarded such claims by groups within independent states as unacceptable.

As far as ECOWAS and SADC are concerned, the main focus was on the origins of the groups as economic communities and their subsequent emergence as role players in the maintenance of international peace and security. As for ECOWAS, it was found that it was the horror of Liberia that galvanized regional leaders into revitalizing security provisions buried deep under mounds of economic regulations in the treaty.

SADC was a different matter because when it began as SADCC in 1980, the organization had experience in political matters as the Front Line States. Therefore, the transition from pure economic concerns to issues of regional

peace and security was not an agonizing matter. The conclusion reached was that the strength and prestige of SADC were greatly enhanced by the accession of South Africa to the Treaty. The group no longer had to expend its resources on the fight for liberation in the region but it had the opportunity to fight for economic development and regional stability. The study found that the launch of the Organ for Politics, Defence and Security in 1996 led to some constitutional crisis within SADC structures. The crisis has revolved primarily over the level at which it operates and the fact that it is outside the structures of SADC, thereby assuming the negative connotation of a loose cannon.

Chapter Six treated the geopolitics of regional arrangements from a historical perspective. The cases selected are what might be termed leading historical cases. They laid the foundation for the study of regional arrangements in international law and politics. It was concluded that the cases were the parameters within which practitioners and scholars assessed their theoretical assumptions. The regional arrangements involved in the Cold War period were: the OAS, the Arab League, NATO, the Warsaw Pact, and the OAU.

The OAS participated in the following cases: Guatemala (1954); the Dominican Republic (1960; 1965); Cuba (1962 – 1964); and the Falklands/Malvinas (1982). The finding was that the question of jurisdictional priority between the OAS and the UN characterized the relationship between the two bodies, which led to the so-called charter amendment theory

As for the Arab League, the conclusion reached was that its disputes did not have Cold War proportions; and also because the League never aspired to be the regional foreman, there were no jurisdictional clashes between itself and the world body. The study also found that the Arab League was debilitated by the lack of unanimity.

NATO did not become involved in any action during the Cold War period. The participation of three of its members in the Cyprus crisis did not mean that NATO was involved. The Warsaw Pact was the only military alliance to be entangled in disputes which dealt with the maintenance of peace and security. Its prestige was irreparably damaged by the interventions in Hungary (1956) and Czechoslovakia (1968). The unbridled hegemony of the Soviet Union inside the Warsaw Pact eclipsed that of the USA inside the OAS.

The OAU, in terms of the cases looked at in this chapter, registered a positive relationship with the United Nations. After the Algerian-Moroccan border war (1963) and the Ethiopia-Somalia-Kenya border crises (1964), the OAU succeeded in claiming that African disputes should be solved within the African framework. Following the Congo crisis of 1964, the organization managed to institutionalize the "Try OAU First" principle.

Chapter Seven focussed on regionalism in the New World Order. It looked at defining moments of the post-Cold War era. Several cases were used to illustrate how regional arrangements have taken up the promotion of peace and security into their own hands. The New World Order, it was found, was characterized by new-found cooperation in the Security Council.

Both the stature of the United Nations and regional arrangements increased in the New World Order after the publication of *An Agenda for Peace*. The Report restored trust in international peacekeeping and also ushered in an era of task-sharing between the UN and regional bodies.

Encouraged by the new outlook, several regional arrangements took up active roles in the search for peace. NATO was involved in Eastern Europe; ECOWAS managed conflicts in West Africa; and SADC intervened in regional politics.

8. 1   RECOMMENDATIONS

At this point, the study makes the following recommendations:

1.   Regionalism is a crucial component in the search for world peace and security and therefore it should be placed at the centre of efforts to maintain a stable world. The position at the centre of efforts should be strengthened by building sound and lasting relationship between the United Nations and regional arrangements. The relationship should not be left to political interpretation of the UN Charter, but should be enhanced by determination to respect also the spirit of the UN Charter.

2.   At the heart of the relationship between the United Nations and regional arrangements lies Article 53 of the UN Charter. This study

recommends that the received interpretation of this provision require urgent revision. The current practice of the Security Council which has been prevailing since the early 1960s should cease. It is recommended that the letter and spirit of Article 53 should be respected and that interpretations should not be clouded by political expediencies. "Enforcement action" as mentioned in the article should be interpreted in terms of the provisions of Chapter VII, Articles 41 and 42. There is no basis in distinguishing punitive measures imposed by the Security Council from those that are imposed by a regional arrangement in this regard. Non-military measures under Article 41 are as much forms of sanction as military action under Article 42. Since the distinction was made in the context of the Cold War in the 1960s, it is time for the practice to cease.

3. It is recommended that when regions apply Article 41 measures against a culprit-state, they should seek Security Council authorization first. Otherwise, regional arrangements would resort to imposing such sanctions to the point where the recalcitrant state would be on its knees, short of defeat by force.

4. This study joins the voices of reason in calling for the reform of the Security Council. In general, the demands for transformation in the Council center on enlargement and the retention of the veto. The issue of enlargement, it is submitted, is tied with that of giving proper meaning to geographical representation in the Council. What this means is that economic giants such as Japan and Germany are demanding a permanent seat each based on their financial contribution

to the UN, while regional powers such as Brazil (Latin America), India (Indian/Asian sub-continent), and South Africa and Nigeria (Africa) demand seats based on regional interests to be taken care of in the Council. It is submitted that, on a more fair and logical reasoning, memberships of Britain and France should be collapsed and transformed into a permanent seat for the European Union, with rotating occupation, since these members actually represent similar regional and ideological interests. Finally, the Muslim world, which has a population of over a billion, should be represented on a permanent basis.

5.   The Security Council is endowed with the discretionary power to determine whether a situation is a threat to international peace in terms of Article 39. It is submitted that this provision impinges considerably on regional initiatives to search for solutions to local instabilities because what might be regarded as a serious conflict by the region might not be deemed as such by the Council. In this regard, the Guatemala case of 1954 is instructive. The Security Council determined that an armed invasion was a dispute and hence had to be dealt with by the regional organization. It is not implied that the regions should usurp the primacy of the Security Council in deciding that a given regional situation threatens regional peace and security, and therefore it should be transformed into a situation threatening world peace and security. It is recommended that the Council should assess the cases brought to it involving regional organizations in a responsible manner and not dismiss them because of political expediency.

6.   It is recommended that when a permanent member of the Council vetoes a resolution designed to respond to any form of regional action, it should do so only for matters of considerable importance. The permanent member should state the reasons why it has decided to exercise the right of veto in a given situation. Reasons should be forwarded why regional action should be supported or dismissed.

7.   It is proposed that when a case involving a regional arrangement of which a permanent member has membership is brought before the Council, the respective member should not take a vote on the matter. The lessons of the OAS, the Warsaw Pact, and NATO are enlightening. The membership of the United States in the OAS frustrated healthy debates when matters concerning the organization were brought before Council. The Soviet Union precluded the debate on its interventions in Hungary and Czechoslovakia. The most recent case is that of NATO involvement in the former Yugoslavia. It became difficult in the process to distinguish the views of the Security Council, the Contact Group, NATO, owing to the fact that three powerful states, France, Great Britain, and the USA are members of all the groups.

8.   It is proposed that the application of Article 53 should be strengthened to serve the purpose for which it was established, that is, to regulate the relationship between the UN and the regions. The substance of that relationship is that at all times the Security Council retains primary responsibility in the maintenance of international peace and

security. It is submitted that one of the fundamental ways of strengthening UN-regions relations, and of reinforcing regional powers, is to investigate how the role of the Security Council affects such relationships. The Security Council is central to the application of Chapters VI, VII, and VIII. The significance is that the Council is at the center of all kinds of efforts to search for peace, whether by pacific means, the use of force, or through regional initiatives.

9. The issue of prior authorization should be stressed. State practice has been that any enforcement action is legitimized *ex post facto*. Historical cases aside, this unacceptable practice persists even in the New World Order. When ECOMOG forces landed in Monrovia on 24 August 1990, they did not have any authorization from the Security Council. Approval was granted only two years later in October 1992. NATO bombing of Serbia was not approved by the Council. The same goes for SADC intervention in Lesotho. It is submitted that in cases of emergency, when prior authorization may be delayed owing to the veto power play in the Council, the matter might be taken to the general assembly under the provision of GA Resolution 377 of 1950 (Uniting for Peace).

10. It is submitted that if the principle of prior authorization cannot be fully enforced, then it should be regarded as superfluous and be expunged from the Charter.

11. The Security Council should treat regional cases with fairness. There should be a standard followed to determine when regional action is

appropriate and when the UN should be involved. The defining cases of the New World Order are a case in point. The United Nations expended all its energy to quell the Gulf war of 1990/1 while two regional arrangements, the Arab League and the Gulf Cooperation Council stood by the wayside. In Liberia, the scale of human suffering and death was catastrophic, but the Security Council did not deem it sufficient to intervene. Instead the United States proffered a paltry $15 million to a weak country, Senegal, as a sign of concern.

12. The study strongly rejects the use of regional arrangements as fig leaves for naked and aggressive unilateralism. Regionalism within the UN Charter framework is understood to be collective action. It is recommended that regional action should be just that and should be seen to be just that.

13. Regional arrangements should also not serve as *post facto* rubber stamps of hegemonic action. The decision to intervene in a conflict which besets the region should be a collective process from the beginning. The organization should not be marshaled in when some of its members find their individual actions unbearable or unpopular with world opinion. The case of the OAS in the Cuban missile crisis is an important lesson in this matter. Recently, the intervention of Angola, Namibia, and Zimbabwe in the DRC war of August 1998 obtained tacit approval from the SADC a month thereafter.

14. It is recommended that the proposals spelled out in *An Agenda for Peace* should be put into practice. The issue of task-sharing needs to

be addressed more carefully and with more energy. The report should not be left to accumulate dust in the repositories of the UN Headquarters. Global and regional institutions can and should work together in promoting international peace and security.

15. It is submitted that, though the report mentions all types of "group of states" as possible partners with the UN in the search for peace, any such group must contain within its constituent documents the legal basis for involvement in promoting world peace and security. The scope of activities as enshrined in the treaty must clearly indicate the organization's readiness and willingness to participate in such matters.

16. In the task-sharing exercise, the United Nations must not rubber stamp the failed plans of the regional body. It should craft an alternative peace initiative to revitalize the mission. Instances which spring to mind are: the Chad crisis when the UN voted to fund the Inter-Africa Force while civil war continued to rage; the Liberian conflict in which the UN stepped in two years later by endorsing ECOWAS initiatives while the carnage continued; and lastly, the obsequious manner in which the world body endorses NATO policy over Serbia.

17. It is recommended that regional powers should not push an individual agenda in regional efforts to search for peace. They should desist from inordinate involvement in those efforts so as to save the organization from disapproval of the international community. There is the desirable need to balance the contribution and participation of member states so that a regional intervention should not be seen as a

hegemon's mission to rescue a discredited government, or an unwelcome invasion to quell a popular uprising.

18.   For SADC in particular, it is recommended that a clear policy be put in place guiding the decisions when and how to intervene. It is hoped that the fledgling regional manager of disputes will not follow the bad lessons of the OAS by intervening in small and weak states while violations of international law and human rights are allowed to continue in stronger states. Lesotho should not be sacrificed at the altar of regionalism.

19.   Furthermore for SADC, it is recommended that the leaders come clean with the institutional framework of the Organ for Defence, Peace and Security. It is submitted that the Organ is not vital to SADC's capability to deal with security matters in the region. The Windhoek Treaty is comprehensive and detailed enough to be enlisted as a legal basis for intervention. The Organ has been in existence for four years but it has not been used at all. It is time to regard it as redundant and existing only to foster division in the group.

20.   Now that the OAU will be disbanded once the Constitutive Act of the African Union is ratified by the time of the next summit in Lusaka, Zambia, all African leaders should learn the lesson of history as provided by experiences of the large continental body. In particular, African leaders should heed Article 3 (f) of the Act, which declares that one of the objectives of the Union is to "promote peace, security, and stability on the continent". The most innovative provision,

however, is Article 4 (h) which enshrines "the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity". This last provision needs to be a reality and not just a passive article in the Act, never utilized owing to political posturing in the envisaged Assembly.

8. 2   **FUTURE PERSPECTIVE**

The future of regionalism depends largely on how the United Nations will continue to regard regional arrangements as important partners in the search for peace. If the proposals of *An Agenda for Peace* continue to find favour with the community of nations, then regional arrangements have a positive role to play in international search for peace.

It is important to note that approaches to the maintenance of international peace and security in the future might mean that no single actor, be it the UN or a regional organization, will be sufficient. A universal-regional partnership should rest on a good understanding of the possibilities and limitations of each body, an efficient division of labour, and proper accountability by the various institutions involved.

As agents for the promotion of peace, regional arrangements will continue to be relevant if they are seen by their member states to be determined about conflict resolution. The certainty of punitive actions against members who

flout the rules of behaviour and disturb the peace increases considerably the probability that states will resolve their differences by peaceful means. Every time an organization reads the riot act to a recalcitrant and delinquent state, the big stick must be wielded. The experiences of the DRC's Kabila is a case in point - he defied all SADC peace initiatives with impunity.

If regional organizations desire to claim relevance in the future, they must command the respect and authority of the parties to the disputes; they must be perceived to be impartial and determined to address matters brought before them.

Regional arrangements will finally come into their own when their member states approach them first, and *voluntarily*, as the proper and dispassionate forum to adjudicate on disputes, rather than being *obliged* to do so because of a treaty duty or when the United Nations refuses to deal with the matter and instead, send it to the regional body.

BIBLIOGRAPHY.

A. BOOKS

(1)   AKINDELE, R.A. (1976) *The Organization and Promotion of World Peace: A Study of Universal Relationships* (Toronto: University of Toronto Press).

(2)   ANDEMICAEL, B.(Ed) (1979) *Regionalism and the United Nations* (New York: UNTRA)

(3)   ARCHER, C. (1983*)* *International Organizations* (London: George Allen & UNWIN)

(4)   AYOOB, M. (1995) *The Third World Security Predicament: State Making, Regional Conflict and the International System* (Boulder, Col: Lynne Reinner)

(5)   BALDWIN, D.A. (Ed) (1993) *Neorealism and Neoliberalism: The Contemporary Debate* (New York: Columbia University Press)

(6)   BENNETT, A.L. (1984) *International Organization* 3rd Edition (Englewood Cliff, N.J.: Prentice Hall Inc)

(7)   BOUTROS-GHALI, B. (1992) *An Agenda For Peace* (New York: United Nations)

(8)   BOWETT, D.W. (1982) *The Law of International Institutions* 4th Edition. (London: Stevens & Sons)

(9)   BROWNLIE, I. (1963) *International Law and the Use of Force by States* (Oxford: Oxford University Press)

(10)   BROWNLIE, I (Ed) (1992) *Basic Documents on Human Rights.* 3rd Edition. (Oxford: Clarendon Press)

(11) BRYSON, J. & EINSWEILER, R. (Eds) (1991) *Shared Power? What is it? How does it work?* (Lanham, M. D: University Press of America)

(12) CALVOCORESSI, P. (1987) *World Politics Since 1945* 5th Edition (London: Longman)

(13) CASSESE, A. (Ed) (1986) *The Current Legal Regulation of the Use of Force.* (Dordrecht: Martinus Nijhoff Publishers)

(14) CHAYES, A. & CHAYES A. H. (Eds) (1996) *Preventing Conflict in the Post-Communist World: Mobilizing International and Regional Organization* (Washington, D.C.: The Brookings Institution)

(15) COOK, C. & KILLINGRAY, D. (1983) *African Political Facts Since 1945* (London: Macmillan Press)

(16) DAMROSCH, L. F. & SCHEFFER (Eds) (1991) *Law and Force in the New International Order* (Boulder, Col: Westview Press)

(17) DEGENHARDT, H. L. (1986) *Treaties and Alliances of the World* (London: Longman)

(18) EL-AYOUTI, Y. & BROOKS, H., C. (Eds) (1974) *Africa and International Organization* (The Hague: Martinus Nijhoff)

(19) EL-AYOUTI, Y. (Ed) (1994) *The Organization of African Unity after Thirty Years.* (Westport, Ct: Praeger)

(20) ETZIONI, M. (1970) *The Majority of One: Towards a Theory of Regional Compatibility* (Beverley Hills, Ca: Sage Publications)

(21) FAWCETT, L. & HURRELL, A. (Eds) (1995) *Regionalism in World Politics: Regional Organization and International Order* (Oxford: Oxford University Press).

(22) FEDDER, E. (1973) *NATO: The Dynamics of Alliances in a Postwar World* (New York: Dodd Mead)

(23)   GARBA, J. N. (Ed) (1997) *Militaries, Democracies, and Security in Sub-Saharan Africa* (Abuja: Sub-Saharan African Security Project)

(24)   HARRIS, D.J (Ed) (1991) *Cases and Materials on International Law* (London: Sweet & Maxwell)

(25)   HENRIKSON, A. K. (Ed) (1986) *Negotiating World Order: The Artisanship and Architecture of Diplomacy* (Wilmington, Del.: Scholarly Resources Inc.)

(26)   JACOBSEN, C. G. (1996) *The New World Order's Defining Crises: The Clash of Promise and Essence* (Aldershot: Dartmouth)

(27)   KELLER, E. J. & ROTHCHILD, D. (Eds) (1996) *Africa in the New World Order* (Boulder, Col: Lynne Reinner)

(28)   KELSEN, H. (1950) *The Law of the United Nations: A Critical Analysis of its Fundamental Problems* (New York: Frederick A. Praeger).

(29)   KEOHANE, R. O. (1984) *After Hegemony: Co-operation and Discord in the World Political Economy* (Princeton, NJ.: Princeton University Press)

(30)   LITTLE, R. & SMITH, M. (Eds) (1991) *Perspectives on World Politics* 2nd Edition (London: Routledge)

(31)   LUARD, E. (1976) *Types of International Society* (New York: The Free Press)

(32)   MAGYAR, K. P. & CONTEH-MORGAN, E. (Eds) (1998) *Peace-keeping in Africa: ECOMOG in Liberia* (London: Macmillan)

(33)   MAPHANYANE, E. M. (Ed)(1994) *Southern Africa: In Search of a Common Future* (Gaborone: SADC)

(34) MORGENTHAU, H. (1978) *Politics Among Nations: The Struggle for Power and Peace* 5th Edition; Revised. (New York: Alfred A. Knoff)

(35) NYE, J. (1971; 1987) *Peace in Parts: Integration and Conflict in Regional Organization* (Lanham, MD: University Press of America)

(36) OYEN, E. (Ed) (1990) *Comparative Methodology: Theory and Practice in International Social Research.* (London: SAGE)

(37) RITTBERGER, V. (Ed) (1993) *Regime Theory and International Relations* (Oxford: Oxford University Press).

(38) RYAN, S. (2000) *The United Nations and International Politics.* (London: Macmillan)

(39) SALEM, N. (Ed) (1992) *Cyprus: A Regional Conflict and its Resolution* (New York: St. Martin's Press)

(40) SIMMA, B. (Ed) (1995) *The Charter of the United Nations: A Commentary* (Oxford: Oxford University Press).

(41) SMITH, H. W. (1991) *Strategies of Social Research* (New York: Holt, Rinehart and Winston, Inc)

(42) THATCHER, M. (1993) *The Downing Street Years* (London: HarperCollins)

(43) THARP, P. A. (Ed) (1971) *Regional International Organization* (New York: St. Martin's Press)

(44) TORDOFF, W. (1984) *Government and Politics in Africa* (London: Macmillan)

(45) TOUVAL, S. & ZARTMAN, W. (Eds) (1985) *International Mediation in Theory and Practice* (Boulder, Col: Westview Press)

(46) WARNER, D. (Ed) (1995) *New Dimension of Peacekeeping* (Dordrecht: Martin Nijhoff Publishers)

(47) WEISS, T. G. (Ed) (1998) *Beyond UN Subcontracting: Task-Sharing with Regional Security Arrangements and Service-Providing NGO's* (New York: St. Martin's Press)

(48) WHITE, N. D. (1993) *Keeping the Peace* (Manchester: Manchester University Press)

(49) WOODS, N. (Ed) (1996) *Explaining International Relations since 1945.* (Oxford University Press)

(50) ZACHER, M. (1979) *International Conflicts and Collective Security, 1946-1977.* (New York: Praeger)

(51) ZARTMAN, I. W. (1966) *International Relations in the New Africa* (Englewood Cliffs, N. J.: Prentice Hall Inc)

B. **ARTICLES/CHAPTERS**

(1)   AL-KHADHEM, S.J., "The Role of the League of Arab States in Settling Inter-Arab Disputes" in *Revue Egyptienne du Droit International* (1976) **vol. 32**, pp. 1-32.

(2)   ADIBE, C. "The Liberian Conflict and the ECOWAS-UN Partnership" in WEISS (1998).

(3)   AKEHURST, M. "Enforcement Action by Regional Agencies, with special reference to the Organization of American States" in *British Yearbook of International Law* (1967) **vol. 42**, pp. 175-227.

(4)   BEBR, G. "Regional Organization: A United Nations Problem" in *American Journal of International Law* (1955) **vol.49**, pp.166-184.

(5)   BOUTROS-GHALI, B. "The Arab League: 1945-1970" in *Revue Egyptienne de Droit International* (1969) **vol. 25**, pp.67-118.

(6)   BUKARAMBE, B. "Conflict and Conflict Management in Africa" in *Survival* (1983) **vol. 25**, pp.50-58.

(7)   CERVENKA, Z. "The Role of the OAU in the Peaceful Settlement of Disputes" in EL-AYOUTI & BROOKS (1974).

(8)   CLAUDE, I, "The OAS, the UN and the United States" in *International Conciliation* (1964) **vol. 547**, pp. 1-67.

(9)   CONTEH-MORGAN, E. "ECOWAS: Peace-Making or Meddling in Liberia?" in *African Insight* (1993) **23:1**, pp.36-41.

(10)   COT, J. P. "The Role of the Inter-African Peace-Keeping in Chad, 1981-1983" in CASSESSE (1986).

(11)   DA COSTA, P. "A [nother] Plan for Peace" in *Africa Report* (1983) **38:5**, pp. 20-23.

(12)   DERRYK, V, L "Opinion" in *Africa Report* (1993 Jan/Feb) p.71.

(13) DOBBELL, W. "Cyprus as a Regional Conflict" in SALEM (1992).

(14) DUBE, T. J. "Co-Ordinating Regional Defence Co-Operation and Structures for Common Security in Africa" in *African Armed Forces* (1998 September) pp.24-28.

(15) FINKELSTEIN. L. S. "Some Aspects of Power Sharing in International Organizations" in *BRYSTON & EINSWEILER* (1991).

(16) FLEISCHMAN, J. "An Uncivil War" in *Africa Report* (1993 May/June) **38: 3**, pp. 56 – 59.

(17) FRANCK, T.M. & PATEL, F. "UN Police Action in Lieu: 'The Old Order Changeth'" in *American Journal of International Law* (1991) **vol. 85**, pp. 63 – 74.

(18) GREIG, D. W, "Self-Defence and the Security Council: What Does Article 51 Require?" in *International and Comparative Law Quarterly*. (1991) **vol. 40**, pp.366-402.

(19) HAAS, E. B. & ROWE, E. T. "Regional Organizations in the United Nations" in *International Studies Quarterly* (1973) **17:1**, pp.3-54.

(20) HALDERMAN, J. W. "Regional Enforcement Measures and the United Nations" in *Georgetown Law Journal* (1963) **vol.52**, pp.89-118.

(21) HUBAND, M. "Targeting Taylor" in *Africa Report*. (1993) **38:4**, pp.29-32.

(22) HURRELL, A. "International Society and the Study of Regions" in RITTBERGER (1993).

(23) ISSELE, J. P. "The Arab Deterrent Force in Lebanon, 1976-1983" in CASSESSE (1986).

(24) JONAH, J. O. C. (1974), " The UN and the OAU Roles in the Maintenance of International Peace and Security in Africa" in EL-AYOUTI & BROOKS (1974).

(25) JONAH, J. O. C. (1994), " The OAU, Peace-keeping and Conflict Resolution" in EL-AYOUTI (1994).

(26) KAPUNGA, L. T. " Southern Africa and the Role of SADCC in Subregional Development" in EL-AYOUTI (1994).

(27) KELSEN, H. "Collective Security and Collective Self-Defense Under the Charter of the United Nations" in *American Journal of International Law* (1948) **vol. 42**, pp.783-796.

(28) KELSEN, H. "Is the North Atlantic Treaty a Regional Arrangement?" in *American Journal of International Law* (1951) **vol. 45**, pp.162-166.

(29) KRAMER, M. "The Soviet Union and Eastern Europe: Sphere of Influence" in WOODS (1996).

(30) KULSKI, W. W. "The Soviet System of Collective Security Compared with the Western System" in *American Journal of International Law* (1950) **vol. 44**, pp.453-476.

(31) LEURDIJK, D. A. "Before and After Dayton: the UN and NATO in the former Yugoslavia" in WEISS (1998).

(32) LEVIN, A. L. "The Organization of American States and the United Nations" in ANDEMICAEL (1979).

(33) LUCK, E. C. & GATI, T. T. " Whose Collective Security?" in *Washington Quarterly* (1992) **vol. 15**, pp.43-56.

(34) MACDONALD, R. St. J. "The Developing Relationship between Superior and Subordinate Political Bodies at the International Level" in *Canadian Yearbook of International Law.* (1964) **vol. 2**, pp.21-55.

(35) MACFARLANE, S. N. & WEISS, T. G. "Regional Organization and Regional Security" in *Security Studies* (1992 Autumn) **2:1**, pp.6-37.

(36) MALAN, M. "Can They Do That? SADC, the DRC, and Lesotho" in *Indicator SA* (1998 Summer) **15: 4**, pp.90-95.

(37) MALUWA, T. "The Peaceful Settlement of Disputes Among African States, 1963-1983: Some Conceptual Issues and Practical Trends" in *International and Comparative Law Quarterly* (1989) **vol. 38**, pp.299-230.

(38) MAOZ, Z. & RUSSETT, B., "Normative and Structural Causes of Democratic Peace, 1946 – 1986" in *American Political Science Review* (1993 September) **87: 3**, pp. 624- 638.

(39) MATHOMA, T. "South Africa and Lesotho: Sovereign Independence or a Tenth Province?" in *South Africa Yearbook of International Affairs* 1999/2000, pp.71-78.

(40) MORTIMER, R. A. "ECOMOG, Liberia, and Regional Security in West Africa" in KELLER & ROTHCHILD (1996).

(41) MWAGIRU, M. (c 1996) "Who Will Bell The Cat? Article 3(2) of the OAU Charter and the Crisis of OAU Conflict Management" (Institute of Diplomacy and International Studies, University of Nairobi, Kenya).

(42) N'DIAYE, T. M. "Conflict Prevention and Conflict Resolution in the African Context" in *Issue* (1993) **21:1-2**, pp.70-73.

(43) NAIDOO, S. "Congo: From Bad to Worse" in *South African Yearbook of International Affairs* 1999/2000, pp.327-336.

(44) OBASANJO, O. "A Balance Sheet of the African Region and the Cold War" in KELLER & ROTHCHILD. (1996)

(45) PADELFORD, N. J. "Regional Organization and the United Nations" in *International Organization* (1954) **8:1**, pp.203-216.

(46) PENTLAND, C. "International Organization and their Roles" in LITTLE & SMITH (1991).

(47) PIRRONE, P. "The Use of Force in the Framework of the OAS" in CASSESSE (1986).

(48) ROSECREANCE, R. "Regionalism and Post-Cold War era" in *International Journal* (1991 Summer) **vol. 46**, pp.373-393.

(49) SCHACHTER, O. "Self-Defense and the Role of Law" in *American Journal of International Law* (1989) **vol. 83**, pp.259-277.

(50) SLINN, P. E. "The Southern African Development Co-Ordination Conference" in *The Yearbook of World Affairs* (1984) **vol. 38**, pp183-197.

(51) TARR, S. B. "The ECOMOG Initiative in Liberia" in *ISSUE* (1993) **21:1-2**, pp.74-83.

(52) TOUVAL, S. "The Organization of African Unity and African Borders" in *International Organization* (1967) **vol. XXI**, pp.102-127.

(53) VAN AARDT, M. "The SADC Organ for Politics, Defence and Security: Challenges for Regional Community Building" in *South African Journal of International Affairs* (1997 Winter) **4:2**, pp144-164.

(54) VENTER, D. "An Evaluation of the OAU on the Eve of South Africa's Accession" in *Africa Insight* (1994) **24: 1**, pp. 47-59.

(55) WALLERSTEIN, I. "The Early Years of the OAU: A Search for Pre-Eminence" in *International Organization* (1966 Autumn) **20:4** pp.774-787.

(56) WENDT, A. "Collective Identity Formation and the International State" in *American Political Science Review* (1994) **88:2**, pp.384-396.

(57) WILCOX, F. O. "Regionalism and the United Nations" in *International Organization* (1965) **9:3**, pp.789-812.

(58) WILD, P. B. "The Organization of African Unity and the Algerian-Moroccan Border Conflict" in *International Organization* (1966) 20:1, pp.18-36.

(59) WILD, P. B. "Radicals and Moderates in the OAU: Origins of Conflict and Bases for Co-existence" in THARP (1972).

(60) WOLFERS, M. "The Organization of African Unity as Mediator" in TOUVAL & ZARTMAN (1985).

(61) YOROMS, G. J. "ECOMOG and West African Regional Security" in *ISSUE* (1993) **21:1-2** pp.84-91.

C.   **OFFICIAL DOCUMENTS**

(1)   Charter of Bogotá (April 1948)

(2)   Decision A/DEC 9/5/90 (Establishing ECOWAS Standing Mediation Committee)

(3)   Decision A/DEC 1/8/90 (Establishing ECOWAS Monitoring Group)

(4)   Declaration: Southern Africa: Towards Economic Liberation (Lusaka Declaration, 1 April 1980)

(5)   Declaration, Treaty and Protocol of the Southern African Development Community (Windhoek Treaty 17 August 1992)

(6)   Lusaka Accord/Ceasefire Agreement (9 July 1999)

(7)   North Atlantic Treaty (4 April 1949)

(8)   Organization of African Unity Charter (25 May 1963)

(9)   Pact of Bogota on Pacific Settlement (April 1948)

(10)   Pact of the League of Arab States (22 March 1945)

(11)   Rio Treaty of Reciprocal Assistance (2 September 1947)

(12)   SADC Organ for Politics, Defence, and Security (Gaborone, 26 June 1996)

(13)   United Nations Charter (26 June 1945)

(14)   The Warsaw Treaty of friendship, Co-operation and Mutual Assistance (14 May 1955)