

The Security Council and Regional Arrangements: Towards Effective Engagement



Group photo of members of the UN Security Council and the African Union Peace and Security Council, before the 12th annual joint consultative meeting.

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Executive Summary

The contours of the relationship between the UN Security Council and regional arrangements have long been the subject of debate. This debate has assumed renewed significance following the publication of *A New Agenda for Peace*, a July 2023 policy brief that sets out UN Secretary-General António Guterres’ vision for an effective multilateral security system. The brief, which covers a wide array of issues, argues that robust regional frameworks and organisations that have strong partnerships with the UN are necessary for

managing growing competition among member states and the increasingly transnational threats facing the international community.¹

Several of the Secretary-General’s recommendations are directed towards or involve regional organisations. Guterres suggests, for example, that the UN, regional organisations, and their respective member states should “operationalise rapid responses to emerging crises through active diplomatic efforts” and calls for repairing regional security architectures where they are in danger of collapsing; building

¹ Our Common Agenda Policy Brief 9: A New Agenda for Peace, (July 2023), 12.

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them where they do not exist; and enhancing them where they can be further developed.²

The brief also focuses on the role of regional organisations in the context of peace operations, arguing that “peace operations must be significantly more integrated and should leverage the full range of civilian capacities and expertise across the [UN] system and its partners, *as part of a system of networked multilateralism and strengthened partnerships*”³. UN support for African peace support operations receives particular attention. The brief calls for a new generation of peace enforcement missions and counter-terrorism operations in Africa, led by African partners with a Council mandate under Chapters VII and VIII of the UN Charter and guaranteed funding from member states’ assessed contributions to the UN. It also recommends systematic consideration of requests made by the AU and subregional organisations for the provision of support to peace support operations.⁴

These recommendations implicitly acknowledge the increased involvement of regional arrangements in the maintenance of international peace and security during the post-Cold War period. There are several factors that have contributed to this to varying degrees, including a desire to share the burden of conflict management among different actors, a preference for regional solutions from certain regions, particularly Africa, and growing awareness by the Council and member states that regional arrangements offer useful strategic flexibility when managing or responding to a crisis. That being said, the turn to regional actors has not always been the result of an overarching strategy. Instead, it has often come about as a pragmatic response to the particular circumstances of a given case, usually driven by political considerations.

Is the turn to regional arrangements a good idea? The answer is not entirely clear. As discussed in the introductory section below, there are both advantages and disadvantages to greater regional involvement. Despite the lack of clarity on this point, a growing role for regional arrangements in efforts to maintain international peace and

security seems likely, as part of the trend toward regionalisation and perhaps also as a result of the emphasis on developing a system of networked multilateralism referred to in *A New Agenda for Peace*.

It is therefore important to closely examine the relationship between the Council and regional arrangements. With this in mind, this report aims to provide insights into several aspects of the relationship, including the legal framework and the way in which cooperation has worked in practice. The introductory section sets the scene and considers some factors that have contributed to the push towards regionalisation in more detail, before briefly touching on some of the advantages and disadvantages of greater regional involvement.

The next section then undertakes a legal analysis of Chapter VIII of the UN Charter, which forms an important part of the legal framework that governs the relationship between the Council and regional arrangements. Chapter VIII is relatively short, comprising only three articles. The first of these, Article 52, deals primarily with the peaceful settlement of disputes by regional arrangements. Article 53 governs regional enforcement action, while Article 54 provides that the Council must be kept fully informed of the activities of regional arrangements relating to the maintenance of international peace and security. The analysis of each provision concludes by offering an interpretation of its meaning. These interpretations are summarised below.

Article 52 – Peaceful Settlement of Disputes by Regional Arrangements

Article 52 can be read, first of all, as clarifying that regional arrangements can deal with matters relating to the maintenance of international peace and security. Both the regional arrangements themselves, and their activities, must be consistent with the principles and purposes of the UN, and the matters that they deal with must be appropriate for regional action.

Pursuant to Article 52, all member states that enter into such arrangements must make every effort to peacefully resolve disputes that arise within their region through these arrangements and the Council must

² *ibid.*, 18.

³ *ibid.*, 24. Emphasis added.

⁴ *ibid.*, 26. On 21 December 2023, just over five months after *A New Agenda for Peace* was published, the Council adopted resolution 2719 on the financing of AU-led peace support operations. Pursuant to resolution 2719, the Council agreed to consider on a case-by-case basis requests from the AU Peace and Security Council seeking authorisation for access to UN assessed contributions for AU-led peace support operations.

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encourage these efforts. This does not mean, however, that regional efforts to peacefully resolve disputes take priority over initiatives pursued by the Council. At any stage, any member state can refer a dispute to the Council, with the exception of the parties, who must first seek a peaceful solution under Article 33. Further, Article 52 does not prevent the Council from investigating a dispute or from using its powers at any point.

Article 53 – Enforcement Action by Regional Arrangements

Article 53 can be read, firstly, as providing that the Council can use regional arrangements to pursue coercive military action against member states, but only where it is appropriate to do so. In addition, Article 53 also clarifies that regional arrangements cannot take military action without the consent of the relevant member state unless that action has been authorised by the Council.

Article 54 – Reporting by Regional Arrangements

Pursuant to Article 54, regional arrangements are required to inform the Council regarding their activities that relate to the maintenance of international peace and security. However, the precise scope of this requirement, including the nature of the reports, their format, and the time at which they have to be provided, remains unclear.

Models of Cooperation

In addition to considering aspects of the relevant legal framework, this report explores models of cooperation between the Council and regional arrangements that have been used in the past, with a view to capturing some of the lessons from these models and inspiring future thinking. Short summaries of examples of previous models are incorporated throughout, giving a high-level overview of each model and a short summary of some of the relevant background. The models and examples considered in this report are set out in the table below:

NO.	MODEL	EXAMPLE(S)	YEAR(S)
1.	Expressing support for a joint UN/regional arrangement peace operation	MICIVIH (Haiti)	1993
2.	Deploying a UN peace operation in parallel with a regional peace operation	UNOMIL (Liberia)	1993
3.	Establishing a transitional administration with the assistance of regional arrangements	UNMIK (Kosovo)	1999
4.	Authorising a predominantly regional multinational force with regional leadership to support a UN peace operation	INTERFET (Timor-Leste)	1999
5.	Authorising a UN peace operation that took over from a regional peace operation	UNAMSIL (Sierra Leone)	1999
6.	Authorising a regional arrangement to use force to support a UN peace operation	MINURCAT and EUFOR Chad (Chad)	2007
7.	Deploying a hybrid UN/regional arrangement peace operation	UNAMID (Sudan)	2007
8.	Establishing a UN support office to provide logistical support to a regional peace operation	UNSOA (Somalia)	2009
9.	Authorising a regional arrangement to use force	NATO (Libya)	2011
10.	Authorising the deployment of a regional peace operation	AFISMA (Mali) MISCA (CAR)	2012 2013
11.	Authorising a regional force to work within a UN peace operation	MONUSCO and the FIB (DRC)	2013
12.	Re-hatting a regional peace operation into a UN peace operation	AFISMA and MINUSMA (Mali) MISCA and MINUSCA (CAR)	2013 2014
13.	Expressing support for a regional peace operation	ECOMIG (The Gambia)	2017
14.	Authorising a UN peace operation to provide support to a regional peace operation	MINUSMA and the FC-G5S (Mali) MONUSCO and SAMIDRC (DRC)	2017 2024
15.	Expressing support for regional efforts to resolve a dispute peacefully	ASEAN (Myanmar)	2021
16.	Encouraging support for a regional peace operation	EACRF (DRC)	2023

In sum, these examples show that cooperation between regional arrangements and the Council, as well as with the UN more broadly, has produced mixed results. While there have been some successes, there have also been many challenges, and the overall relationship has not always been smooth. Problems have arisen in numerous areas, raising questions surrounding the appropriate level of Council oversight, mission ownership, the type of structures required to ensure effective operational coordination, and adequate resourcing, among other matters.

The final section of this report analyses some of the issues that have arisen in the examples considered in the report. It explores questions surrounding mandating decisions, strategic disagreements, the importance of Council unity and coordinated regional diplomacy, Council oversight of regional efforts to peacefully settle disputes, the benefits of political alignment, re-hatting, operational

coordination, resourcing, doctrinal differences, and complementarity and comparative advantage.

Having considered these issues, this report makes the following observations:

1. When the Council opts for cooperation between the UN and regional arrangements, it is essential for it to have a clear understanding of the role that each organisation will play, its capacity to do so, and the proposed relationship among the different actors.
2. The absence of a clear political strategy can cause problems for peace operations premised on cooperation between the UN and regional arrangements. *A New Agenda for Peace* highlights the primacy of politics, noting that the principle “remains a central tenet of peace operations”. This proposition is particularly important where the UN is working with regional arrangements.

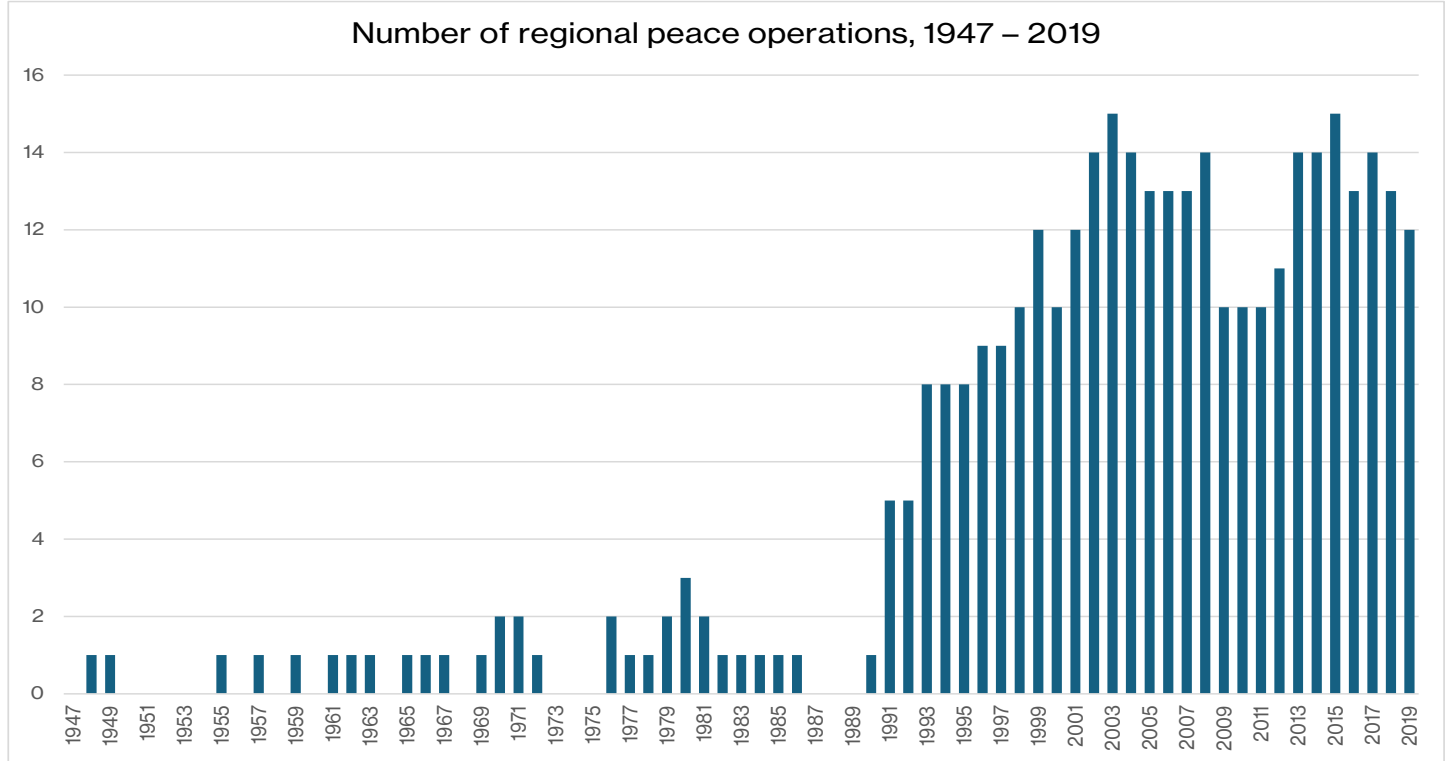
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3. Strategic disagreements between the UN and regional arrangements at the onset of a crisis can lead to delays that contribute to a worsening of the overall situation. They can also have an effect on the implementation of the strategy that is ultimately pursued. But such disagreements can be hard to avoid, given the diverging viewpoints of the UN and some of its regional partners. The experience in Mali illustrates the importance of streamlining the mandate authorisation process for AU-led peace support operations outlined in resolution 2719 and clarifying contentious issues covered in the resolution, including financial burden-sharing and joint planning.
4. Council unity can play an important role in facilitating effective cooperation between the UN and regional arrangements. Coordinated diplomacy involving regional actors that is consistent with the strategy being pursued by the Council and bolsters its efforts can also contribute to successful collaboration. In circumstances where the host state has communicated a desire for regional involvement, regional member states willing and able to provide troops and resources to a proposed peace operation can be particularly beneficial.
5. Conversely, divisions among Council members are likely to inhibit cooperation, including by preventing the Council from taking action and communicating clear signals to the parties involved. Regional member states might not be in a position to provide support to a proposed peace operation, and some host states may be opposed to their neighbours deploying on their territory.
6. Regional efforts to peacefully settle disputes can be hampered by restraints and limitations on the capacity of the regional arrangement involved. These constraints can stem from a variety of factors, including divisions among the members of the regional arrangement, its organisational culture and structure, and the processes and procedures that it follows when making decisions. In circumstances where regional efforts are faltering, the Council's oversight role and its powers to facilitate peaceful settlement of disputes become particularly important. However, members who are content for the Council to remain on the sidelines have sometimes used the involvement of a regional arrangement to justify Council inaction, which can lead to a deterioration in the situation on the ground.
7. Cooperation between the Council and regional arrangements can be more effective when there is broad political alignment regarding key issues, such as the overall objectives of collaboration, the strategy that will be pursued to achieve those objectives, and the role that each actor will play in implementing that strategy. Processes and structures that facilitate frank exchanges aimed at developing a better understanding of differing viewpoints among different entities and finding common ground, such as interactive discussions between the Council and its counterparts in regional arrangements, joint assessments, and regular desk-to-desk meetings that result in specific outcomes can lead to greater alignment.
8. Where a peace operation is deployed, political alignment with the host state is particularly important, especially in circumstances where the UN is working with a regional arrangement. A compact signed by relevant actors outlining the commitments they have made and their roles, similar to the type recommended in the report of the High-level Independent Panel on Peace Operations, could be helpful in facilitating such alignment. Processes can be put in place to try and ease disagreements with the host state, but they are likely to have limited success where the host state is intent on obstructing the mission.
9. In circumstances where the UN is deployed in parallel with regional arrangements, a lack of coordination can create issues for the actors involved by leading to delays in decision-making, causing operational problems, and inhibiting the development of a coherent overall strategy for international engagement. The different organisations will often have varying interests that can make coordination difficult. An absence of clearly delineated responsibilities can lead to a lack of accountability among organisations, particularly where one organisation is clearly in the lead.
10. Parallel leadership structures can lead to problems, especially where control over the military and political aspects of a mission is divided between different organisations. When dealing with complex security environments, speed is generally crucial and parallel leadership structures can be less responsive.
11. Authorising regional peace operations without taking steps to ensure they also have adequate resources will make it very difficult for those peace operations to succeed. The resource constraints faced by regional arrangements are often far greater than those experienced by the UN, and this should not be forgotten in the system of networked multilateralism envisioned in *A New Agenda for Peace*. Well-resourced member states willing to provide financial support and logistical assistance to a regional operation and the member states participating in it can significantly ameliorate some of the difficulties caused by resource constraints. Speed is often critical when it comes to providing financial and logistical support and delays can cause significant issues.
12. Re-hatting processes are difficult and require careful planning, adequate time, and thorough training. Appropriate procedures that screen out troops involved with prior human rights violations are critically important. Periods of planned overlap can help to minimise difficulties during a re-hatting process and lead to a smoother transition. Differences in equipment and interoperability issues can be particularly problematic during a re-hatting process.
13. Doctrinal differences regarding peacekeeping operations can lead to strategic differences between the UN and its regional partners that complicate efforts to collaborate. They can also cause operational problems, particularly where missions with differing bureaucratic arrangements, needs, and expectations are mandated to work closely together.
14. The examples considered in this report highlight some of the comparative advantages enjoyed by the UN and its regional partners. Regional actors have, for example, been able to deploy quickly at times and have shown a willingness to undertake peace enforcement actions requiring a robust mandate. The UN, on the other hand, has shown that it can boost regional peace operations where they are flagging and provide logistical support to regional actors. However, the examples also demonstrate that the UN and its regional partners will not always be able to fulfil these roles. Other factors, including resource constraints and political disagreements, will sometimes play a more significant role in determining what is possible. The examples also show that the UN will often be closely associated with regional arrangements deployed in parallel with it, which can be problematic where regional peace operations are unpopular among local populations.

Introduction

Since the end of the Cold War, regional initiatives dealing with matters relating to international peace and security have proliferated. While these initiatives span the gamut of conflict management activities, including prevention and peace-making, the increase is well illustrated by this graph depicting the growth of regional peace operations.⁵

members of the Council have often pushed for the Council to support African initiatives or address African concerns when considering how to manage a situation since this change, especially in recent years. Though these efforts have not always been successful, they have contributed to increased regionalisation, especially given that Africa



Several factors have contributed to the growth of regional arrangements in efforts to maintain international peace and security during the post-Cold War period. To begin with, the number of country situations on the Council’s agenda has risen significantly. Not only are there more situations on the Council’s agenda, but many are highly complex when compared with much of first-generation peacekeeping, often involving intra-state conflicts, non-state actors, the absence of a peace agreement or a ceasefire, and other varied threats. Several of the Council’s initial efforts to respond to crises of this nature ultimately proved unsuccessful, most notably a series of peacekeeping failures in Bosnia and Herzegovina, Rwanda, and Somalia during the early to mid-1990s. Growing recourse to regional arrangements has partly been motivated by a desire to try and share this burden among different organisations.⁶ Today, conflicts have outpaced the Security Council’s readiness to deploy UN peacekeepers, and past assumptions about the utility of UN peacekeeping are being questioned.

In addition to considerations related to burden sharing, the turn to regional arrangements has been driven by a preference in some regions for regional solutions, particularly following the transformation of the Organisation of African Unity (OAU) to the AU in 2002 and the concomitant shift from the principle of non-interference to the principle of non-indifference in the region. The AU and African

has more situations on the Council’s agenda than any other continent, accounting for about half of that agenda. Indeed, some have argued that it is now “unthinkable” for the UN to consider deploying a peace operation in Africa without consulting African stakeholders, including the AU and any relevant subregional organisations.⁷

Strategic considerations have also played a part, particularly as regional arrangements have different attributes and characteristics to the UN and have demonstrated that they are prepared to engage in different types of operations. Some African regional arrangements have, for example, shown a willingness to deploy missions with a robust force posture, something which the UN has generally been hesitant to do. These differences can provide useful flexibility for both member states and the Council when formulating strategies for responding to crises,⁸ and growing awareness of this appears to have contributed to greater regional involvement in peace and security matters.

Other considerations have also contributed to the regionalisation of efforts to maintain international peace and security since the end of the Cold War, including constraints on UN resources and improved relations among Council members throughout the 1990s and the first decade of this century. But recourse to regional arrangements has generally not been driven by an overarching

⁵ Paul D. Williams and Alex J. Bellamy, *Understanding Peacekeeping* (3rd ed, 2021), 266.

⁶ Thierry Tardy, ‘Hybrid Peace Operations: Rationale and Challenges’ (2014) 20(1) *Global Governance* 95, 100.

⁷ Cedric de Coning, ‘Africa and UN Peace Operations: Implications for the Future Role of Regional Organisations’ in C. de Coning and M. Peter (eds), *United Nations Peace Operations in a Changing Global Order* (2019), 214.

⁸ Tardy, n 6, 101-5.

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strategy. Instead, it has often been the result of pragmatic efforts to respond to the particular facts and circumstances of a given situation, usually driven by political considerations.⁹

This last point begs the question: is the turn to regional arrangements a good idea? The answer is not entirely clear. Regional arrangements have certainly demonstrated some advantages. They have, for example, been deployed in circumstances where the UN has not, thereby filling a gap in the international community's response to particular crises, and responded to the preference in some regions for a regional response.¹⁰

But there are also disadvantages. When it comes to peace operations, most regional arrangements lack the expertise, institutional depth, and financial resources available to the UN.¹¹ At times regional arrangements have, just like the UN, been selective in choosing which matters to become involved with, while some regional arrangements have proven unable or unwilling to take the action necessary to effectively respond to a crisis. Overreliance on regional arrangements could also arguably undermine the UN and affect its global standing, particularly if it leads to the UN taking a back seat on matters relating to international peace and security or if regional arrangements fall short in terms of performance or fail to uphold human rights. Moreover, those hoping that regional arrangements

will provide an antidote to a divided Council are likely to be disappointed. Many regional arrangements are also affected by the current geopolitical environment and some show signs of even greater division; the withdrawal of Burkina Faso, Mali, and Niger from ECOWAS in July 2024 is a case in point.

Despite these concerns, regional arrangements appear likely to continue assuming a greater role in efforts to maintain international peace and security, particularly given the emphasis on developing a system of networked multilateralism in a *New Agenda for Peace* and the references in the Pact for the Future to the role of regional arrangements. The relationship between the Council and regional arrangements therefore warrants further scrutiny. With this in mind, this report aims to provide insights into the relationship and how it has worked in practice. Following this introduction, the initial section analyses Chapter VIII of the UN Charter, which is an important part of the legal framework that governs the relationship between the Council and regional arrangements. Short summaries of examples of previous models of cooperation between the Council and regional arrangements are also incorporated throughout the report, offering a brief introduction to these models and some of the relevant background. The final section analyses some of the issues that arose in these examples and makes some observations relating to those issues.

Legal Analysis of Chapter VIII

Chapter VIII of the UN Charter is an important part of the legal framework that governs the relationship between the Council and regional arrangements and, as such, interpreting its provisions is key to understanding the contours of this relationship. This section of the report will therefore undertake a legal analysis of Chapter VIII and offer an interpretation of its provisions. Before proceeding to this analysis, this section will briefly outline the method that will be used to analyse and interpret Chapter VIII.

Approach to Interpretation

Several approaches to Charter interpretation have been developed since its adoption in 1945.¹² Although there has been considerable debate among international lawyers regarding the correct approach, it is now generally accepted that the rules of treaty interpretation outlined in the Vienna Convention on the Law of Treaties (VCLT) apply to the Charter.¹³

These rules are found in Articles 31 to 33 of the VCLT. Article 31 provides the general rule of interpretation and states, in summary, that a treaty must be interpreted in good faith in accordance with the ordinary meaning of its terms in their context and in light of the object and purpose of the treaty.¹⁴ The context for a treaty comprises its text, including its preamble and annexes, as well as certain

agreements and instruments made in connection with the conclusion of the treaty, if they exist.¹⁵ Subsequent agreement between the parties regarding the interpretation or application of the treaty, subsequent practice that establishes such agreement, and any relevant rules of international law that apply to relations between the parties must also be considered pursuant to Article 31.¹⁶

Article 32 sets out the approach to using supplementary information to interpret treaties. It provides that supplementary means, which include the preparatory work of a treaty and the circumstances in which it was adopted, can be used to either confirm the meaning resulting from the application of Article 31, or to determine that meaning when the approach outlined in Article 31 leaves the meaning ambiguous or obscure, or leads to a manifestly absurd or unreasonable result.

Article 33 covers the interpretation of treaties authenticated in two or more languages. It states that the text in each language is equally authoritative, unless the treaty provides otherwise, and sets out the rules that apply when there is a difference in meaning between texts translated into more than one language.

Article 31(3) of the VCLT specifically refers to subsequent agreement of the parties and subsequent practice that establishes that agreement. The term “party” is defined in Article 2 as meaning a

9 Paul D. Williams and Arthur Boutellis, 'Partnership Peacekeeping: Challenges and Opportunities in the United Nations-African Union Relationship' (2014) 113(451) *African Affairs* 254, 265.

10 For more, see Williams and Bellamy, n 5, 274-5.

11 For discussion of the AU, see de Coning, n 7, 225.

12 Stefan Kadelbach, 'Interpretation of the Charter' in Bruno Simma (eds) et al, *The Charter of the United Nations: A Commentary* (3rd ed, 2012) vol 1, 72-5.

13 *ibid.*, 75.

14 Vienna Convention on the Law of Treaties (23 May 1969) art 31(1).

15 *ibid.*, art 31(2).

16 *ibid.*, art 31(3).

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state that has consented to be bound by the treaty and for which the treaty is in force. Treaty interpretation has therefore traditionally focused on the conduct of states, rather than that of international organisations or non-state actors.

The International Court of Justice (ICJ) has, however, developed a different approach to interpreting the Charter in three of its advisory opinions: *Certain Expenses*, *Namibia*, and *Wall*. Pursuant to this approach, the conduct of UN organs is also considered relevant subsequent practice for the purpose of interpreting the Charter. While a fulsome analysis of these opinions is beyond the scope of this section,¹⁷ there are several aspects that must be noted here. First, the ICJ has used the practice of both the Council¹⁸ and the General Assembly¹⁹ to determine the meaning of the Charter. Second, UN member states must have acquiesced in the relevant practice of the UN organ.²⁰ Third, resolutions of UN organs do not need to be adopted unanimously in order to be considered relevant subsequent practice.²¹ Fourth, this method can be used as the basis for an interpretation that is difficult to reconcile with the ordinary meaning of the terms of the Charter.²² Fifth and finally, the practice of UN organs can evolve and support a reinterpretation of the Charter over time.²³

The ICJ's focus on the practice of UN organs and member state acquiescence is consistent with the negotiations leading to the adoption of the Charter at the San Francisco Conference. During these negotiations, the question "how and by what organ or organs of the [UN] should the Charter be interpreted" was considered by Committee IV/2, which dealt with legal problems. After debating this issue, member states decided against vesting the power to finally determine questions of Charter interpretation in a judicial body, instead concluding that each UN organ would interpret the sections of the Charter applicable to its functions, on the proviso that any interpretation considered "not generally acceptable" would "be without binding force".

While advisory opinions of the ICJ are non-binding, they nonetheless carry significant weight. As such, this section will analyse the provisions of Chapter VIII in accordance with the rules outlined in the VCLT and the approach to Charter interpretation developed by the ICJ. When considering relevant practice, the focus will be on the post-Cold War period.

Overview of Chapter VIII

Chapter VIII is relatively short, comprising only three articles. The first of these, Article 52, deals primarily with the peaceful settlement of disputes by regional arrangements. Article 53 governs regional enforcement action, while Article 54 provides that the Council must

be kept fully informed of the activities of regional arrangements relating to the maintenance of international peace and security. Each of these articles is considered in turn below.

Article 52 – Peaceful Settlement of Disputes by Regional Arrangements and Agencies

Article 52 provides that:

1. *Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are 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 through 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.*

Meaning of Regional Arrangements or Agencies

As a starting point, the text of Article 52(1) clarifies that the Charter does not prohibit the existence of regional arrangements that deal with matters relating to the maintenance of international peace and security. It also sets out additional requirements: both the regional arrangements that deal with international peace and security, and their activities, must be consistent with the purposes and principles of the UN, and the matters that they deal with must be appropriate for regional action.²⁴

Academic commentators have debated the meaning of the term "regional arrangements or agencies", which is not defined in the Charter.²⁵ In accordance with the approach outlined in the VCLT, interpretation of this term begins by considering the ordinary meaning of the words used. The ordinary meaning of "region", when used in the context of politics or economics, is an area of the world encompassing several neighbouring states that are considered socially, economically, or politically interdependent,²⁶ while "regional" means "of, relating to, or characteristic of" a region.

The standard definitions of "agency"²⁷ and "arrangement"²⁸ do not make sense in the context in which these words are used in Chapter VIII. Although both words are used elsewhere in the Charter, the relevant provisions shed little light on their meaning in Chapter

17 For the analysis of these opinions that underlies these points, see Julian Arato, 'Treaty Interpretation and Constitutional Transformation: Informal Change in International Organizations' (2013) 38(2) *Yale Journal of International Law* 289, 289-358.

18 *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970) (Advisory Opinion) [1971]* 16; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004]* ICJ Rep 136.

19 *Certain Expenses of the United Nations (Advisory Opinion) [1962]* ICJ Rep 151; *Israeli Wall Case*, n 18.

20 *Namibia Case*, n 18.

21 *Certain Expenses Case*, n 19. 4

22 *Namibia Case*, n 18; *Israeli Wall Case*, n 18.

23 *Israeli Wall Case*, n 18.

24 The purposes and principles of the UN are set out in Articles 1 and 2 of the Charter and supplemented in its preamble. For more, see Rüdiger Wolfrum, 'Article 1' in Bruno Simma et al (eds), *The Charter of the United Nations: A Commentary* (3rd ed, 2012) vol 1, 108.

25 Monica Hakimi, 'To Condone or Condemn? Regional Enforcement Actions in the Absence of Security Council Authorisation' (2007) 40(3) *Vanderbilt Journal of Transnational Law* 643, 652.

26 Oxford English Dictionary, 'region' <<https://doi.org/10.1093/OED/8720338996>>

27 Oxford English Dictionary, 'agency' <<https://doi.org/10.1093/OED/1249589150>>

28 Oxford English Dictionary, 'arrangement' <<https://doi.org/10.1093/OED/1170210796>>

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VIII. Several commentators have suggested that “arrangements” and “agencies” should be considered terms of art that have a specific meaning when used in this context. In the literature, “agencies” are generally understood to be organisations with a developed institutional structure while “arrangements” are less formal and lack institutions.²⁹ Ultimately, the distinction is of little significance as regional arrangements and agencies are always referred to together in Chapter VIII and thus are subject to the same requirements.³⁰ This report will use the term “regional arrangement” to refer to both types of entity.³¹

In practice, a variety of entities that fall within the ordinary meaning of “regional” have dealt with matters relating to international peace and security, including the African Union (AU), the European Union (EU), the Economic Community of West African States (ECOWAS), the League of Arab States (LAS), and the Organisation of American States (OAS). Each of these entities comprises neighbouring states that are interdependent in various ways. The activities

of these organisations relating to the maintenance of international peace and security have often been authorised, welcomed, endorsed, noted, or otherwise recognised by the Council. In Sudan, for example, the AU Peace and Security Council (AUPSC) and the Council authorised the deployment of the AU-UN Hybrid Operation in Darfur (UNAMID), a peacekeeping mission jointly operated by the AU and the UN. At times, the Council has specifically mentioned Chapter VIII when referring to the activities of these organisations. Resolution 788, for instance, recalled the provisions of Chapter VIII and commended ECOWAS for its efforts to restore peace, security, and stability in Liberia. Resolution 1973, which authorised the use of force in Libya, recognised the important role played by the LAS in maintaining international peace and security in the region and, “bearing in mind Chapter VIII”, requested member states of the LAS to cooperate with efforts to protect civilians.

Authorising a Regional Arrangement to Use Force – Libya

In 2011, the Council authorised a regional arrangement to use force in Libya.

On 17 March 2011 the Council adopted resolution 1973, which authorised member states “acting nationally or through regional organisations or arrangements” to use force to protect civilians in Libya and enforce a no-fly zone in Libyan airspace. The resolution also recognised the important role played by the LAS in matters relating to the maintenance of international peace and security and, with specific reference to Chapter VIII, requested LAS member

states to cooperate with other member states in using force to protect civilians.

The North Atlantic Treaty Organisation (NATO) subsequently waged an aerial campaign that targeted military assets of the Libyan authorities, command and control centres, and other infrastructure. Several members of the LAS also participated in this aerial campaign. The Council ended the authorisation to use force in resolution 2016, which was adopted on 27 October 2011, just over a week after the death of former Libyan leader Muammar Gaddafi.

Other organisations that are not easily classified as “regional” have also dealt with matters relating to international peace and security. NATO, which includes as members states that cannot reasonably be considered neighbours, is perhaps the most prominent example, having been involved with conflicts in Afghanistan, Bosnia, Kosovo, and Libya at the behest of the Council. Although NATO has historically denied that it is a regional arrangement under Chapter VIII, instead describing itself as a “collective self-defence organisation”,³² many of its activities since the early 1990s are difficult to characterise as self-defence. Indeed, academics have described some of these activities as “Chapter VIII functions”.³³ While the legal basis for these activities could be Article 48 of the Charter,³⁴ which provides that decisions of the Council can be carried out by member states “through their action in the appropriate international agencies”, NATO has sometimes acted pursuant to Council resolutions that authorised states to act “nationally or through regional agencies or arrangements”.³⁵ This suggests that the Council has, at least at times, considered NATO to be a Chapter VIII regional arrangement.

The Council has also acknowledged the role played by other

organisations that lack a geographic link between members, such as the Organisation of Islamic Cooperation (OIC). In a presidential statement issued in October 2013, the Council referred to Chapter VIII and recognised the importance of “strengthening cooperation with the [OIC] in the maintenance of international peace and security”, while also commending OIC member states for their commitment to international peacekeeping and peacebuilding.³⁶

Overall, the practice of the Council suggests that “regional arrangements or agencies” is a flexible term that should be interpreted broadly.³⁷ The Council has cooperated with and recognised the activities of several different types of organisations, including groups of geographically proximate states and entities where membership is based on shared cultural or social ties. Taking this practice together with the ordinary meaning of the term in its context, “regional arrangements or agencies” can be interpreted as referring to organisations or groups, either with or without formal institutions, that comprise states which are considered politically, economically, culturally, or socially interdependent, including formal organisations of neighbouring states.³⁸

29 Michael Akehurst, ‘Enforcement Action by Regional Agencies, with Special Reference to the Organization of American States’ (1967) 42 *British Yearbook of International Law* 175, 177.

30 Christian Walter, ‘Article 52’ in Bruno Simma (eds) et al, *The Charter of the United Nations: A Commentary* (3rd ed, 2012) vol 2, 1451.

31 Hakimi, n 25, 652; Akehurst, n 29, 177.

32 Report of the Secretary-General: *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping* (15 June 1993) (S/25996), 18.

33 Christoph Schreuer, ‘Regionalism v. Universalism’ (1995) 6(3) *European Journal of International Law* 477, 490.

34 Erika de Wet, ‘The Relationship Between the Security Council and Regional Organisations During Enforcement Action Under Chapter VII of the United Nations Charter’ (2002) 71(1) *Nordic Journal of International Law*.

35 Resolution 781 (9 October 1992) (S/RES/781); resolution 787 (16 November 1992) (S/RES/787). See also resolution 1973 (17 March 2011), which authorised member states to act “nationally or through regional organisations or arrangements”.

36 Statement of the President of the Security Council (S/PRST/2013/16) (28 October 2013).

37 Michael Wood and Eran Stthoeger, *The UN Security Council and International Law* (2022), 138; Walter, 1459.

38 Walter, n 30, 1459.

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The records of the San Francisco Conference appear to confirm that a broad interpretation is correct. During the negotiations, Egypt proposed that “regional arrangements or agencies” be defined as:

*Organisations of a permanent nature grouping in a given geographical area several countries which, by reason of their proximity, community of interests or cultural, linguistic, historical or spiritual affinities, make themselves jointly responsible for the peaceful settlement of any disputes which may arise between them and for the maintenance of peace and security in their region, as well as for the safeguarding of their interests and the development of their economic and cultural relations.*³⁹

This amendment was rejected “as being unnecessary” for several reasons, including because there were doubts as to whether it “would prove sufficiently comprehensive”.⁴⁰

A broad interpretation is also preferable from a normative perspective. Given the ever evolving and increasingly complex landscape in which the Council is operating, it should not be unduly constrained by a narrow definition of the regional arrangements it can work with under Chapter VIII. A similar point was made in former Secretary-General Boutros Boutros-Ghali’s 1992 report “An Agenda for Peace”, which noted that:

*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 also could contribute to the maintenance of international peace and security. Such associations or entities could include treaty-based organisations, whether created before or after the founding of the UN, regional organisations for mutual security and defence, organisations for general regional development or for cooperation on a particular economic topic or function, and groups created to deal with a specific political, economic, or social issue of current concern.*⁴¹

Regional Efforts to Peacefully Settle Disputes

Turning to the remainder of the provision, Article 52(2) provides that member states that enter into regional arrangements must make every effort to peacefully settle local disputes through those arrangements before referring them to the Council.

As a starting point, it has been suggested that this obligation applies only to the states that are parties to the local dispute in

question, rather than all members of the relevant regional arrangement.⁴² However, this interpretation is difficult to reconcile with the ordinary meaning of the terms used in Article 52(2) and subsequent practice.

To begin with, the relevant phrase used in Article 52(2)—members of the UN entering into such arrangements—is very broad. On its face, it is wide enough to capture all members of regional arrangements. Had it been intended to refer only to the parties to a dispute, then a narrower term could have been used, as is the case in other provisions of the Charter. Article 37, for example, provides that “the parties to a dispute” must refer that dispute to the Council if they fail to settle it by peaceful means.

Further, interpreting the term as referring only to the parties might limit the effectiveness of Article 52(2).⁴³ If the obligation to make every effort to use regional arrangements to peacefully resolve local disputes before referring them to the Council applies only to the parties, then those efforts are, at least arguably, less likely to be successful. In this regard, it is also important to bear in mind that many of the disputes dealt with by the Council and regional arrangements are intra-state conflicts involving non-state actors. If the obligation to make every effort to use regional arrangements applied only to the states involved, then efforts to resolve those disputes peacefully through regional arrangements may also be less likely to be effective. Given that one of the purposes of the UN is “to take effective collective measures” to maintain international peace and security,⁴⁴ such an interpretation should be avoided.⁴⁵

Moreover, in practice, members of regional arrangements often work together to try and peacefully resolve disputes. In Africa, for example, the members of the AU elect 15 states to the AUPSC, which acts on their behalf and often supports efforts to mediate disputes among them. The appointment of former Nigerian president Olusegun Obasanjo to mediate a dispute between Ethiopia and Somalia, which was welcomed by the AUPSC in January 2024, is one example of this.⁴⁶ In the case of Myanmar, members of the Association of Southeast Asian Nations (ASEAN) have attempted to peacefully resolve the conflict that broke out following the military coup in February 2021. This practice supports the view that member states have interpreted Article 52(2) as applying to all members of regional arrangements, rather than only to the parties to a dispute.

Expressing Support for Regional Efforts to Resolve a Dispute Peacefully – Myanmar

The Council has expressed support for regional efforts to resolve the conflict in Myanmar that erupted following the February 2021 coup.

On 1 February 2021, the Myanmar military staged a coup that overthrew the democratically elected government. In a presidential statement issued on 10 March 2021, the Council expressed strong support for ASEAN and its

readiness to assist Myanmar. The presidential statement also commended ASEAN’s efforts to engage with all relevant parties in Myanmar.

Just over a month later, on 24 April 2021, ASEAN issued its “Five-Point Consensus”. This document called for an immediate cessation of violence; constructive dialogue among all parties; the appointment of an ASEAN

39 Documents of the United Nations Conference on International Organisation San Francisco (1945) vol. 12, 850. Emphasis added.

40 *ibid.*, 858.

41 An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping: Report of the Secretary-General pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992, (17 June 1992) (S/24111).

42 Walter, n 30, 1468.

43 For discussion of the principle of effectiveness and its role in treaty interpretation, see Kadelbach, n 12, [18]; Steven R. Ratner, ‘International Law Rules on Treaty Interpretation’ in Christopher McCrudden (ed) *The Law and Practice of the Northern Ireland Protocol* (2022), 80-91; Nico J. Schrijver, ‘The Future of the Charter of the United Nations’ in *Max Planck Yearbook of United Nations Law* (2006) vol. 10, 5.

44 Charter of the United Nations, art 1(1).

45 Pursuant to the principle of effectiveness, treaties are assumed to have an object and a purpose and their provisions should be construed in accordance with that object and purpose. See Kadelbach, n 12, [18].

46 Press Statement of the African Union Peace and Security Council, (PSC/PR/BR.1192 (2024)) (17 January 2024).

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special envoy to facilitate mediation of the dialogue process; humanitarian assistance; and a visit to Myanmar by the ASEAN special envoy to meet all parties concerned.

Resolution 2669, which was adopted on 21 December 2022, acknowledged ASEAN's "central role" in finding a peaceful solution to the crisis and encouraged the international community to support ASEAN's efforts to implement the Five-Point Consensus. While the resolution expressed deep

Article 52(2) also refers to "local disputes". The ordinary meaning of local is "of, relating to, inhabiting, or existing in a particular place or region". In practice, the efforts of regional arrangements aimed towards achieving peaceful settlement of disputes have generally focused on disputes in their region. In the context of Article 52, "local disputes" should therefore be understood as referring to disputes that arise among the members of the regional arrangement in question.

Some commentators have suggested that Article 52(2) provides that regional arrangements can only deal with local disputes.⁴⁷ This interpretation does not, however, accord with the plain text of the provision, the relevant part of which provides that "members of the UN entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements". Given the clear meaning of this language, the text of Article 52(2) should be read only as imposing an obligation on members of regional arrangements to attempt to peacefully resolve local disputes through those arrangements before they bring them to the Council. The text does not, on its face, prohibit regional arrangements from pursuing the peaceful settlement of non-local disputes.

In practice, regional arrangements have engaged in activities intended to help achieve the peaceful settlement of disputes outside their region, often with Council authorisation or endorsement, and member states appear to have generally acquiesced in this practice. The EU has, for instance, provided mediation support to peace agreement negotiations in the Central African Republic (CAR), launched a peace support mechanism in Afghanistan, and acted as guarantor of the Algiers peace agreement in Mali.⁴⁸ This practice also suggests that regional arrangements are not limited to dealing with "local" disputes under Article 52.

The text of the next provision in Chapter VIII, Article 52(3), imposes an obligation on the Council. It requires the Council to encourage peaceful settlement of local disputes through regional arrangements and provides that the Council can do so on its own initiative or following a request from the states concerned. In practice, the Council has often encouraged regional efforts to peacefully resolve disputes. Resolution 2056, for example, welcomed the mediation efforts of the AU and ECOWAS in Mali following the March 2012 coup that ousted former president Amadou Toumani Touré.

Article 52(4) clarifies that Article 52 does not impair Article 34, which relates to the Council's right to investigate, or Article 35, which refers to the right of a member state to bring a matter to the attention of the Council. It has been suggested that the omission of Articles 36 and 37 from Article 52(4) means that the Council's powers to recommend appropriate procedures of adjustment or terms

of settlement are curtailed by Article 52. This interpretation would, however, render the Council's power of investigation and member states' right of referral ineffective, as it would prevent the Council from acting on that referral or responding to its investigation.⁴⁹ As discussed below, it is also inconsistent with the practice of the Council.

Resolution 2669 was the first Council product on Myanmar following the adoption of the Five-Point Consensus. The Council has not issued another product on the file since it was adopted.

of settlement are curtailed by Article 52. This interpretation would, however, render the Council's power of investigation and member states' right of referral ineffective, as it would prevent the Council from acting on that referral or responding to its investigation.⁴⁹ As discussed below, it is also inconsistent with the practice of the Council.

Do Regional Arrangements Take Priority Over the Council under Article 52?

Overall Article 52(4), together with the other provisions in Article 52, squarely raises the question of whether regional arrangements take priority over the Council when it comes to the peaceful settlement of disputes. To summarise, the text of Article 52 provides, in essence, that members of regional arrangements must make every effort to resolve local disputes through those arrangements before referring them to the Council and requires the Council to encourage these efforts. However, according to the text neither of these requirements impair the Council's right to investigate or the right of member states to refer matters to the Council.

This text is ambiguous as to whether members of regional arrangements can refer a matter to the Council while regional efforts to resolve it peacefully are still afoot. Based on the text, it is also unclear whether the Council can exercise its powers relating to the peaceful settlement of disputes while a matter is in the hands of a regional arrangement.

Early interpretations of the text posited that regional arrangements enjoy priority over the Council in the peaceful settlement of disputes under Article 52, with the Council retaining only its right to investigate before the matter is referred to it.⁵⁰ The subsequent practice of the Council does not, however, support this interpretation. The Council has often taken action in circumstances where regional arrangements have not been used or where regional efforts to resolve a dispute peacefully are still running their course.⁵¹ Moreover, this action has not been limited to investigating the circumstances of a particular dispute. In Myanmar following the February 2021 military coup, for example, the Council demanded an end to all forms of violence and urged the military to immediately release all arbitrarily detained prisoners.⁵² These steps were taken while an ASEAN-led initiative to resolve the conflict was being pursued.

How Should Article 52 be Interpreted?

In light of the foregoing, Article 52 can be read, first of all, as clarifying that regional arrangements can deal with matters relating to the maintenance of international peace and security. Both the regional arrangements themselves, and their activities, must be consistent

47 Loraine Sievers and Sam Daws, *The Procedure of the UN Security Council* (4th ed, 2014), 627.

48 The European External Action Service, 'EU Peace Mediation in a Nutshell' <https://www.eeas.europa.eu/sites/default/files/isp2_mediation_factsheet_for_publication_20022021.pdf>

49 Walter, n 30, 1471.

50 *ibid.*, 1470.

51 Walter, n 30, 1476; Akehurst, n 29, 181; Oscar Schachter, 'Authorized Uses of Force by the United Nations and Regional Organizations' in Lori Fisler Damrosch and David J. Scheffer (eds) *Law and Force in the New International Order* (2018), 87.

52 Resolution 2669 (21 December 2022) (S/RES/2669).

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with the principles and purposes of the UN and the matters that they deal with must be appropriate for regional action. Further, “regional arrangements” is a broad term that refers to organisations or groups, either with or without formal institutions, that comprise states which are considered politically, economically, culturally, or socially interdependent, including formal organisations of neighbouring states.

All member states that enter into such arrangements must make every effort to peacefully resolve disputes that arise within their region through these arrangements and the Council must encourage these efforts. This does not mean, however, that regional efforts to peacefully resolve disputes take priority over initiatives pursued by the Council. At any stage, any member state can refer a dispute to the Council, with the exception of the parties, who must first seek a peaceful solution under Article 33. Further, Article 52 does not prevent the Council from investigating a dispute or from using its powers at any point. In addition, regional arrangements can pursue initiatives intended to facilitate the peaceful settlement of disputes outside their own region, but they are not obliged to do so.

Article 53 – Enforcement Action by Regional Arrangements

Article 53 provides, in relevant part, that:

1. *The Security Council shall, where appropriate, utilise 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 authorisation of the Security Council [...]*

Meaning of Enforcement Action

Analysing the meaning of Article 53 begins with interpreting the term “enforcement action”. Debate concerning the meaning of this term has largely focused on whether it includes both military action and non-military measures, particularly economic and diplomatic sanctions.

The ordinary meaning of “enforce” is “to bring force to bear upon”⁵³ while “enforcement” means “the action or process of enforcing”.⁵⁴ Action, in turn, means “something that is done”.⁵⁵ These definitions suggest that “enforcement action” does not include non-military measures, which generally do not involve bringing physical force to bear on something or someone. Both words are also used elsewhere in the Charter,⁵⁶ but their usage is not particularly consistent and does not assist with determining the meaning of “enforcement action”.⁵⁷

In practice, members of regional arrangements do not appear to have sought Council authorisation for non-military measures during the post-Cold War period. Indeed, several regional arrangements

have imposed economic sanctions without Council authorisation. The EU, for example, has sanctioned senior members of the Myanmar armed forces, including in February 2023,⁵⁸ while ECOWAS has levied economic sanctions in response to crises in Côte d’Ivoire, Niger, and Guinea, among others.⁵⁹ Similarly, in 2011, the LAS imposed economic sanctions on Syria and senior officials in Bashar al-Assad’s government following reports of widespread human rights violations. Member states appear to have generally acquiesced to these measures despite the lack of authorisation from the Council.⁶⁰ Given the emphasis in Article 53 on Council authorisation, this practice suggests that the prohibition on regional “enforcement action” does not include non-military measures and, among international lawyers, it is now generally accepted that the term refers only to military action.⁶¹

This does not mean, however, that all military measures fall within the ambit of the term. In *Certain Expenses*, the ICJ concluded that the United Nations Emergency Force (UNEF), a peacekeeping operation established by the General Assembly that involved military measures, was not “enforcement action within the compass of Chapter VII of the Charter”. In reaching this conclusion, the Court suggested that enforcement action refers to measures taken in the absence of state consent, noting that the wording used in UNEF’s mandate “might suggest measures of enforcement” were it not for the fact that UNEF was to be deployed “with the consent of the nations concerned”.⁶² Applying this logic to Chapter VIII, the term “enforcement action” should be read as referring to coercive military measures that are pursued without the consent of the state against which they are taken.

Enforcement Action Under Article 53

This section will consider the meaning of the text of Article 53 in light of this interpretation of “enforcement action”. To begin with, the text of the first clause of Article 53(1) provides that the Council can use regional arrangements to pursue coercive military measures in the absence of state consent where it is appropriate to do so. There are several examples in practice that appear to confirm this interpretation. In Bosnia, NATO enforced a no-fly zone pursuant to a resolution that authorised member states to act “through regional agencies or arrangements”.⁶³ Similarly, in Libya, NATO waged an air campaign pursuant to a resolution that also authorised member states to act through regional arrangements.⁶⁴

The text of the second clause of Article 53(1) then clarifies that regional arrangements cannot pursue coercive military measures without Council authorisation.⁶⁵ However, the relevant practice of the Council and member states in this regard varies greatly. There

53 Oxford English Dictionary ‘enforce’ <<https://doi.org/10.1093/OED/4551995981>>

54 Oxford English Dictionary ‘enforcement’ <<https://doi.org/10.1093/OED/9615286390>>

55 Oxford English Dictionary ‘action’ <<https://doi.org/10.1093/OED/1117753806>>

56 See Charter of the United Nations, arts 2(5), 2(7), 5, 42, and 50.

57 Walter, n 30, 1482.

58 Council of the EU Press Release, ‘Myanmar/Burma: EU imposes sixth round of sanctions against 9 individuals and 7 entities’ (20 February 2023) <<https://www.consilium.europa.eu/en/press/press-releases/2023/02/20/myanmar-burma-eu-imposes-sixth-round-of-sanctions-against-9-individuals-and-7-entities/>>

59 Walter, n 30, 1485.

60 *ibid.*, 1487.

61 Hakimi, n 25, 651; Wood and Stoeber, n 37, 144.

62 *Certain Expenses Case*, n 19, 170.

63 Resolution 781 (9 October 1992) (S/RES/781).

64 Resolution 1973 (17 March 2011) (S/RES/1973).

65 Because this is, in effect, an authorisation to use force, the general requirements outlined in the Charter for such authorisation, including an Article 39 determination, apply. For more, see Schachter, n 51, 67.

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are examples of a regional arrangement taking coercive military action without Council authorisation and in the absence of state consent, as was the case with NATO's air campaign against Belgrade in the late 1990s. There are also cases where a regional arrangement pursued military action at the invitation of a government that may have lacked effective control of its territory, casting doubt on the validity of the apparent consent.⁶⁶ ECOWAS' intervention in Liberia in the early 1990s is one such example, having been prompted by an invitation from President Samuel Doe at a time when he

controlled only a third of Liberia's territory.⁶⁷ Moreover, the Council has authorised missions led by regional arrangements to use force, as happened in December 2013, when the African-led International Support Mission in the CAR (MISCA) was directed to take all necessary measures to carry out its tasks.⁶⁸ The picture is further complicated by provisions in the constitutive instruments of certain regional arrangements that purport to grant members of those arrangements an automatic right to intervene in certain circumstances.⁶⁹

Authorising the Deployment of a Regional Peace Operation – MISCA

In 2013, the Council authorised the deployment of a regional peace operation in the CAR.

On 19 July 2013, the AUPSC authorised MISCA to take over from the Economic Community of Central African States Mission for Consolidation of Peace in the CAR (MICOPAX). The relevant AUPSC communique called for the Council, the EU through the African Peace Facility, and bilateral partners to facilitate the transition by providing the necessary financial, logistical, and technical support.

The Secretary-General subsequently issued a report listing five options for UN support to MISCA: mobilising bilateral and multilateral assistance; establishing a UN trust fund of voluntary contributions from UN member states; creating a limited support package funded by assessed and voluntary contributions to cover specific MISCA tasks; setting up a comprehensive logistical support package in order to assist MISCA; and transforming MISCA into a UN peacekeeping mission.

Security Council resolution 2127, which was adopted on 5 December 2013, authorised the deployment of MISCA for a period of 12 months with a review after six months. MISCA was authorised to use force and its tasks included protecting civilians, stabilising the country and restoring state authority, and contributing to disarmament, demobilisation, reintegration, repatriation, and resettlement processes. Resolution 2127 further requested the Secretary-General to establish a trust fund for MISCA, provide technical and expert advice to the AU in its planning and deployment, and undertake contingency preparations and planning for the possible transformation of MISCA to a UN peacekeeping operation. French forces in the CAR were also requested to use force to support MISCA in discharging its mandate.

The Council ultimately authorised the deployment of the UN Multidimensional Integrated Stabilisation Mission in the CAR (MINUSCA) in April 2014. MISCA troops were rehatted to MINUSCA during the transition.

While the practice in this regard is mixed, this does not mean that there is no longer a requirement for Council authorisation of enforcement action by regional arrangements. In this connection, it is important to bear in mind that enforcement action, as defined above, will always involve the use of force. The prohibition on the unauthorised use of force is generally considered a peremptory norm of international law from which no derogation is permitted. Apart from cases where states act in self-defence, Council authorisation is the only avenue by which states can depart from this general rule under the Charter. Given the peremptory nature of this norm, the relevant practice would need to be far clearer and far more consistent to support an interpretation which suggests that Council authorisation for the use of force by regional arrangements is no longer required. In this context, it should be noted that instances of enforcement action carried out by regional arrangements without Council authorisation and in the absence of any form of state consent appear to be very rare.

Meaning of Article 53

In light of the above Article 53 should be read, firstly, as providing that the Council can use regional arrangements to pursue coercive military action against member states, but only where it is appropriate to do so. In addition, Article 53 also clarifies that regional arrangements cannot take military action without the consent of the relevant member state unless that action has been authorised by the Council.

Article 54 – Reporting by Regional Arrangements

Article 54 provides that:

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.

Pursuant to the text of this provision, regional arrangements are required to inform the Council about measures for the maintenance of international peace and security that have already been implemented, as well as activities they are considering pursuing.

In practice, compliance with this obligation has been inconsistent. Different regional arrangements have taken varying approaches to reporting to the Council, both in terms of the format and content of their reports,⁷⁰ and these reports do not always cover all of the relevant activities of regional arrangements. Activities that are under consideration or at the planning stage are, for example, rarely included in such reports.⁷¹ The Council has also requested reports regarding specific activities being undertaken by regional arrangements, as was the case with Mali, where the Council requested reports from the AU and ECOWAS on the deployment and activities of AFISMA.⁷² Requests of this nature are, however, usually made in resolutions that do not refer to Chapter VIII but are instead adopted under Chapter VII. The Council also receives information from regional arrangements in other settings, such as its annual joint consultative

66 Erika de Wet, 'The Evolving Role of ECOWAS and the SADC in Peace Operations: A Challenge to the Primacy of the United Nations Security Council in Matters of Peace and Security' (2014) 27(2) *Leiden Journal of International Law* 353, 360.

67 Clement E. Adibe, 'The Liberian Conflict and the ECOWAS-UN Partnership' (1997) 18(3) *Third World Quarterly* 471, 472.

68 Resolution 2127 (5 December 2013) S/RES/2127.

69 See, for example, Article 4(h) of the Constitutive Act of the AU; Article 25 of the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. See also Wood and Sthoeger, n 37, 146-157; Russell Buchan & Nicholas Tsagourias 'Intervention by Invitation and the Scope of State Consent' (2023) 10(2) *Journal on the Use of Force and International Law*, 252.

70 Walter, n 30, 1531.

71 *ibid.*, 1533.

72 Resolution 2085 (20 December 2012) S/RES/2085.

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meeting with the AUPSC and the annual briefing on strengthening cooperation between the EU and the UN. There are also instances where regional arrangements have not reported relevant activities to the Council. The Southern African Development Community (SADC) Mission in the Democratic Republic of Congo (SAMIDRC), for example, had not provided a formal report to the Council by August 2024 following its deployment in December 2023. In resolution 2746, discussed below, the Council requested SAMIDRC to report to the Council on its activities by 15 November 2024.

Authorising a UN Peace Operation to Provide Support to a Regional Peace Operation – SAMIDRC

Following a request for support from the DRC government, SADC authorised the deployment of SAMIDRC in May 2023. The mission comprises troops from Malawi, South Africa, and Tanzania and deployed in the DRC on 15 December 2023. It has “an offensive mandate to support the government of DRC to neutralise negative forces and illegal armed groups in eastern DRC to restore and maintain peace and security to create a secure environment as well as protect civilians and their properties under imminent threats or attacks.”⁷³

On 22 November 2023, SADC sent a letter to the Secretary-General

While this practice is mixed overall, it is clear that regional arrangements often provide information to the Council regarding their activities related to the maintenance of international peace and security, either at the Council’s request or on their own initiative. As such, the general requirement that regional arrangements keep the Council informed of such activities remains in place, though its precise scope is unclear.

formally requesting UN support for SAMIDRC, including facilities, equipment, air asset services, medical support, and information and intelligence-sharing. In a 4 March 2024 communiqué, the AUPSC endorsed the deployment and requested the Security Council to support SAMIDRC.⁷⁴

On 6 August 2024, the Security Council unanimously adopted resolution 2746, which authorised MONUSCO to support SAMIDRC “through enhanced coordination, information-sharing and technical assistance as well as use of MONUSCO’s logistical assets and military capabilities”.

Chapter VIII and Security Council Oversight of Regional Arrangements

For the reasons outlined below, the text of Chapter VIII, when read as a whole and in conjunction with other parts of the Charter, appears to envision a system where the Council oversees the activities of regional arrangements relating to the maintenance of international peace and security.

Taking each provision of Chapter VIII in turn, Article 52 stipulates that members of regional arrangements must make every effort to peacefully settle local disputes before referring them to the Council. While this does oblige members of regional arrangements to try and settle local disputes through those arrangements, the fact that referral to the Council is considered the next step is consistent with the notion that the Council is responsible for overseeing the relevant efforts of regional arrangements. Article 52(3), which requires the Council to encourage the peaceful settlement of disputes through regional arrangements, is also consistent with this idea, particularly given it provides that the Council can refer matters to regional arrangements.

Article 52(4) then clarifies that neither the Council’s power to investigate a dispute nor the right of a member state to refer a matter to the Council are impaired by Article 52. This strongly suggests that the Council is responsible for overseeing the relevant efforts of regional arrangements as, for the reasons discussed above, it is clear that the Council still has the power to act in circumstances where a regional arrangement is seized of a matter.

Under Article 53, regional arrangements can only undertake enforcement action with authorisation from the Council. Moreover, the Council can “utilise” regional arrangements for enforcement action “under its authority”. Taken together, these clauses also clearly indicate that the Council is responsible for overseeing the activities of regional arrangements that involve enforcement action.

Finally, Article 54 requires regional arrangements to keep the Council fully informed of its activities, including activities that are still being planned. This is a strong indication that the Council should oversee the work of regional arrangements, including because it is difficult to see what the purpose of the reporting requirement would be if the Council were not intended to fulfil an oversight role.

The Council’s primary responsibility for the maintenance of international peace and security under Article 24 is also relevant in this context. Interpreting Chapter VIII as giving the Council an oversight role over regional arrangements aligns with this principle and therefore leads to a consistent interpretation of different provisions of the Charter.

As will be discussed in further detail below, the Council has not always fulfilled this role in practice. But it is worth noting here that the text of the Charter, on its face, clearly contemplates that the Council will oversee the activities of regional arrangements relating to the maintenance of international peace and security.

Expressing Support for a Joint UN/Regional Arrangement Peace Operation – MICIVIH

In the mid-1990s, the Council expressed support for the work of a human rights monitoring mission jointly operated by the UN and the OAS.

In January 1993, former Haitian President Jean-Bertrand Aristide wrote a letter to the Secretary-General that requested “the deployment by the UN and OAS of an international civilian mission to monitor respect for human rights and the elimination of all forms of violence”. In a March 1993 report, the Secretary-General noted that he had replied to this letter and agreed to UN participation in the proposed mission “subject to the approval of the General Assembly and under terms to be jointly agreed with the OAS”.⁷⁵ On 23 April

1993, the General Assembly approved the Secretary-General’s March 1993 report and decided to “authorise the deployment without delay of the UN participation in the International Civilian Mission to Haiti (MICIVIH)”. MICIVIH was initially tasked with “verifying compliance with Haiti’s international human rights obligations, with a view to making recommendations thereon, in order to assist in the establishment of a climate of freedom and tolerance propitious to the re-establishment of democracy in Haiti”.⁷⁶

MICIVIH’s mandate later included protecting and promoting human rights, providing medical assistance to victims and persons in detention, facilitating

⁷³ Press Release, ‘Executive Secretary Visits the SADC Mission in the Democratic Republic of Congo (SAMIDRC) (25 January 2024) <<https://www.sadc.int/node/5252>>

⁷⁴ African Union Peace and Security Council, Communiqué PSC/PR/COMM.1203 (4 March 2024).

⁷⁵ Report of the Secretary-General on the Situation of Democracy and Human Rights in Haiti (24 March 1993) (A/47/908).

⁷⁶ Resolution 47/20B (23 April 1993) (A/RES/47/20B).

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the return of internally displaced persons, assisting with police and prison reform, establishing a truth commission, strengthening local human rights organisations, and helping build democratic institutions.⁷⁷

MICIVIH was deployed alongside several peace operations mandated by the Council: the UN Mission in Haiti (UNMIH); the UN Support Mission in Haiti (UNSMIH); the UN Transition Mission in Haiti (UNTMH); and the UN Civilian

Police Mission in Haiti (MIPONUH).

Several Council resolutions referred to MICIVIH. Resolution 1086 of 5 December 1996, for example, expressed support for MICIVIH's contribution to promoting consolidation of peace and democracy in Haiti. Resolution 975, adopted on 30 January 1995, expressed appreciation for MICIVIH's work. MICIVIH's mandate ended in March 2000.

Political and Operational Considerations – Issues and Observations

While important, the legal framework is only one aspect of the relationship between the Council and regional arrangements. Political and operational considerations are crucial and play a determinative role in shaping the way in which the relationship works in practice. With this in mind, this report also explores different models of cooperation between the Council and regional arrangements, including some that have been used in the past and others that are currently being pursued, with a view to capturing some of the lessons from

these models and supporting future efforts of the Council, regional arrangements, and the UN Secretariat.

To situate this analysis, short summaries of examples of these models are incorporated throughout the report. These summaries are intended to provide a high-level overview of each model as well as an introduction to some of the relevant background. The models and examples analysed in the report are also set out in the table below.

NO.	MODEL	EXAMPLE(S)	YEAR(S)
1.	Expressing support for a joint UN/regional arrangement peace operation	MICIVIH (Haiti)	1993
2.	Deploying a UN peace operation in parallel with a regional peace operation	UNOMIL (Liberia)	1993
3.	Establishing a transitional administration with the assistance of regional arrangements	UNMIK (Kosovo)	1999
4.	Authorising a predominantly regional multinational force with regional leadership to support a UN peace operation	INTERFET (Timor-Leste)	1999
5.	Authorising a UN peace operation that took over from a regional peace operation	UNAMSIL (Sierra Leone)	1999
6.	Authorising a regional arrangement to use force to support a UN peace operation	MINURCAT and EUFOR Chad (Chad)	2007
7.	Deploying a hybrid UN/regional arrangement peace operation	UNAMID (Sudan)	2007
8.	Establishing a UN support office to provide logistical support to a regional peace operation	UNSOA (Somalia)	2009
9.	Authorising a regional arrangement to use force	NATO (Libya)	2011
10.	Authorising the deployment of a regional peace operation	AFISMA (Mali) MISCA (CAR)	2012 2013
11.	Authorising a regional force to work within a UN peace operation	MONUSCO and the FIB (DRC)	2013
12.	Re-hatting a regional peace operation into a UN peace operation	AFISMA and MINUSMA (Mali) MISCA and MINUSCA (CAR)	2013 2014
13.	Expressing support for a regional peace operation	ECOMIG (The Gambia)	2017
14.	Authorising a UN peace operation to provide support to a regional peace operation	MINUSMA and the FC-G5S (Mali) MONUSCO and SAMIDRC (DRC)	2017 2024
15.	Expressing support for regional efforts to resolve a dispute peacefully	ASEAN (Myanmar)	2021
16.	Encouraging support for a regional peace operation	EACRF (DRC)	2023

Overall, the models of cooperation considered throughout this report illustrate that the relationship between regional arrangements and the Council, as well as the UN more broadly, has often produced mixed results. There have been some successes, but also many challenges, and the relationship has not always been smooth. Problems have arisen in numerous areas, raising questions surrounding the appropriate level of Council oversight, mission ownership, effective operational coordination, and adequate resourcing, among other matters. This section analyses these issues and makes observations

in relation to each of them. It explores questions surrounding mandating decisions, strategic disagreements, the importance of Council unity and coordinated regional diplomacy, Council oversight of regional efforts to peacefully settle disputes, the benefits of political alignment, re-hatting, operational coordination, resourcing, doctrinal differences, and the question of complementarity and comparative advantage. The analysis is intended to be illustrative rather than exhaustive and each issue is not considered for every example.

⁷⁷ Colin Granderson, 'Institutionalising Peace: The Haiti Experience' in Alice Henkin (ed.) Honours Human Rights: From Peace to Justice (2000), 383-4.

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Deploying a UN Peace Operation in Parallel with a Regional Peace Operation – UNOMIL

In September 1993, the Council authorised the deployment of a UN peace operation in parallel with an ECOWAS peace operation in Liberia.

The UN Observer Mission in Liberia (UNOMIL) was established by resolution 866. The resolution followed the July 1993 signing of the Cotonou Peace Agreement (CPA), which provided for a parallel deployment of the ECOWAS Monitoring Group (ECOMOG) and UNOMIL, a ceasefire, disarmament and demobilisation, formation of a unity government, and the holding of elections. The CPA was brokered by ECOWAS and signed following negotiations that also involved the main parties to the conflict, the UN, and the OAU. At the time the CPA was signed, Liberia had been embroiled in conflict for more than three years. ECOMOG had been on the ground for much of that period, having deployed without prior Council authorisation in August 1990 at the

invitation of Liberian President Samuel Doe, approximately five months after the outbreak of hostilities. Resolution 788, which was the first resolution adopted by the Council on the conflict in Liberia, specifically recalled the provisions of Chapter VIII.

Under the CPA, ECOMOG was responsible for supervision and implementation of its terms while UNOMIL was charged with monitoring and verifying implementation. Pursuant to resolution 866, UNOMIL's initial tasks included receiving and investigating reports of alleged ceasefire violations, monitoring compliance with other elements of the agreement, observing and verifying legislative and presidential elections, assisting with the coordination of humanitarian aid, and reporting on major violations of international humanitarian law.

Mandating Decisions

In some cases, the Council has made mandating decisions that ultimately complicated the relationship between the UN and the relevant regional arrangement. In Liberia, the deployment of UNOMIL alongside ECOMOG in 1993 was predicated on the expectation that ECOMOG would be able to fulfil its duties under the CPA and that there would be close cooperation between the two missions, with ECOMOG providing logistical and security support to UNOMIL.⁷⁸ These notions would prove problematic for UNOMIL. To begin with, ECOMOG, which had deployed to Liberia several years before UNOMIL was established, had been involved in clashes with several parties to the conflict during the early years of its deployment. This contributed to a perception among Liberians that ECOMOG was not a neutral actor, a problem that was exacerbated by Nigeria's

leading role in ECOMOG and its open opposition to some parties to the conflict.⁷⁹ This perception made it difficult for ECOMOG to carry out the supervision and implementation role envisioned by the CPA which, in turn, created problems for UNOMIL.

Moreover, relying on ECOMOG for security also meant that UNOMIL struggled to establish the independence and neutrality necessary to perform its monitoring and verification role.⁸⁰ Commentators have suggested that these issues were readily apparent at the time UNOMIL was established and have argued that the Council should have taken them into account. Indeed, the Council has been accused of simply rubber-stamping the CPA⁸¹ and giving little consideration to the implications of collaboration between the UN and ECOWAS in these circumstances.⁸²

Establishing a Transitional Administration with the Assistance of Regional Arrangements – UNMIK

In June 1999, the Council authorised the Secretary-General to establish a transitional administration in Kosovo with the assistance of regional arrangements.

The UN Interim Administration in Kosovo (UNMIK) was established following the adoption of resolution 1244, which authorised the Secretary-General to establish an "international civil presence" to provide an interim administration for Kosovo "with the assistance of relevant international organisations". UNMIK's tasks included performing basic civilian administrative functions, supporting the reconstruction of key infrastructure and the economy, protecting and promoting human rights, facilitating a political process regarding Kosovo's final status, and supporting the provision of humanitarian aid.

Following the adoption of resolution 1244, then Secretary-General Kofi Annan proposed a concept of operations for UNMIK. Pursuant to this "four pillar approach", each component of UNMIK's mandate was assigned to a different organisation. The UN was responsible for civil administration – including

police, civil affairs, and the judiciary – the UN High Commissioner for Refugees (UNHCR) managed humanitarian affairs, the Organisation for Security and Cooperation in Europe (OSCE) led on institution building, and the EU was charged with rebuilding Kosovo's economy and infrastructure. This plan was approved by the Council in a letter from the Council President to the Secretary-General.

Resolution 1244 also authorised "member states and relevant international organisations" to establish an "international security presence" – the NATO-led Kosovo Force (KFOR) – in Kosovo. KFOR's responsibilities included deterring renewed hostilities, demilitarising the Kosovo Liberation Army, establishing a secure environment for the return of refugees and displaced persons, and ensuring public safety. KFOR was also directed to coordinate with and support UNMIK and ensure its "protection and freedom of movement".

In Kosovo, the Council mandated cooperation between the UN and regional arrangements in circumstances where there was no clear strategy for resolving the difficult political questions at the core of the crisis. Resolution 1244 left the question of Kosovo's independence unresolved, with the Council instead directing UNMIK to promote "the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo" and to facilitate "a political process designed to determine Kosovo's future status".

Somewhat unusually for a Council product, resolution 1244 was the result of negotiations among members of the G8 (Canada, France, Germany, Italy, Japan, Russia, the UK, and the US). According to Paul Heinbecker, who was the Permanent Representative of Canada to the UN at the time, the UN Secretariat was not consulted during these negotiations and, when they were complete, the draft text of resolution 1244 was sent to New York with instructions to the permanent representatives of the members of G8 indicating that its provisions were

78 Report of the Secretary-General on Liberia (9 September 1993) (S/26422), 39.

79 Adibe, n 67, 483.

80 Kathleen M. Jennings, 'United Nations Observer Mission in Liberia (UNOMIL)' in Joachim A. Koops et al (eds.), *The Oxford Handbook of United Nations Peacekeeping Operations* (2014) 457.

81 Adibe, n 67, 484.

82 Funmi Oloisakin, 'UN Cooperation with Regional Organisations in Peacekeeping: The Experience of ECOMOG and UNOMIL in Liberia' (1996) 3(3) *International Peacekeeping* 33, 44.

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not open for further discussion. Apart from one minor amendment, the draft was adopted by the Council unchanged.⁸³

The decision to leave Kosovo's final status unresolved in resolution 1244 was undoubtedly driven by disagreements among the permanent members of the Council and broader geopolitical considerations. It ultimately had a negative effect on the regional arrangements working in Kosovo and on the mission overall. In a 2004 report to the Secretary-General regarding UNMIK, Kai Eide noted that "the international organisations on the ground—and in particular UNMIK—have also been victims, stemming from the lack of direction and overall plan provided by the international community". Eide described the overall situation UNMIK faced as "untenable", noting that "in the absence of a strategy with any sense of direction" UNMIK had "been used to 'keep the lid on'" and arguing that this "would be a difficult situation for any international mission anywhere".⁸⁴ This situation also created difficulties that manifested in various ways and hindered UNMIK's ability to implement its mandate. Early policy decisions made by the UN or its regional partners in Kosovo were, for example, interpreted by Kosovar Albanians and Serbs as either promoting independence or a return to rule from Belgrade, and accordingly were openly contested or undermined by either group.⁸⁵

Observation One

When the Council opts for cooperation between the UN and regional arrangements, it is essential for it to have a clear understanding of the role that each organisation will play, its capacity to do so, and the proposed relationship among the different actors.

Observation Two

The absence of a clear political strategy can cause problems for peace operations premised on cooperation between the UN and regional arrangements. A New Agenda for Peace highlights the primacy of politics, noting that the principle "remains a central tenet of peace operations". This proposition is particularly important where the UN is working with regional arrangements.

Strategic Disagreements

The increased involvement of regional arrangements in efforts to maintain international peace and security has sometimes led to tensions between the Council and its regional partners, particularly where disagreements have arisen regarding which organisation should take the lead and the appropriate strategy for responding to a crisis.

In Mali, there were disagreements between the UN and the AU, initially in relation to the deployment of AFISMA and later over the transition from AFISMA to MINUSMA, while ECOWAS and the AU were not always on the same page regarding AFISMA's deployment.

ECOWAS initially took the lead following the March 2012 coup that ousted former Malian president Amadou Toumani Touré, including by suspending Mali and issuing a May 2012 communiqué that instructed the ECOWAS Commission to "hold the ECOWAS Standby Force (ESF) in readiness for immediate deployment as soon as the Malian authorities make the relevant request".⁸⁶ In June 2012, the AUPSC issued a communiqué that authorised ECOWAS to deploy a military and security force and called on the Council to endorse its deployment and lend its full support to related efforts.⁸⁷ The Council took note of this request in resolution 2056 but fell short of endorsing deployment, instead expressing willingness to consider the request further once it had received information regarding "the objectives, means, and modalities of the envisaged deployment and other possible measures".⁸⁸

Meanwhile, the situation in Mali continued to worsen. On 28 September 2012, the interim government requested that the Council authorise the deployment of "an international military force" under Chapter VII of the UN Charter to assist the Malian army with recapturing regions in northern Mali that had been occupied by armed groups.⁸⁹

This request led to apparent disagreement between the UN and the AU regarding the appropriate way forward. On 12 October 2012, the Council requested that the UN Secretariat consult with the AU, ECOWAS, Malian authorities, and neighbouring member states and provide a report on several matters, including the request for an international military force and the political process in Mali.⁹⁰ Just under a month later, ECOWAS approved a "harmonised concept of operations" for the deployment of an African-led force to Mali⁹¹ and announced that it planned to deploy 3,300 troops to the proposed mission.⁹² Shortly thereafter and before the Secretary-General's report was provided to the Council, the AUPSC issued a communiqué endorsing an ECOWAS concept of operations for AFISMA and calling for financial support from the UN.⁹³

However, the Secretariat expressed ambivalence regarding the ECOWAS/AU proposal, concluding that it "could provide a useful basis" for considering the AU's call for Council authorisation of the mission⁹⁴ and noting that "fundamental questions on how the force would be led, sustained, trained, equipped and financed remain unanswered".⁹⁵ It was also hesitant in relation to the proposal for a UN funded support package, due partly to concerns regarding the effect it could have on the UN's ability to support humanitarian assistance and long-term stabilisation efforts in Mali.⁹⁶

In addition to disagreements between the UN and the AU, the process leading to the authorisation of AFISMA also saw differences emerge between the AU and ECOWAS. Some of these

83 Paul Heinbecker, 'Kosovo' in David Malone (ed.) *The UN Security Council: from the Cold War to the 21st Century* (2004), 546-7.

84 Letter from the Secretary-General to the President of the Security Council (17 November 2004) (S/2004/932), 11.

85 Alexandros Yannis, 'The UN as Government in Kosovo' (2004) 10(1) *Global Governance* 67, 76.

86 Extraordinary Summit of ECOWAS Heads of State and Government, Final Communiqué (3rd May 2012), 12.

87 African Union Peace and Security Council, Communiqué PSC/PR/COMM.(CCCXXXIII) (12 June 2012).

88 Resolution 2056 (5 July 2012) (S/RES/2056), 8.

89 Letter from the Secretary-General addressed to the President of the Security Council (28 September 2012) (S/2012/727).

90 Resolution 2071 (12 October 2012) (S/RES/2071).

91 Extraordinary Session of the Authority of ECOWAS Heads of State and Government Final Communiqué (11 November 2012).

92 Security Council Report, 'December 2012 Monthly Forecast' (30 November 2012).

93 The African Union Peace and Security Council Communiqué PSC/PR/COMM.2(CCCXLI) (13 November 2012).

94 Report of the Secretary-General on the situation in Mali (28 November 2012) (S/2012/894), 66.

95 *ibid.*, 86.

96 *ibid.*, 91.

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disagreements related to the appropriate political strategy,⁹⁷ particularly given the Malian government included officials involved with the coup,⁹⁸ as well as the logistical arrangements for AFISMA.⁹⁹ The Council ultimately authorised AFISMA in December 2012 without providing a support package to the mission.¹⁰⁰

Disagreement between the UN and the AU continued in early 2013 after Mali's apparent request to transition AFISMA into a UN operation, which was precipitated by armed groups seizing large tracts of territory in northern Mali. On 7 March 2013, the AU expressed support for transitioning AFISMA into a UN peace operation, provided certain requirements were met, including a robust Chapter VII mandate encompassing operations against criminal and terrorist networks; close consultation with the AU and ECOWAS throughout the process, particularly on the appointment of the Special Representative of the Secretary-General (SRSG); financial and logistical support from the UN; and a central political role for the AU and ECOWAS.¹⁰¹

Many of these requirements were not satisfied when the Council adopted resolution 2100 establishing MINUSMA in April 2013. In particular, MINUSMA's Chapter VII mandate did not extend to direct operations against terrorist and criminal networks. Nor did the Council authorise a UN funded support package for AFISMA during the three-month period that the mission would remain in place before MINUSMA began operating. Moreover, resolution 2100 appeared to deny the AU and ECOWAS a central political role, instead providing that the process would be facilitated through the UN in collaboration with the AU, ECOWAS, and the EU.¹⁰²

Resolution 2100 therefore prompted a disappointed response from the AU. On the same day it was adopted, the AU issued a communiqué expressing concern “that Africa was not appropriately consulted” in the drafting and consultation process and saying that the resolution failed to take account of concerns formally expressed

by the AU and ECOWAS and the “foundation laid by African stakeholders” for a return to constitutional order. The communiqué also stressed that the situation was inconsistent with the spirit of partnership the AU and the UN had been striving to promote on the basis of the provisions of Chapter VIII.¹⁰³ Privately, AU officials argued that the decision was rushed and expressed unhappiness that it did not meet their expectations that the process would be similar to that which led the Council to authorise an increase in AMISOM's troop levels in Somalia in February 2012, which included a joint technical assessment and the preparation of a joint UN/AU strategic concept.¹⁰⁴ As discussed in more detail below, AFISMA troops were re-hatted to MINUSMA shortly after MINUSMA was established.

The disagreements surrounding the initial authorisation of AFISMA and its transition to a UN mission had a knock-on effect on MINUSMA. Relations between the mission's leadership and the troop contingents were sometimes tense, for example, particularly given its leadership was at times predominantly western while its troops were largely African.¹⁰⁵ The UN and the AU also continued to disagree over the mission at different points, with the AU at times reagitating its push for a more robust mandate, including by suggesting that a rapid intervention force modelled on the Force Intervention Brigade (FIB) deployed within MONUSCO could be deployed as part of the mission.¹⁰⁶

Observation Three

Strategic disagreements between the UN and regional arrangements at the onset of a crisis can lead to delays that contribute to a worsening of the overall situation. They can also have an effect on the implementation of the strategy that is ultimately pursued. But such disagreements can be hard to avoid, given the diverging viewpoints of the UN and some of its regional partners. The experience in Mali illustrates the importance of streamlining the mandate authorisation process for AU-led peace support operations outlined in resolution 2719 and clarifying contentious issues covered in the resolution, including financial burden-sharing and joint planning.¹⁰⁷

Authorising a Predominantly Regional Multinational Force with Regional Leadership to Support a UN Peace Operation – INTERFET

In 1999, the Council authorised a predominantly regional multinational force with regional leadership to support a UN peace operation in Timor-Leste.

On 15 September 1999 the Council adopted resolution 1264, which authorised the establishment of a multinational force in Timor-Leste under unified command (INTERFET). INTERFET was authorised to use force and was tasked with restoring peace and security in Timor-Leste, protecting and supporting the UN Mission in East Timor (UNAMET), and facilitating humanitarian assistance operations.

While a multinational force, INTERFET had a predominantly regional character. It was led by Australia and more than 90 percent of its troops came from the Asia Pacific region, with just under a third of its force deployed

by member states from Southeast Asia. It was initially deployed in parallel with UNAMET, which was established by the Council on 11 June 1999 and mandated to organise a referendum on Timor-Leste's political future. Just over a month after INTERFET was deployed, the Council established the UN Transitional Administration in East Timor (UNTAET), which was mandated to, among other matters, establish effective self-administration in Timor-Leste, assist in the development of civil and social services, ensure the coordination of humanitarian assistance, assist in the establishment of conditions for sustainable development, and provide security and maintain law and order. INTERFET withdrew from Timor-Leste in February 2000.

97 John Karlsrud, *The UN at War: Peace Operations in a New Era* (2018), 118.

98 Wolfram Lacher and Denis M. Tull, 'Mali: Beyond Counterterrorism' (February 2013) *Stiftung Wissenschaft und Politik Comments* 7, 3.

99 Interview with AU official August 2024.

100 Resolution 2085 (20 December 2012) (S/RES/2085). The secretariat outlined several options for logistical support in a 13 December 2012 letter, see: S/2012/926.

101 African Union Peace and Security Council Communiqué PSC/PR/COMM.(CCCLVIII) (7 March 2013).

102 For more, see Arthur Boutellis and Paul D. Williams, 'Disagreements Over Mali Could Sour More Than the Upcoming African Union Celebration' (15 May 2013) <<https://theglobalobservatory.org/2013/05/disagreements-over-mali-could-sour-more-than-the-upcoming-african-union-celebration/>>

103 African Union Peace and Security Council Communiqué PSC/PR/COMM.(CCCLXXI) (25 April 2013).

104 Interview with AU official August 2024.

105 Interview with UN official June 2024.

106 John Karlsrud, 'United Nations Stabilisation Operations: Chapter Seven and a Half' (2019) 18(5) *Ethnopolitics* 494, 501-2.

107 Eugene Chen, 'Next Steps on the Financing of African Peace Support Operations: Unpacking Security Council Resolution 2719 (2023)' (February 2024) <<https://cic.nyu.edu/resources/next-steps-on-the-financing-of-african-peace-support-operations/>>

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Council Unity, Coordinated Regional Diplomacy, and Regional Support

Unity among Council members is always important for effective Council action and can help to facilitate successful cooperation between the UN and regional arrangements. Coordinated diplomacy involving regional actors outside the Council can also play a significant role. INTERFET's deployment in Timor-Leste in September 1999 provides a useful example in this regard.

As pro-Indonesian militias unleashed a wave of violence in Timor-Leste following a referendum on its independence, leading to widespread property destruction and large-scale loss of life, the need for military intervention by the international community became readily apparent. While Indonesian consent was not strictly required for such intervention under the UN Charter provided Council authorisation was obtained, it was nonetheless necessary for political reasons. Australia, for example, had publicly expressed a willingness to lead a military intervention but would only do so with Indonesian consent and Council authorisation, while China and Russia were unlikely to vote in favour of a Council resolution authorising intervention without Indonesian agreement.¹⁰⁸

As such, a concerted diplomatic effort to obtain Indonesia's consent began shortly after violence broke out. Many different actors were involved in this effort, which was spearheaded by then Secretary-General Kofi Annan, and it is difficult to attribute its ultimate success to any one factor.¹⁰⁹ That being said, the Council and regional member states clearly played an important role.

Shortly after the violence began in August 1999, Council members began meeting daily in closed consultations to discuss the situation and receive updates from the Secretariat. At this time, Indonesia was steadfastly maintaining that it was in control of the situation and that there was no need for international intervention. The Council first took substantive action on 3 September 1999, when it issued a presidential statement that called for the results of the referendum to be upheld, condemned the attacks, and emphasised the Indonesian government's responsibility for preventing further violence. Importantly, the Council hinted that it was prepared to take further action, indicating that it was "ready to consider sympathetically any proposal from the Secretary-General to ensure the peaceful implementation of the popular consultation process".¹¹⁰

Three days later, the Council took such a step when it authorised a visiting mission to Timor-Leste at the urging of the Secretariat. The President of the Council selected the five Council members that would comprise the mission: Malaysia, Namibia, the Netherlands, Slovenia, and the UK. Geographical considerations and the personal characteristics of some of the permanent representatives involved both played a part in determining the composition of the mission. Slovenian Ambassador Danilo Türk was chosen, for

example, because of his expertise in international law.¹¹¹

The visiting mission, which was chaired by Namibia, arrived in Jakarta on 8 September 1999, where it held a series of meetings with senior Indonesian officials. The mission then insisted on travelling to Dili to verify Indonesia's claim that the situation was under control. While there, both the mission and General Wiranto, the head of the Indonesian military, saw firsthand the extent of the destruction and suffering caused by the violence. According to some of those present, Wiranto appeared genuinely shocked by the situation on the ground and immediately began to show signs that he was willing to consider a change in Indonesia's position.¹¹²

While the mission was still in the field, Council members issued a press statement after receiving a briefing on the withdrawal of UNAMET, the UN mission that it had charged with organising and conducting the referendum. The press statement mentioned that Council members were anticipating the report of the visiting mission and again communicated that the Council was prepared to take additional steps, saying that "if the security situation does not improve within a very short period of time the Council will need to consider further action".¹¹³

Shortly before the visiting mission was scheduled to meet with Indonesian President Bacharuddin Jusuf Habibie, the Council convened for an open meeting on the situation in Timor-Leste. Most Council members expressed strong support for an international military intervention, while China and Russia reiterated their positions regarding the need for Indonesian consent and Council authorisation. An additional 35 member states took the floor during the meeting, most of whom condemned the violence and emphasised the need for intervention. Overall, the meeting sent a clear political message to Indonesia. Ian Martin, the head of UNAMET at the time, later described it as "a powerful demonstration of international outrage and Indonesia's growing international isolation".¹¹⁴ Within a day of the meeting, Indonesia consented to the deployment of an international military force.

While ASEAN did not play an active role in the diplomatic campaign that led to Indonesia's decision, the efforts of several ASEAN member states were significant. To begin with, a group of ASEAN member states publicly supported the results of the referendum and expressed support for international intervention, including during the open Council meeting held while the visiting mission was in the field.¹¹⁵ Malaysia, Singapore, and Thailand were members of the Secretary-General's support group on Timor-Leste, which was part of a two-tier structure led by a smaller core group comprising Australia, Japan, New Zealand, the UK, and the US. The core group was particularly active during this period, meeting regularly with the Secretariat and helping to facilitate the Council's prompt response.¹¹⁶

ASEAN member states also participated in an important Asia-Pacific Economic Cooperation meeting held in Auckland from 9

¹⁰⁸ Ian Martin, *Self-determination in East Timor: the United Nations, the Ballot, and International Intervention* (2001), 104.

¹⁰⁹ *ibid.*, 129.

¹¹⁰ Statement by the President of the Security Council (3 September 1999) (S/PRST/1999/27).

¹¹¹ Martin, n 108, 105.

¹¹² Marianne Jago, 'INTERFET: An Account of Intervention with Consent in East Timor' (2010) 17(3) *International Peacekeeping* 377, 383; Martin, n 108, 111.

¹¹³ Press Statement by the President of the Security Council (8 Sep 1999) <<https://reliefweb.int/report/timor-leste/press-statement-president-security-council-8-sep-1999>>.

¹¹⁴ Martin, n 108, 112.

¹¹⁵ Lee Jones, *ASEAN, Sovereignty and Intervention in Southeast Asia* (January 2012), 161-2.

¹¹⁶ Teresa Whitfield, 'A Crowded Field: Groups of Friends, the United Nations and the Resolution of Conflict' (June 2005), 11 <https://peacemaker.un.org/sites/peacemaker.un.org/files/ACrowdedField_WhitefieldCIC2005.pdf>

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to 10 September 1999, during which the crisis in Timor-Leste was discussed. In his capacity as chair of ASEAN, Thai Prime Minister Chuan Leekpai convened an ASEAN leaders' meeting on the sidelines of this summit, which provided an opportunity for ASEAN members to discuss their possible contribution to an international military force, particularly with Indonesia.¹¹⁷

Such a contribution was crucial to obtaining Indonesia's consent, as Indonesia had clearly communicated its desire for as much Asian participation as possible and a force commander from an ASEAN member state. It was also important to securing Australia's agreement to lead INTERFET, particularly given Australia's concerns regarding its long-term relationship with Indonesia.¹¹⁸ Malaysia, the Philippines, Singapore, and Thailand ultimately offered to provide troops to INTERFET, with Malaysia and Thailand being the first member states to do so.¹¹⁹ The Republic of Korea (ROK) also contributed troops, while the Deputy Force Commander was a Thai national.

INTERFET deployed within two weeks of Indonesia consenting to an international intervention and is widely credited with stabilising the situation and paving the way for UNTAET, which established a transitional administration in Timor-Leste and ultimately assumed INTERFET's security responsibilities.

Observation Four

Council unity can play an important role in facilitating effective cooperation between the UN and regional arrangements. Coordinated diplomacy involving regional actors that is consistent with the strategy being pursued by the Council and bolsters its efforts can also contribute to successful collaboration. In circumstances where the host state has communicated a desire for regional involvement, regional member states willing and able to provide troops and resources to a proposed peace operation can be particularly beneficial.

Observation Five

Conversely, divisions among Council members are likely to inhibit cooperation, including by preventing the Council from taking action and communicating clear signals to the parties involved. Regional member states might not be in a position to provide support to a proposed peace operation, and some host states may be opposed to their neighbours deploying on their territory.

Council Oversight of Regional Efforts to Peacefully Settle Disputes

As discussed in greater detail above, the text of Chapter VIII, when read as a whole and in conjunction with other parts of the Charter, contemplates a system whereby the Council oversees the activities of regional arrangements. Moreover, both the text of Chapter VIII and subsequent Council practice indicate that the Council can use its powers while regional efforts to peacefully settle a dispute are still running their course. In practice, however, it has sometimes been difficult for the Council to effectively oversee initiatives pursued by

regional arrangements and to use its tools where those initiatives appear to be flailing, particularly where the strategic interests of a permanent member are at stake.

In Myanmar, the Council has struggled to respond to the conflict that has spread throughout the country since the February 2021 military coup and to oversee ASEAN's efforts to manage the crisis, which are being pursued in accordance with the "five-point consensus". The five-point consensus was agreed during a 24 April 2021 ASEAN leaders meeting, attended by the chief of Myanmar's military Min Aung Hlaing and the heads of state of the nine remaining ASEAN members, and calls for:

1. Immediate cessation of violence and utmost restraint by all parties.
2. Constructive dialogue among all parties seeking a peaceful solution in the interests of the people.
3. Facilitation of the mediation and dialogue process by a special envoy of the ASEAN Chair, with the assistance of the Secretary-General of ASEAN.
4. The provision of humanitarian assistance by ASEAN through the AHA Centre.
5. The special envoy and their delegation to visit Myanmar and meet all the parties concerned.¹²⁰

The five-point consensus was generally considered a success for ASEAN at the time, particularly given the principle of non-interference in the internal affairs of ASEAN member states enshrined in its Charter,¹²¹ and the Council has largely thrown its support behind ASEAN ever since. In a 10 November 2021 press statement, for example, the first Council outcome issued after the five-point consensus had been agreed, Council members called for its swift and full implementation and conveyed their full support for ASEAN's role.¹²² Resolution 2669 of 21 December 2022, which remains the only resolution adopted on Myanmar since it came onto the Council's agenda in 2007, reiterated the Council's "full support for ASEAN's central role" and encouraged the international community to support its efforts to implement the five-point consensus.

However, implementation of the five-point consensus has lagged significantly. Violence in Myanmar has escalated dramatically, with over 5,000 civilians killed and many more injured in the fierce conflict that has erupted since the coup began,¹²³ resulting in widespread humanitarian need, more than a million newly internally displaced persons, and over one hundred thousand new refugees.¹²⁴ Serious violations have been perpetrated by parties to the conflict, including systematic airstrikes targeting civilians and attacks on groups of Rohingya fleeing the fighting.¹²⁵ Although four special envoys of the ASEAN Chair have been appointed,¹²⁶ they have struggled to facilitate dialogue among the parties and formal talks have not yet begun, while humanitarian assistance from ASEAN through the

117 Jones, n 115, 162.

118 Martin, n 108, 112.

119 Jones, n 115, 160.

120 Chairman's Statement on the ASEAN Leaders' Meeting (24 April 2021).

121 ASEAN Charter, art 2(2)(e).

122 Press Statement by the President of the Security Council (10 November 2021) (SC/14697).

123 Special Rapporteur on the situation of human rights in Myanmar, 'Banking on the Death Trade: How Banks and Governments Enable the Military Junta in Myanmar' (26 June 2024) (A/HRC/56/CRP.7), 3.

124 See UNHCR, 'Myanmar Emergency Update' (21 August 2024); OCHA 'Myanmar Humanitarian Update No. 40' (16 August 2024).

125 OHCHR, 'Situation of Human Rights in Myanmar' (September 2023); OHCHR, 'Myanmar: Growing Human Rights Crisis in Rakhine state' (24 May 2024).

126 These officials were appointed by Brunei, Cambodia, Laos, and Indonesia, each of which have held ASEAN's rotating annual chair since the five-point-consensus was agreed.

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AHA Centre has been limited. ASEAN formally acknowledged the lack of progress in September 2023,¹²⁷ but has been unable to break the deadlock and has continued to reaffirm that the five-point consensus remains “the main reference to address the political crisis in Myanmar”, most recently in July 2024.¹²⁸

Although there are many reasons for this lack of progress, divisions among ASEAN members have played a meaningful role, including by preventing ASEAN from further developing the five-point consensus and hindering its ability to hold the junta accountable for failing to comply with it.¹²⁹ Some of these divisions were on display in June 2023, when Thailand convened a regional meeting with officials from the Myanmar military. The invitation for the meeting, which said that ASEAN should “fully reengage with Myanmar at the leaders’ level”, was accepted by Brunei, Cambodia, Laos, the Philippines, and Viet Nam and rejected by Indonesia, Malaysia, and Singapore.¹³⁰

Relatedly, ASEAN’s structure and processes have affected its response to the conflict in Myanmar. Pursuant to the ASEAN Charter, ASEAN decision-making is based on consultation and consensus among its members.¹³¹ While limited exceptions to this are spelled out in the ASEAN Charter, ASEAN and its member states are generally hesitant to adopt decisions in the absence of agreement from all of its members. The appointment of the first special envoy of the ASEAN Chair was delayed for some four months in 2021, for example, because of disagreements among ASEAN members. The position of chair rotates among ASEAN members annually, which has meant that a new ASEAN special envoy has been appointed every year. This has made continuity and policy cohesion difficult to achieve, particularly given that each special envoy has tended to pursue a strategy that aligns with the position of the ASEAN member holding the chair.¹³²

Despite the lack of progress and the widespread deterioration in the situation on the ground, the Council’s overall engagement with the Myanmar file has declined. In 2021, Council members discussed Myanmar on nine occasions, convening for four private meetings, three discussions in closed consultations, and two Arria-formula meetings. There were also four press statements relating to different topics, including the arbitrary detention of political prisoners, restrictions on civil society, ASEAN’s response to the crisis, the treatment of Rohingya refugees, and attacks on civilians,¹³³ as well as a presidential statement covering similar issues.¹³⁴

In 2022, Council discussions on Myanmar fell by more than half, with Council members convening for two private meetings and one round of closed consultations. Two press statements were also issued, and, in December 2022, the Council adopted resolution 2669, its most recent outcome on Myanmar. Four meetings regarding Myanmar were held in 2023, while the same number of meetings have taken place in 2024 up to September. From the coup to September 2024, Council members have discussed Myanmar on

twenty occasions, with seven of these discussions featuring briefings from officials representing the Chair of ASEAN at the time.

Notably, Council members received only two briefings from ASEAN member states between June 2022 and September 2024, during which time the gravity and scale of the conflict increased markedly. This has affected the Council’s ability to oversee ASEAN’s efforts to resolve the crisis, and some Council members have suggested that it has been difficult for them to develop a strong understanding of the initiatives that ASEAN is pursuing.

Some Council members, usually led by China with support from Russia and different elected members, have increasingly pushed to circumscribe Council engagement with the file and limit its response to developments on the ground. These members often argue that the conflict in Myanmar is an internal matter that does not constitute a threat to international peace and security and suggest that ASEAN should be given space to resolve the crisis.¹³⁵

During the negotiations leading to the adoption of resolution 2669 in December 2022, for example, China, Russia, and other members opposed language requesting that the Secretary-General coordinate with ASEAN and provide a report on developments in Myanmar to the Council every 60 days. This text was removed from the resolution before it was adopted. Language intended to signal that the Council was willing to take further steps if the military did not comply with the resolution was also removed after China, Brazil, and Russia expressed opposition. Several direct requests to the junta, including calls to exercise restraint, take action to implement the five-point consensus, and allow the UN Special Envoy and ASEAN Special Envoy access to all stakeholders in Myanmar were removed during the course of negotiations and replaced with more general language directed towards all parties.

More recently, China and Russia have blocked draft press statements, including one circulated in April 2023 condemning airstrikes targeting civilians and another proposed in May 2024 expressing concern over the escalation of conflict in Rakhine state, demanding implementation of resolution 2669, and conveying support for ASEAN. Both members have also sought to prevent the Council from holding open meetings on the file, including in circumstances where a briefing from the ASEAN special envoy has been proposed.

Other members have pushed for the Council to be more involved and take further action. The US has openly called for the Council to take measures to restrict the junta’s access to jet fuel, while some European and Asian members have said that the Council should hold more regular meetings on Myanmar and take steps to support ASEAN.¹³⁶ The UK, the penholder on the file, has said publicly that the Council should send a unified message supporting the implementation of resolution 2669 and holding the junta accountable for their actions.¹³⁷ Although they support stronger Council engagement, these members also tend to emphasise

127 Chairman’s Statement on the 43rd ASEAN Summit (5 September 2023).

128 Joint Communiqué of the 57th ASEAN Foreign Ministers’ Meeting (25 July 2024).

129 To date, ASEAN’s main response to the junta’s non-compliance has been to limit its attendance at high level meetings to “non-political” representation.

130 Francesca Regalado and Gwen Robinson, ‘Thailand-led Regional Meeting on Myanmar Divides ASEAN’ in *Nikkei Asia* (19 June 2023).

131 ASEAN Charter, art 20.

132 For more, see Sydney Tucker, ‘Myanmar Reveals ASEAN’s Weak Spot Again’ (25 July 2023) <<https://www.stimson.org/2023/myanmar-reveals-aseans-weak-spot-again/>>

133 Press Statement by the President of the Security Council (10 November 2021) (SC/14697); Press Statement by the President of the Security Council (8 December 2021) (SC/14723); Press Statement by the President of the Security Council (29 December 2021) (SC/14754).

134 Statement by the President of the Security Council, (10 March 2021) (S/PRST/2021/5).

135 Security Council Meeting Record (4 April 2024) (S/PV.9595).

136 *ibid.*

137 *ibid.*

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the importance of ASEAN's role and express support for its work. Overall, these dynamics have made it difficult for the Council to oversee ASEAN's efforts and hampered its ability to use its tools to respond to the escalating conflict.

Observation Six

Regional efforts to peacefully settle disputes can be hampered by restraints and limitations on the capacity of the regional arrangement involved. These

constraints can stem from a variety of factors, including divisions among the members of the regional arrangement, its organisational culture and structure, and the processes and procedures that it follows when making decisions. In circumstances where regional efforts are faltering, the Council's oversight role and its powers to facilitate peaceful settlement of disputes become particularly important. However, members who are content for the Council to remain on the sidelines have sometimes used the involvement of a regional arrangement to justify Council inaction, which can lead to a deterioration in the situation on the ground.

Deploying a Hybrid UN/Regional Arrangement Peace Operation – UNAMID

In 2007, the Council and the AUPSC authorised the deployment of a hybrid peace operation jointly operated by the UN and the AU in Sudan.

UNAMID was authorised by the Council in resolution 1769. UNAMID took over from the AU Mission in Sudan (AMIS), which came under pressure from donors to hand over to the UN following negative reports about the mission's ability to prevent abuses against civilians. AMIS was originally intended to transition to the existing UN Mission in Sudan (UNMIS), however Khartoum refused to consent to the transition, arguing that this was a pretence for regime change. Then Secretary-General Kofi Annan proposed the deployment of a hybrid UN-AU mission as a compromise, a solution that Khartoum reluctantly accepted.

Pursuant to resolution 1769, UNAMID's initial tasks included ensuring the security and freedom of movement of its own personnel and humanitarian workers; supporting the early and effective implementation of the Darfur Peace Agreement; and protecting civilians without prejudice to the

responsibility of the government of Sudan. The Council stipulated that UNAMID would have "unity of command and control," with command-and-control structures and backstopping provided by the UN. The mission was financed by the UN peacekeeping budget and governed by the administrative rules and regulations of the UN and, as a result, was effectively a UN mission with its structures, processes, and procedures based on other UN operations.

Mission leadership was shared between the UN and the AU, with Joint Special Representatives and their deputies appointed through a consensual process involving both organisations and the Force Commander chosen by the AU in consultation with the UN. While the leadership was shared between the two organisations, the AU served as the main interlocutor with the Sudanese government, including in addressing various operational challenges faced by the mission.

UNAMID is the only example of a hybrid mission jointly operated by the UN and a regional arrangement.

The Importance of Political Alignment

Political alignment among different actors regarding key issues—such as the nature of a conflict situation, the objectives of any joint endeavours, the strategy that should be pursued to achieve these objectives, and the role of each actor—is critically important for successful cooperation between the UN and regional arrangements. Misalignment among the UN, its regional partners, and the host state will often make collaboration difficult and can create openings for actors seeking to disrupt a political process.

In Sudan, UNAMID was affected by a lack of political cohesion between the AU and the UN. During the early years of its deployment, for example, numerous envoys were involved in the political process, including the AU-UN Joint Chief Mediator, the AU High-Level Implementation Panel (AUHIP), and various bilateral arrangements.¹³⁸ Rather than complementing one another, these mediation processes often overlapped and at times competed with each other. In 2009, the AU announced a roadmap for a political settlement in Darfur and tasked the AUHIP with implementing it. This decision raised questions about the joint mediation process led by the AU-UN Joint Chief Mediator, which UNAMID was responsible for supporting, and also led to confusion and disagreements, including in relation to whether the AU-UN Joint Chief Mediator was required to report to the AUHIP.¹³⁹ One expert has argued that it also communicated that the AU did not "see the UN as a major player in the Darfur peace process".¹⁴⁰ This complicated UNAMID's already limited role in the political process at this juncture,

particularly given that it was responsible for supporting the joint mediation process rather than leading it directly.

Explicit disagreements between the Council and the AUPSC over UNAMID's role also created challenges for the mission. For instance, at one stage the AUPSC issued instructions for a UNAMID-supported initiative known as the Darfur Political Process—a series of Darfur-based popular consultations—to begin immediately. The Council took a different view, however, and insisted that the security and human rights situation in Darfur should improve before consultations could start. At another point, the AUPSC advocated for UNAMID to play a major role in supporting early recovery projects in Darfur, while the Council insisted that the mission should instead improve security to create an environment where development actors could implement appropriate projects.¹⁴¹ Several experts have argued that, overall, early differences between the UN and the AU created a system where the Sudanese government could play the two organisations off against each other and negotiate with New York if Addis Ababa did not give them an answer they liked and vice versa, thereby disrupting the political pressure that had been applied.¹⁴²

The problems caused by differences between the Council and the AUPSC were discussed in the Secretary-General's 2021 report on lessons learned from UNAMID, which noted that "achieving the necessary alignment on a common vision and political direction between the [Council] and the [AUPSC]" had "proved challenging", with "significant background work" undertaken by "the two administrations and individual Council members to align the

138 Ralph Mamiya and Wibke Hansen et al, 'Assessing the Effectiveness of the United Nations-African Union Hybrid Operation in Darfur (UNAMID)' (2020) 19.

139 Cage Banseka, 'Joint and Integrated AU-UN Mediation in Darfur: A Model for Future African Peace Processes?' in Linnéa Gelot et al (eds), *Supporting African Peace Operations* (2012) 71.

140 Interview cited in Adam Day, 'Peacekeeping without a Partner: A Review of UNAMID's Political Strategy in Darfur' in *The Political Practice of Peacekeeping: How Strategies for Peace Operations are Developed and Implemented* (2020) 52.

141 Abiodun Bashua, 'Challenges and Prospects of AU-UN Hybrid Operations: The UNAMID Experience' (2014) 18(1-2) *Journal of International Peacekeeping* 92, 99.

142 Mamiya and Hansen et al, n 138, 19 and 79.

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perspectives and approaches of their mandating Councils in order to ensure unity of purpose”.¹⁴³ It has also been argued that these problems arose because the Council did not have a “clear vision for how the two organisations would work together at the strategic level on Darfur, instead appearing to choose hybridity as a way of punting the question of strategy”.¹⁴⁴

The relationship improved over time, however, as the UN and the AU sought to bolster their ties, including through the Joint Support and Coordination Mechanism in Addis Ababa, and developed a clearer division of responsibilities and a more established political strategy. Conducting joint strategic reviews of UNAMID from 2014 onwards was particularly helpful in this regard, as was greater desk-to-desk cooperation between the two secretariats.¹⁴⁵ The decision to give the AUHIP the lead in the mediation process in 2015, which followed consultations among various actors, is an example of a move designed to provide greater clarity regarding roles and responsibilities.¹⁴⁶

The foregoing is not intended to suggest that UNAMID’s hybrid model was the sole cause of the difficulties encountered by the mission. Indeed, some have argued that the hybrid arrangement was “an important innovation that created new ways in which inter-governmental organisations could work together to achieve shared outcomes”.¹⁴⁷ Many of the challenges it faced were instead a product

of other factors, such as weak host state consent and the fragmentation of armed groups operating in Darfur. As the Secretariat has noted, “the general context and political conditions under which UNAMID was created had a significant bearing on its ability to deliver its mandate”.¹⁴⁸

The stance taken by the government of Sudan, which had only reluctantly consented to UNAMID’s deployment, was particularly significant in this regard, with Sudanese officials insisting “on being centrally involved in all major decisions relating to UNAMID”.¹⁴⁹ In addition to exploiting political divisions between the AU and the UN, Sudanese authorities also sought to obstruct UNAMID in a variety of other ways, including by withholding visas, preventing the importation of necessary equipment, and imposing curfews on peacekeepers that prohibited night patrols.¹⁵⁰ Force generation was especially difficult during UNAMID’s initial phase, as Sudan insisted on approving the deployment of the mission’s contingents and refused to allow peacekeepers that were not African, with the exception of troops provided by China.¹⁵¹ While a tripartite mechanism between the UN, the AU, and the Government of Sudan was put in place at the outset in order to provide a means for easing disagreements, it has been suggested that this was ineffective and ultimately proved to be “a bureaucratic tool to block progress”.¹⁵²

Encouraging Support for a Regional Peace Operation – EACRF

The East African Community (EAC) summit held in Tanzania in July 2022 authorised the deployment of the East African Community Regional Force (EACRF) in eastern DRC. The decision was taken as part of a regional peace initiative under the auspices of the EAC to address the deteriorating security situation in eastern DRC, which displaced millions of people and caused a humanitarian crisis. The government of the DRC consented

to the deployment of the EACRF.

The EACRF, comprising troops from Burundi, Kenya, South Sudan, and Uganda, was deployed in November 2022. On 29 March 2023, the Council issued a presidential statement that acknowledged the deployment of the EACRF, recognised the efforts of the TCCs, and encouraged “support to the EACRF, as appropriate, to promote regional peace and security”.¹⁵³

The degree of alignment among various actors has also been an issue in some of the other examples considered in this report. The initial success of the FIB deployed within MONUSCO in 2013 was partly driven by the fact that all of the main actors involved—the DRC, the troop contributing countries (Malawi, South Africa, and Tanzania), ICGLR, SADC, the AU, and the UN—were aligned over the need to defeat the M23 armed group and the strategy for doing so.¹⁵⁴ Their interests later diverged, however, including in 2014 when the FIB turned its attention to the Forces Démocratiques de Libération du Rwanda (FDLR), an armed group with ties to the government of former DRC president Joseph Kabila. Some experts have suggested that authorities in the DRC deliberately stalled the FIB’s

operation against the FDLR,¹⁵⁵ a view that appears to have been shared by the Council, which adopted a resolution in March 2014 expressing concern regarding reports of collaboration between the FDLR and the armed forces of the DRC.¹⁵⁶ The FIB has since been less effective and is regarded by some as having lost its way.¹⁵⁷ As Novosseloff and her co-authors have noted, the FIB “showed what is possible” when various actors are politically aligned, “however that window did not last”.¹⁵⁸

A lack of alignment also negatively affected the EACRF, which deployed in the DRC in late 2022. Disagreements quickly emerged between the EACRF and the DRC regarding the scope of the mission’s mandate, with the EACRF asserting that its role was to oversee

143 Letter from the Secretary-General addressed to the President of the Security Council (28 December 2021) (S/2021/1099) 39.

144 Day, n 140, 59.

145 Mamiya and Hansen et al, n 138, 79.

146 Report of the Secretary-General on UNAMID (26 November 2014) (S/2014/852) 36.

147 Letter to the President of the Security Council, n 143, 36.

148 *ibid.*, 7.

149 Stockholm International Peace Research Institute, SIPRI Yearbook 2008: Armaments, Disarmament and International Security (2008), 107.

150 David Lanz, ‘African Union–United Nations Hybrid Operation in Darfur (UNAMID)’ in Joachim A. Koops et al (eds), *The Oxford Handbook of United Nations Peacekeeping Operations* (2014), 786.

151 Jean-Marie Guehenno, *The Fog of Peace: A Memoir of International Peacekeeping in the 21st Century* (2015), 206.

152 *ibid.*

153 Statement of the President of the Security Council (29 March 2023) (S/PRST/2023/3).

154 de Coning, n 7, 218.

155 George Abel Mhango and Angelita Kithatu-Kiwetete, ‘Peace Enforcement in the Democratic Republic of the Congo: Reflections on the Force Intervention Brigade’ (2023) 45(1) *Strategic Review for Southern Africa* 28, 38.

156 Resolution 2147 (28 March 2014) (S/RES/2147).

157 Interview with UN official August 2024.

158 Alexandra Novosseloff et al, ‘Assessing the Effectiveness of the United Nations Mission in the DRC (MONUC-MONUSCO)’ (2019), 121.

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the withdrawal of M23 and a ceasefire with the armed group, and the DRC arguing that it should engage in offensive operations against M23.¹⁵⁹ These disagreements ultimately led the EACRF to withdraw from the DRC just over a year after it was deployed.

Observation Seven

Cooperation between the Council and regional arrangements can be more effective when there is broad political alignment regarding key issues, such as the overall objectives of collaboration, the strategy that will be pursued to achieve those objectives, and the role that each actor will play in implementing that strategy. Processes and structures that facilitate frank exchanges aimed at developing a better understanding of differing viewpoints among different entities and finding common ground, such as interactive discussions between the Council and its counterparts in regional arrangements,

joint assessments, and regular desk-to-desk meetings that result in specific outcomes can lead to greater alignment.

Observation Eight

Where a peace operation is deployed, political alignment with the host state is particularly important, especially in circumstances where the UN is working with a regional arrangement. A compact signed by relevant actors outlining the commitments they have made and their roles, similar to the type recommended in the report of the High-level Independent Panel on Peace Operations, could be helpful in facilitating such alignment.¹⁶⁰ Processes can be put in place to try and ease disagreements with the host state, but they are likely to have limited success where the host state is intent on obstructing the mission.

Authorising a Regional Arrangement to Use Force to Support a UN Peace Operation – MINURCAT and EUFOR Chad

In 2007, the Council authorised the deployment of an EU peace operation to use force to support a UN peace operation.

Resolution 1778, which was adopted on 25 September 2007, approved the establishment of the UN Mission in the CAR and Chad (MINURCAT). MINURCAT's tasks included training police, supporting efforts to relocate refugee camps, exchanging information with other entities on emerging threats to humanitarian activities, contributing to human rights monitoring and protection, and promoting the rule of law.

The resolution also authorised the EU to deploy an operation to support

MINURCAT (EUFOR Chad). This operation was authorised to use force and was mandated to facilitate the delivery of humanitarian aid and contribute to the protection of civilians and UN personnel, facilities, and equipment and ensure the security and freedom of movement of UN staff.

Nineteen EU member states deployed troops to EUFOR Chad, with France contributing the highest number. Austria, Belgium, Ireland, Poland, Spain, and Sweden each contributed 100 troops or more. The operation was deployed for a year before being rehatted into MINURCAT on 15 March 2009.

Operational Coordination

If the UN and a regional arrangement are deployed in parallel, or if a group of member states is contributing troops to a regional force or peace operation, effective coordination can help to facilitate successful collaboration. In several of the examples considered in this report, inadequate coordination created issues for the organisations involved.

For UNMIK, a lack of coordination among the different actors working within its four-pillar structure—including the EU and the OSCE—caused difficulties for the mission. In an August 2004 report to the Secretary-General on the policies and practices of all actors in Kosovo, Kai Eide noted that “with few exceptions, the efforts of the international community had become a static, inward-looking, fragmented and routine operation”.¹⁶¹ Eide found that although UNMIK had made a significant and important contribution under difficult circumstances, the four-pillar approach had not taken advantage of synergies among the different regional actors and avoided duplication as intended, but had instead led to “frustration over lack of visibility” and “enabled other participants to hide behind the [UN] without developing their own strategies within their areas of responsibility”.¹⁶²

Officials working on the ground at the time have also argued that

the four-pillar arrangement caused problems for UNMIK, including by delaying the time it took to formulate and then implement decisions.¹⁶³ One former official has noted that UNMIK encountered difficulties that stemmed from “the lack of unified authority” and the fact that the mission was “divided into different spheres of influence with different management structures and ultimately accountable to different bureaucratic chains of command and different constituencies”.¹⁶⁴ The mission's structure was particularly problematic when it came to managing cross-cutting issues involving more than one organisation.¹⁶⁵

The circumstances leading to the EU's decision to suspend the privatisation process in Kosovo illustrate some of the problems encountered by UNMIK. As the multi-year process progressed to a critical stage, disagreements emerged between the EU—which was responsible for economic reconstruction in Kosovo under the four-pillar approach—and the UN in relation to the legal liability of EU officials tasked with administering the process. The EU argued that these officials enjoyed the protection of the immunities afforded to UN staff,¹⁶⁶ meaning that they would not be liable for legal claims made against them in their personal capacity, while the UN took the opposite view.¹⁶⁷ Together with other technical complications, these concerns led the EU to announce abruptly that it was suspending the privatisation

¹⁵⁹ Jenna Russo, 'East Africa's Troops Are Leaving the DRC: What Went Wrong and What Comes Next', *The Conversation* (11 December 2023) <<https://theconversation.com/east-africas-troops-are-leaving-the-drc-what-went-wrong-and-what-comes-next-219500>>

¹⁶⁰ Identical letters dated 17 June 2015 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council (S/2015/446), 151.

¹⁶¹ Letter from the Secretary-General to the President of the Security Council, n 84, 11.

¹⁶² *ibid.*, 56.

¹⁶³ Interview with UN official August 2024.

¹⁶⁴ Yannis, n 85, 73.

¹⁶⁵ Richard Caplan, 'United Nations Interim Administration Mission in Kosovo (UNMIK)' in Joachim A. Koops et al (eds.), *The Oxford Handbook of United Nations Peacekeeping Operations* (2014), 619.

¹⁶⁶ Convention on the Privileges and Immunities of the United Nations (13 February 1946).

¹⁶⁷ Bernhard Knoll, 'From Benchmarking to Final Status? Kosovo and The Problem of an International Administration's Open-Ended Mandate' (2005) 16(4) *The European Journal of International Law* 637, 654.

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process in October 2003.¹⁶⁸ At the time, UNMIK was pursuing the “standards before status” policy first outlined by then-SRSG Michael Steiner in April 2002, pursuant to which discussions on Kosovo’s final status would not begin until certain standards had been met. Given that progress on privatisation was an important part of these standards,¹⁶⁹ which were specifically supported by the Council,¹⁷⁰ this decision directly affected UNMIK’s efforts to pursue this strategy.

The relationship between UNMIK and KFOR, which did not share a leadership structure, also created issues. Some experts have

suggested, for example, that the two missions did not coordinate effectively in the lead-up to and during violent riots in March 2004 and have argued that this was a factor that contributed to the outbreak of violence, during which 19 people were killed and hundreds more injured.¹⁷¹ More broadly, separate leadership structures for the political and military aspects of the mission made it difficult for UNMIK to implement political initiatives that required significant enforcement capacity, which in turn undermined its credibility in the eyes of the local population.¹⁷²

Authorising a Regional Force to Work Within a UN Peace Operation – MONUSCO and the FIB

In 2013, the Council authorised a regional force to work within a UN peace operation in the DRC.

On 28 March 2013 the Council adopted resolution 2098, which decided to include an intervention brigade (FIB) within the UN Organisation Stabilisation Mission in the DRC (MONUSCO). The FIB was initially mandated “to prevent the expansion of all armed groups, neutralise those groups, and to disarm them in order to contribute to the objective of reducing the threat posed by armed groups on state authority and civilian security in eastern DRC and to make space for stabilisation activities”. It operates under the direct command of the MONUSCO Force Commander and initially comprised three infantry battalions, one artillery company, one special force company, and one reconnaissance company.

Resolution 2098 recognised that the establishment of the FIB was based

on an idea initially conceived by the International Conference on the Great Lakes Region (ICGLR) and supported by SADC. In July 2012, an ICGLR declaration directed the “appropriate structures of the ICGLR” to work with the AU and the UN to establish a neutral force tasked with eradicating particular armed groups in eastern DRC and patrolling and securing border zones. SADC later committed to deploying its standby force as part of this neutral force and, as momentum for the force continued to build, a harmonisation meeting involving the UN, AU, ICGLR and SADC was held in January 2013. The Secretary-General then recommended the establishment of an intervention brigade to undertake peace enforcement tasks in eastern DRC within MONUSCO.

The FIB comprised troops from Malawi, South Africa, and Tanzania, all of which are members of SADC.

In the CAR, MISCA lacked a unified command structure among its TCCs. This resulted in a lack of coordination and contributed to the difficulties encountered by the mission, which was also hampered by rivalries among its different troop contingents and varying levels of commitment to implementing its mandate on the part of each contingent.¹⁷³ By contrast, coordination among the TCCs for the FIB deployed within MONUSCO in the DRC was relatively smooth during the first phase of its deployment. The DRC and each of these states—Malawi, South Africa, and Tanzania—are members of SADC and had participated in joint training exercises as part of

the SADC Standby Arrangement of the African Standby Force. This meant that each FIB troop contingent had a common understanding of military doctrine and command and control, which contributed to its initial success against the M23 armed group.¹⁷⁴ Coordination was also generally smooth among the troop contingents of INTERFET,¹⁷⁵ which was authorised to deploy to Timor-Leste “under a unified command structure”¹⁷⁶ and has been described as “a valuable model for the integration of command principles with variable human factors”.¹⁷⁷

Directing a UN Peace Operation to Provide Support to a Regional Peace Operation – MINUSMA and the FC-G5S

In December 2017, the Council directed a UN peace operation to provide support to a regional peace operation in Mali.

The Joint Force for the Group of Five for the Sahel (FC-G5S) initially comprised troops from Burkina Faso, Chad, Mali, Mauritania, and Niger and was established following the spread of terrorist groups from Mali into north-eastern Burkina Faso and western Niger. It was authorised by the AU-PSC on 13 April 2017 and its tasks included combatting terrorism, drug trafficking, and human trafficking; contributing to the restoration of state authority and the return of displaced persons and refugees; facilitating humanitarian aid; and contributing to development. In the communiqué authorising the FC-G5S, the AUPSC urged the Council to approve its deployment and to authorise the Secretary-General to “identify the modalities of sustainable and predictable financial and logistical support, including through MINUSMA”.

On 21 June 2017 the Council adopted resolution 2359, which welcomed the FC-G5S, urged the FC-G5S, MINUSMA and French forces to cooperate,

and requested the Secretary-General to report on several issues, “including possible measures for further consideration”.

Discussions regarding the provision of support to the FC-G5S ultimately led to the adoption of resolution 2391, which requested the Secretary-General to reach a technical agreement between the UN, the EU, and G5 Sahel member states with a view to providing specified operational and logistical support through MINUSMA to the FC-G5S. The resolution provided that this support would apply only to FC-G5S troops operating on Malian territory; include MEDEVAC and CASEVAC, access to life support consumables and use of UN engineering plant and equipment and engineering units; be subject to full financial reimbursement to the UN through an EU-coordinated financing mechanism established for the coordination of international voluntary contributions to support the FC-G5S; and be conducted at the discretion of the Special Representative of the Secretary-General for Mali.

168 Rita Augestad Knudsen, ‘Privatization in Kosovo: The International Project 1999–2008’ (2010), 66. <<https://www.files.ethz.ch/isn/121346/Knudsen%20report-NUI%20Report.pdf>>

169 See “Standards for Kosovo”, accessed at <https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf>.

170 Statement by the President of the Security Council, (12 December 2003) (S/PRST/2003/26).

171 International Crisis Group, ‘Collapse in Kosovo’ (22 April 2004), 1 and 19–24.

172 Yannis, n 85, 73.

173 Tatiana Carayannis and Mignonne Fowles, ‘Lessons from African Union–United Nations Cooperation in Peace Operations in the Central African Republic’ (2017) 26(2) African Security Review 220, 226.

174 de Coning, n 7, 218.

175 Interview with former UN official August 2024.

176 Resolution 1264 (15 September 1999) (S/RES/1264).

177 A. Ryan, ‘The Strong Lead-nation Model in an ad-hoc Coalition of the Willing: Operation Stabilise in East Timor’ (2002) 9(1) International Peacekeeping 23, 42.

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Coordination was an issue for MINURCAT and EUFOR Chad in the late 2000s, particularly in relation to intelligence sharing. In accordance with the EU's strict protocols on this issue, information obtained by EUFOR Chad had to be cleared with both Paris and Brussels before it could be provided to MINURCAT.¹⁷⁸ By then, it was often out of date.¹⁷⁹

In Mali, coordination among MINUSMA, the FC-G5S and other actors working on the ground proved challenging at times. In June 2020, for example, the Secretary-General reported that “multiple challenges” had prevented the FC-G5S from fully benefiting from the support provided by MINUSMA, including its limited capability to collect life support consumables at designated collection points in Mali and transfer them to other sectors.¹⁸⁰ More broadly, it was difficult to achieve coordination among the many actors that worked in Mali alongside MINUSMA at different stages, including the AU Mission for Mali and the Sahel (MISAHEL), the EU Common Security and Defence Policy (CSDP) Mission in Mali (EUCAP Sahel Mali), the EU Training Mission in Mali (EUTM Mali), Operation Barkhane, and the FC-G5S. According to one study, while the

work of these missions was complementary, there was also “broad consensus among all international missions about the need for more coherence”, and the main challenge in this regard was that each actor focused “mainly on their own areas or niches” and did not “coordinate their efforts enough to speak of an international strategy”.¹⁸¹

Observation Nine

In circumstances where the UN is deployed in parallel with regional arrangements, a lack of coordination can create issues for the actors involved by leading to delays in decision-making, causing operational problems, and inhibiting the development of a coherent overall strategy for international engagement. The different organisations will often have varying interests that can make coordination difficult. An absence of clearly delineated responsibilities can lead to a lack of accountability among organisations, particularly where one organisation is clearly in the lead.

Observation Ten

Parallel leadership structures can lead to problems, especially where control over the military and political aspects of a mission is divided between different organisations. When dealing with complex security environments, speed is generally crucial and parallel leadership structures can be less responsive.

Authorising a UN Peace Operation that Took Over From a Regional Peace Operation – UNAMSIL

In 1999, a UN peace operation took over from a regional peace operation in Sierra Leone.

On 22 October 1999, the Council decided to establish the UN Mission in Sierra Leone (UNAMSIL). UNAMSIL's mandate included cooperating in the implementation of a peace agreement, monitoring a ceasefire, facilitating the delivery of humanitarian assistance, and assisting with a disarmament, demobilisation and reintegration plan.

At the time UNAMSIL was established, ECOMOG had been deployed in Sierra Leone for approximately 18 months. The UN Observer Mission in Sierra Leone (UNOMSIL) had also been deployed for approximately 15 months.

The deployment of UNAMSIL was predicated on the idea that ECOMOG would remain in Sierra Leone. Resolution 1270 commended ECOMOG's

readiness to continue carrying out its tasks and stressed the need for close cooperation and coordination between ECOMOG and UNAMSIL. However, in December 1999, Nigeria, which was the main troop contributor to ECOMOG, effectively ended ECOMOG's mission when it announced that it would withdraw its troops from Sierra Leone. Although Nigeria eventually agreed to re-hat two battalions into UNAMSIL, the bulk of its troops withdrew from Sierra Leone in May 2000. As such UNAMSIL effectively took over from ECOMOG, contrary to the initial plan for the mission.

Shortly after ECOMOG's withdrawal, the Revolutionary United Front (RUF) went on the offensive. During these operations, approximately 500 UN peacekeepers were taken hostage by the RUF, which precipitated a crisis for UNAMSIL.

Resources

In several of the examples considered in this report, regional peace operations were affected by resource constraints. ECOMOG's mission in Sierra Leone, which was predominantly funded and run by Nigeria, effectively ended when Nigeria decided to withdraw its troops in December 1999 due to public pressure regarding the overall cost of its operations, which had exceeded \$4 billion. Before announcing the withdrawal, Nigerian President Olusegun Obasanjo unsuccessfully sought financial support from the UN and the US in an effort to try and assuage the concerns of the Nigerian public.¹⁸² An earlier proposal to expand ECOMOG's mission by deploying troops on the border with Liberia, which the Council requested the Secretary-General to consider as a possible option for stemming the flow of arms into the country,¹⁸³ stalled after ECOWAS requested logistical support from the UN.¹⁸⁴ ECOMOG's sudden withdrawal had major repercussions for UNAMSIL, as planning

for its deployment, which had been authorised by the Council two months earlier,¹⁸⁵ was already well underway at the time the withdrawal was announced and was predicated on the idea that it would deploy alongside ECOMOG.¹⁸⁶

In the CAR, the resource constraints experienced by MISCA have been well documented. In November 2013, shortly before MISCA's deployment was authorised by the Council, the UN Secretariat reported that the mission's “current resource allocation is likely to present serious challenges in terms of enabling MISCA to reach the level of operational readiness necessary to implement its complex and challenging mandate” and observed that “external support will be needed” in order for it to perform its mandated tasks.¹⁸⁷ The relevant report also presented the Council with multiple options for providing support to MISCA, including setting up a UN trust fund comprising voluntary contributions from UN member states, creating a limited support package funded by assessed

178 Interview with EU member state official August 2024.

179 John Karlsrud, 'United Nations Mission in the Central African Republic and Chad I and II (MINURCAT I and II)' in Joachim A. Koops et al (eds.), *The Oxford Handbook of United Nations Peacekeeping Operations* (2014), 794.

180 Report of the Secretary-General on the Situation in Mali (2 June 2020) (S/2020/476), 57.

181 Jäir van der Lijn et al, 'Assessing the Effectiveness of the United Nations Mission in Mali (MINUSMA)' (2019), 104 and 110.

182 Funmi Olonisakin, *Peacekeeping in Sierra Leone: The Story of UNAMSIL* (1998), 44.

183 Resolution 1231 (11 March 1999) (S/RES/1231).

184 Olonisakin, n 182, 38.

185 Resolution 1270 (22 October 1999) (S/RES/1270).

186 Olonisakin, n 182, 44.

187 Report of the Secretary-General on the Central African Republic (15 November 2013) (S/2013/677), 22-3.

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and voluntary contributions for certain tasks, establishing a UN mission to deliver a logistical support package, and transforming MISCA into a UN operation.¹⁸⁸

When it initially authorised MISCA, the Council decided to request the Secretary-General to establish a trust fund that member states and regional arrangements could use to provide financial support to the mission.¹⁸⁹ Although significant financial assistance was pledged thereafter, the funds were ultimately slow to arrive, which affected MISCA's ability to implement its mandate during this period.¹⁹⁰

As the overall situation in the CAR deteriorated, in March 2014 the Secretariat recommended that MISCA transition to a multidimensional UN peacekeeping operation. The report that made this recommendation highlighted the resource constraints experienced by MISCA, noting that it lacked "critical capabilities to achieve its full potential" and calling for "rapid and generous financial and material support, including for the payment of its personnel and for the reimbursement of major military equipment".¹⁹¹ The Secretary-General's report indicated that it would take the UN six months to prepare for the deployment of this operation and, as such, also recommended the provision of logistical and financial support to MISCA during this period.¹⁹² However, the Council did not decide to provide MISCA with temporary financial assistance, and the mission continued to experience financial and logistical difficulties until the transfer of authority to MINUSCA.¹⁹³

The FC-G5S also experienced resource constraints. While it received financial pledges totalling hundreds of millions of euros,¹⁹⁴ the funds were slow to materialise. In a May 2018 report, the Secretary-General noted that mobilising international funding had been "slow and, at times, cumbersome" and proposed two options for providing support to the force. The first option entailed establishing a UN support office to deliver a support package, while the second involved adjusting MINUSMA's mandate "to enhance its support for the [FC-G5S] and providing it with additional resources to establish more permanent support structures and mechanisms".¹⁹⁵

However, neither option garnered sufficient support among Council members. The Secretariat continued to outline various options for boosting support to the FC-G5S at different times during the ensuing period, often reiterating its support for a UN support office.¹⁹⁶ While the Council did adjust the support that MINUSMA provided to the force,¹⁹⁷ members were unable to agree on stronger measures. Although France and different African members supported establishing a UN support office, the measure was opposed by other members, particularly the UK and the US, who preferred providing bilateral support.¹⁹⁸ Resource constraints ultimately had a negative effect on the operations of the FC-G5S, which was often "unable to mobilise and marshal the needed logistics and funds to support its joint operations on its own".¹⁹⁹

Conversely, INTERFET was a well-funded mission that did not suffer from resource constraints. As a "coalition of the willing", the participants in INTERFET were responsible for bearing their own costs in relation to the mission. To secure the participation of member states in the region, which was a prerequisite for Indonesian consent to its deployment, Australia offered to provide advance payment for members of ASEAN on the understanding that it would be reimbursed for doing so. INTERFET also benefited from a \$100 million contribution that Japan made to a UN trust fund established for the mission, as well as logistical support from the US.²⁰⁰

Observation 11

Authorising regional peace operations without taking steps to ensure they also have adequate resources will make it very difficult for those peace operations to succeed. The resource constraints faced by regional arrangements are often far greater than those experienced by the UN, and this should not be forgotten in the system of networked multilateralism envisioned in *A New Agenda for Peace*. Well-resourced member states willing to provide financial support and logistical assistance to a regional operation and the member states participating in it can significantly ameliorate some of the difficulties caused by resource constraints. Speed is often critical when it comes to providing financial and logistical support and delays can cause significant issues.

Re-hatting a Regional Peace Operation into a UN Peace Operation – MINUSMA

In 2013, the Council authorised the "re-hatting" of an AU/ECOWAS peace operation into a UN peacekeeping operation in Mali.

The UN Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA) was established by the Council in April 2013 in the wake of a March 2012 coup that ousted former president Amadou Toumani Touré and ultimately resulted in radical groups seizing control of large swathes of northern Mali. The Council had previously authorised the deployment of the AU/ECOWAS African-led International Support Mission to Mali (AFISMA) in December 2012. Shortly before AFISMA was authorised by the Council, the AU requested a

support package for the mission funded by UN assessed contributions. As preparations were being made for AFISMA, France deployed Operation Serval in response to a request from the Malian authorities for further assistance.

The establishment of MINUSMA was prompted by a 26 February 2013 letter from Mali's transitional government to the Council that requested "support for the rapid deployment of AFISMA" to help "restore the authority and sovereignty of Mali" and noted that achieving this objective "will lead toward the transformation of AFISMA into a UN stabilisation and peacekeeping operation". This letter was interpreted as a request for a UN peacekeeping

188 *ibid.*, 29-47.

189 Resolution 2127 (5 December 2013) (S/RES/2127) 43.

190 Carayannis and Fowles, n 173, 225.

191 Report of the Secretary-General on the Central African Republic (3 March 2014) (S/2014/142), 102.

192 *ibid.*, 48 and 93.

193 Security Council Report, 'Resolution Establishing UN Peacekeeping Mission in CAR' (9 April 2014).

194 Press Statement by the President of the Security Council (23 May 2018) (SC/13353).

195 Report of the Secretary-General on the Joint Force of the Group of Five for the Sahel (8 May 2018) (S/2018/432), 50-1. In December 2017, the Council authorised MINUSMA to provide specified operational and logistical support to the FC-G5S, comprising MEDEVAC and CASEVAC, access to life support consumables, and use of UN engineering plant equipment and material, as well MINUSMA engineering units, to assist in the preparation of bases. See resolution 2391 (8 December 2017) (S/RES/2391).

196 Report of the Secretary-General on the Joint Force of the Group of Five for the Sahel (6 May 2019) (S/2019/371), 49.

197 Resolution 2480 (28 June 2019) (S/RES/2480)

198 Security Council Report June 2021 Monthly Forecast' (29 May 2021).

199 Fiifi Edu-Afful and Tchier et al, 'Shifting from External Dependency: Re-modelling the G5 Sahel Joint Force for the Future' (2022), 10.

200 Martin, n 108, 113-4.

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operation. A support package had not been authorised by the Council at the time the request was made. On 7 March 2013, the AU expressed support for transitioning AFISMA into a UN peace operation. The resolution establishing MINUSMA directed that authority be transferred from AFISMA to MINUSMA

Re-hatting

Re-hatting processes have often proved challenging for the UN and its regional partners. In Mali, approximately 6,100 AFISMA troops and around 300 AFISMA police officers were rehatted as MINUSMA personnel on 1 July 2013, just over two months after the Council decided to establish MINUSMA.²⁰¹ The challenges encountered during this process were described by the Secretary-General in a June 2013 report, which said that “initial assessments indicate that the current AFISMA force does not include the enabling units required for MINUSMA operations” and noted that additional units were therefore required, “including for engineering, logistics and medical contingents”.²⁰² The report also referred to “critical gaps” for attack and utility helicopters and information units and said that “a significant effort will be made to address the gaps in the equipment and self-sustainment capacities of the AFISMA military contingents and formed police units and bring them up to UN standards”.²⁰³ Given these difficulties, AFISMA units were given a grace period of four months to reach UN standards.²⁰⁴ In addition to logistical and capacity concerns, AFISMA personnel were also required to undergo “UN assessment, pre-deployment training and vetting procedures, including the UN human rights vetting policy, to ensure that they meet force requirements and have the skills necessary to implement the mission’s mandate”.²⁰⁵

Overall, the deployment of MINUSMA, including the re-hatting of AFISMA personnel, is widely perceived as having been rushed, due largely to the short timeframes involved for a complex process.²⁰⁶ At the time, then Secretary-General Ban Ki-moon described establishing MINUSMA as “one of the most logistically challenging missions the UN has ever launched”.²⁰⁷

Some of the lessons learned in Mali were incorporated during the re-hatting of MISCA personnel to MINUSCA in the CAR, which was authorised just under a year after MINUSMA was established.²⁰⁸ MINUSCA was given a five-month transition period before MISCA’s authority was transferred to it,²⁰⁹ and several initiatives

on 1 July and stipulated that AFISMA military and police personnel “appropriate to UN standards” be included in MINUSMA. It also authorised Operation Serval to use force in support of MINUSMA “when under imminent and serious threat”.

intended to facilitate a smoother process were also implemented. A UN delegation in Addis Ababa undertook preparatory work for pre-deployment visits and the joint assessment of TCCs with the AU, for example, while a UN team in Bangui also provided expert support to MISCA, together with military and protection of civilians training.²¹⁰ This team became the nucleus of a broader transition team tasked with planning the establishment of MINUSCA and preparing for the transfer of authority, which “contributed greatly to a smoother transition”.²¹¹

Despite these improvements, challenges were nonetheless encountered during the re-hatting process, as noted by the Secretariat one month before authority was transferred to MINUSCA, when it reported that MISCA contingents were experiencing “significant shortfalls in equipment and limited logistical support systems”.²¹² Establishing command-and-control was especially difficult, particularly given many of the troops were undertrained, underequipped, and underpaid.²¹³ Approximately six months after the re-hatting was complete, reports began to emerge of sexual abuse and exploitation of children in the CAR by French and African peacekeepers, including troops that had been rehatted. A report prepared by an independent panel commissioned by the Secretary-General to investigate these incidents linked them to the re-hatting process, noting that although “many human rights violations were committed by MISCA troops in CAR” they were nevertheless re-hatted and integrated into MINUSCA, and observing that “existing vetting or screening mechanisms need to be strengthened and consistently implemented”.²¹⁴

Observation 12

Re-hatting processes are difficult and require careful planning, adequate time, and thorough training. Appropriate procedures that screen out troops involved with prior human rights violations are critically important. Periods of planned overlap can help to minimise difficulties during a re-hatting process and lead to a smoother transition. Differences in equipment and interoperability issues can be particularly problematic during a re-hatting process.

201 Resolution 2100 (25 April 2013) (S/RES/2100).

202 Report of the Secretary-General on the situation in Mali (10 June 2013) (S/2013/338), 69.

203 *ibid.*, 70-1.

204 Report of the Secretary-General on the situation in Mali (1 October 2013) (S/2013/582), 58.

205 Report of the Secretary-General, n 202, 68.

206 Interview with UN official June 2024.

207 Report of the Secretary-General, n 204, 57.

208 See Letter dated from the Secretary-General addressed to the President of the Security Council (S/2015/3) (2 January 2015).

209 Resolution 2149 (10 April 2014) (S/RES/2149) 21.

210 Letter to the President of the Security Council, n 208; Carayannis and Fowles, n 173, 227.

211 Letter to the President of the Security Council, n 208, 5.

212 Report of the Secretary-General on the situation in the Central African Republic (1 August 2014) (S/2014/562), 62.

213 Carayannis and Fowles, n 173, 228.

214 Marie Deschamps et al, ‘Taking Action on Sexual Exploitation and Abuse by Peacekeepers: Report of an Independent review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic’ (17 December 2015), 91-2.

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Establishing a UN Support Office to Provide Logistical Assistance to a Regional Peace Operation – UNSOA

In 2009, the Council established a UN support office to assist an AU peace operation in Somalia.

The UN Support Office in Somalia (UNSOA) was authorised on 16 January 2009 when the Council adopted resolution 1863, which requested the Secretary-General to provide a UN logistical support package to the AU Mission in Somalia (AMISOM). This package included equipment and services but did not involve a transfer of funds. At the time the package was authorised, the Council was considering options for establishing a UN peacekeeping operation in Somalia “as a follow-on force” to AMISOM. The logistical support package was initially provided “in order for AMISOM’s forces to be incorporated into” such a peacekeeping operation.

AMISOM was an AU peacekeeping mission authorised under Chapter VII by the Council in resolution 1744, which was adopted on 20 February 2007. Pursuant to resolution 1744, AMISOM’s tasks included supporting dialogue and reconciliation in Somalia by providing protection to participants in the Somali political process; protecting government institutions; creating security

conditions that would allow the provision of humanitarian assistance; and training Somali security forces.

The AU deployed peacekeepers to Somalia after resolution 1744 was adopted, but was unable to provide them with appropriate equipment, logistical support, or funding. In a 30 January 2009 report, the Secretary-General noted that “the level of support AMISOM has been receiving is very basic, with much of it falling below UN standards” and said that “AMISOM is highly dependent on donor funding, under complex arrangements which add a high degree of uncertainty to the planning efforts of the [AU]”.

Following the adoption of resolution 1863, then Secretary-General Ban Ki-moon decided that the support package should be delivered through a stand-alone support office overseen by the Department of Field Support (DFS). This office would ultimately become UNSOA, which was staffed by DFS personnel who were deployed to Mogadishu, Nairobi, and Entebbe, with support staff also stationed in Addis Ababa.

Doctrinal Differences

Doctrinal differences can hinder effective cooperation between the UN and regional arrangements. This has sometimes been the case in circumstances where the UN and the AU are working together,²¹⁵ including in some of the examples involving peace operations considered in this report.

The UN’s peacekeeping doctrine remains founded on three principles: consent of the parties; impartiality; and non-use of force, except in self-defence and defence of the mandate.²¹⁶ The AU, however, has generally taken a wider approach to peacekeeping and has shown a willingness to deploy peace operations in a broader range of circumstances, including situations that require missions with a robust peace enforcement mandate. This approach was reflected in a report on the partnership between the UN and the AU submitted to the AUPSC in January 2012, which referred to the emerging differences between UN and AU peacekeeping doctrine and noted that “instead of waiting for a peace to keep, the AU views peacekeeping as an opportunity to establish peace before keeping it”.²¹⁷

The AU’s peacekeeping doctrine has crystallised and become clearer over time. In January 2021, the AU Specialised Technical Committee on Defence Safety and security adopted the AU Doctrine on Peace Support Operations, which outlines nine principles that underpin and guide AU peace support missions.²¹⁸ These principles differ from the UN’s approach in several key respects. They provide, for example, that an AU peace support operation may be mandated to intervene without the consent of the host state in accordance with Article 4(h) of the AU Constitutive Act, which enshrines the principle of non-indifference and provides that the AU has the right to intervene in its member states when war crimes, genocide, and crimes against humanity are being committed.²¹⁹ Regarding the use of force, they indicate that AU peace support operations can use force “to ensure or compel an unwilling party to comply with

the political process for the resolution of a conflict” and say that “all necessary force shall be used when a PSO is at risk, to create an immediate impact, deter further acts of aggression and maintain credibility and stability”.²²⁰

The broad differences between the UN and AU approaches to peacekeeping have sometimes manifested in disputes over strategy. As discussed above, while the AU strongly favoured the deployment of a robust offensive operation capable of fighting criminal and terrorist networks in Mali, this was opposed by the UN and not incorporated into MINUSMA’s mandate. Though tensions regarding this issue were most prevalent at the time MINUSMA was established, they persisted and resurfaced at different stages of the mission’s life.²²¹ Different views regarding peacekeeping can also create issues in circumstances where UN and AU missions are working together, principally because they “can generate significantly divergent notions of the purpose, configuration, and force requirements for peace operations” within each organisation.²²²

This problem was evident in Somalia during the late 2000s, when UNSOA was created to provide a logistical support package to AMISOM. While UNSOA was ultimately able to deliver a logistics support package “that resulted in significant improvements in the living and working conditions of AMISOM personnel”,²²³ it encountered significant bureaucratic obstacles in doing so, many of which stemmed from a mismatch between the UN’s internal procedures and the needs and expectations of AMISOM. As Williams has explained, many of the problems encountered by UNSOA, including long delays in processing its procurement requests in New York and limitations on the type of equipment it could provide to AMISOM, arose because it was “rooted in an organisation that was prepared to do no more than robust forms of peacekeeping but had to support an AU mission that was fighting a war”.²²⁴

215 Paul D. Williams, ‘Challenges Faced by UNSOA’, International Peace Institute (2017), 8.

216 ‘Action for Peacekeeping: Declaration of Shared Commitments on UN Peacekeeping Operations’ <<https://peacekeeping.un.org/sites/default/files/a4p-declaration-en.pdf>>.

217 Report of the Chairperson of the Commission of the Partnership between the African Union and the United Nations on Peace and Security: Towards Greater Strategic Political Coherence PSC/PR/2.(CCCVII) (9 January 2021) 71

218 ‘AU Doctrine on Peace Support Operations’ (29 January 2021), 36.

219 *ibid.*, 43.

220 *ibid.*

221 Interview with UN official June 2024.

222 Williams, n 215, 9.

223 Report of the Secretary-General on United Nations Support to African Union Peacekeeping Authorized by the Security Council (14 October 2010) (S/2010/514), 30.

224 Williams, n 215, 9.

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Observation 13

Doctrinal differences regarding peacekeeping operations can lead to strategic differences between the UN and its regional partners that complicate efforts to collaborate. They can also cause operational problems, particularly where missions with differing bureaucratic arrangements, needs, and expectations are mandated to work closely together.

Complementarity and Comparative Advantage

Discussions regarding the relationship between the UN and regional arrangements have often focused on complementarity and the comparative advantages of the UN and its regional partners. When considering these issues, it is important to bear in mind that regional arrangements differ greatly in a variety of ways, including their capacity, access to resources, and institutional arrangements. These differences can make it difficult to draw generalisations regarding the comparative advantages between the UN and regional arrangements and the overall way in which they complement each other.

That being said, experts have identified some potential advantages enjoyed by regional arrangements.²²⁵ To begin with, member states from the same region can sometimes have a better understanding of political dynamics in their neighbours, which can prove beneficial for regional attempts to peacefully resolve disputes. It can also lend a certain legitimacy to such efforts, particularly given the strong preference in some regions for regional solutions. The geographical

proximity shared by some members of regional arrangements can often be helpful for peace operations, as it can facilitate both rapid deployment and effective supply chains. Members of a given regional arrangement are also more likely to be affected by the spillover effects of a conflict or crisis in a fellow member, which means that they tend to have a stronger national interest in resolving the situation. This can lead to greater political engagement and is also helpful for generating the political will required to deploy troops to peace operations with robust peace enforcement mandates.²²⁶

Some of these potential advantages are evident in the examples considered in this report. In Timor-Leste, INTERFET was able to deploy less than a week after it was authorised by the Council, due partly to lead nation Australia's geographical proximity and the supply chains that it was able to establish. The FIB deployed within MONUSCO also enjoyed initial success partly because its TCCs were highly motivated to defeat M23, while Chadian soldiers played a key role in turning the tide in northern Mali during early 2013.²²⁷ In The Gambia, ECOWAS' election observation missions allowed it to quickly and credibly recognise the outcome of the elections, and its member states' strong interest in ensuring that the conflict did not escalate contributed both to ECOWAS' early signal that it was willing to use force if necessary and the rapid mustering of ECOMIG.²²⁸

Expressing Support for a Regional Peace Operation – ECOMIG

In 2017, the Council expressed support for an ECOWAS peace operation in the Gambia.

In late 2016, then-Gambian President Yahya Jammeh refused to step down after losing the December 2016 presidential election to Adama Barrow. ECOWAS initially pursued several initiatives to try and peacefully resolve the crisis, such as participating in a joint UN/ECOWAS delegation, led by Liberian President Ellen Johnson Sirleaf and Special Representative of the Secretary-General for West Africa and the Sahel (UNOWAS), to Banjul on 13 December 2016 to urge Jammeh to agree to a peaceful transfer of power.

On 17 December 2016, ECOWAS issued a communiqué which agreed to uphold the election results and guarantee Barrow's safety; appointed Nigerian President Muhammadu Buhari and Ghanaian President John Dramani Mahama to lead a mediation process; and agreed to "take all necessary measures to strictly enforce" the results of the election. A month later, the AUPSC expressed support for these decisions and warned Jammeh of serious consequences if his actions caused a crisis leading to disorder. An ECOWAS high level delegation also visited the Gambia on 13 January 2017.

Throughout January, ECOWAS prepared to deploy the ECOWAS Mission in The Gambia (ECOMIG). The primary troop contributors to ECOMIG were Ghana, Mali, Nigeria, Senegal, and Togo.

On 19 January 2017, the Council adopted resolution 2337, which welcomed ECOWAS' 17 December 2016 communiqué, commended and strongly supported the continuing efforts of the AU and ECOWAS to promote peace, stability and good governance in the region, and expressed the Council's "full support to the ECOWAS in its commitment to ensure, by political means first, the respect of the will of the people of The Gambia as expressed in the results of 1st December elections". The resolution was proposed by then-elected member Senegal. Barrow was inaugurated at the Gambian embassy in Senegal earlier that day and, in his first act as president, requested assistance from ECOWAS to preserve constitutional order in The Gambia. ECOMIG forces entered The Gambia shortly after the resolution was adopted, and Jammeh ultimately agreed to step down and left the country on 21 January 2017.

However, there are also examples where regional involvement did not confer some of these potential advantages. The FC-G5S was not particularly effective in Mali despite its members' strong national interest in containing the terrorist threat in the region, due partly to resourcing issues. Moreover, while AFISMA was able to deploy quickly in Mali after the situation in the northern part of the country began to deteriorate in January 2013, this came approximately four months after Malian authorities requested international assistance in September 2012, with the delay partly caused by resource constraints and political disagreements both within and outside the region. In Myanmar, the overall engagement of ASEAN and its member states has largely waned, despite the rapid deterioration

in the situation on the ground and its flow on effects in the region.

On the other hand, the comparative advantages of the UN are generally seen as stemming from several factors, including its deep expertise in conducting peace operations, its convening power, its capacity to provide funding and logistical support, and its ability to confer legitimacy on international efforts to respond to a crisis.

Again, these advantages are evident in many of the examples considered in this report. To take a few examples, the FIB deployed within MONUSCO was on the ground relatively quickly partly because it could receive UN resources, while UNSOA was ultimately able to improve conditions for AMISOM in Somalia through its logistical support package. Regional peace operations have also struggled at

²²⁵ For discussion of the advantages considered here, see Williams and Bellamy, n 5, 274-5.

²²⁶ Karlsrud, n 97, 128.

²²⁷ Thomas G. Weiss and Martin Welz, 'The UN and the African Union in Mali and Beyond: a Shotgun Wedding?' (July 2014) 90(4) International Affairs 889, 897; Interview with UN official June 2024.

²²⁸ Cedric de Coning, n 7, 219-20.

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times, and the UN has been able to use its expertise and resources to boost those operations, as happened in Mali and the CAR despite early difficulties during and after the re-hatting processes.

In Haiti, the UN's involvement with MICIVIH furnished much needed resources to the mission, which had initially been deployed by the OAS, including by providing vehicles, communications equipment, and other forms of logistical support. A former UN official has also noted that the presence of the UN gave greater political clout to the mission as a whole, which helped to improve the security of its staff.²²⁹ While the UN has certainly encountered challenges in conducting peace operations, it has also learnt from those challenges and introduced policies and procedures in response, as demonstrated by the lessons from the re-hatting of AFISMA to MINUSMA that were directly incorporated into MISCA's re-hatting into MINUSCA.

However, some of the examples also demonstrate that the UN has not always been able to confer these advantages. Political disagreements among Council members have, for example, sometimes prevented the UN from providing financial and logistical support to its regional partners, while the UN's ability to confer legitimacy has sometimes been curtailed, including where it has been deployed alongside a regional operation. In circumstances where this has happened, it has often been difficult for local actors to distinguish the UN presence from a regional operation. In Mali, MINUSMA's reputation was affected because local actors perceived it as being involved with the counter-terrorism operations carried out by the FC-G5S. This proved particularly problematic after certain troop contingents from members of the FC-G5S were accused of perpetrating human rights violations.²³⁰ In Liberia, UNOMIL's unpopularity partly

stemmed from the fact that it was closely associated with ECOMOG, which had also been accused of involvement with human rights violations in the period before UNOMIL was deployed.

Another issue which is often raised in discussions regarding complementarity and comparative advantage relates to the influence of powerful states within regional arrangements. In Liberia, ECOMOG was perceived as being driven by Nigerian national interests given its leading role as the main troop contributor and source of funding for the mission, and it has been argued that regional arrangements' susceptibility to this kind of influence is a relative weakness.²³¹ It should also be borne in mind, however, that the Council has at times been swayed by permanent members when their national interests are at stake, particularly in central and western Africa.

Observation 14

The examples considered in this report highlight some of the comparative advantages enjoyed by the UN and its regional partners. Regional actors have, for example, been able to deploy quickly at times and shown a willingness to undertake peace enforcement actions requiring a robust mandate. The UN, on the other hand, has shown that it can boost regional peace operations where they are flagging and provide logistical support to regional actors. However, the examples also demonstrate that the UN and its regional partners will not always be able to fulfil these roles. Other factors, including resource constraints and political disagreements, will sometimes play a more significant role in determining what is possible. The examples also show that the UN will often be closely associated with regional arrangements deployed in parallel with it, which can be problematic where regional peace operations are unpopular among local populations.

229 Interview with former UN official August 2024.

230 Interview with UN official June 2024.

231 Williams and Bellamy, n 5, 276.

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