3

Peace operations

3.1   Peace operations are perhaps the most basic function of the UN and one of its most expensive. It is no surprise then that the public perception of the success or failure of the UN largely rests on the success or failure of the UN's peace operations.

The Changing Nature of Peace Operations

3.2   Since the end of the Cold War, wars between states have become increasingly uncommon, although this has not prevented the continuation of a large number of wars within states themselves. Such intrastate conflicts now constitute the major cause of international instability and concern. In this new world, non-military threats such as environmental emergencies, human rights and economic wellbeing are all factors with a significant impact on the security of states, groups and individuals. The incidence of complex emergencies has led to a new series of questions and problems about the way that the UN should deal with these matters. In peacekeeping terms, it has meant a reassessment of the way in which UN military forces interact with other militaries, with humanitarian organisations and most importantly, with the civilian populations of the areas in which they are based.

3.3   The Department of Foreign Affairs and Trade notes some of the principles of traditional peacekeeping operations:

> Peacekeeping operations have been traditionally defined by three basic principles: consent of the parties to the conflict as an essential precondition to the deployment of a UN peacekeeping force; impartiality of the peacekeeping force - the operation must not interfere in the national affairs of the host country and must not be

> used in any way to favour one party against the other and the non-use of force by the peacekeepers except in self defence.[1]

3.4   The Department noted the change towards multidimensional peace operations in the following manner:

> Subsequent peacekeeping missions have tended to operate under more complex mandates, often providing for involvement in the administration of the state. Termed expanded or "multidimensional" operations, the peacekeeping forces go beyond monitoring to the implementation of an accepted agreement. Cambodia is an example of this model. Activities undertaken may include the maintenance of ceasefires and the disarmament and demobilisation of combatants, assisting in the creation or strengthening of institutions for peaceful resolution of disputes, the provision of humanitarian assistance and the establishment of a basis for long term economic growth.[2]

3.5   A major report of the Panel on United Nations Peace Operations, more commonly referred to as the 'Brahimi report', describes the main activities of UN peace operations today:

> No other operations must set and enforce the law, establish customs services and regulations, set and collect business and personal taxes, attract foreign investment, adjudicate property disputes and liabilities for war damage, reconstruct and operate all public utilities, create a banking system, run schools and pay teachers and collect the garbage — in a war-damaged society, using voluntary contributions, because the assessed mission budget, even for such "transitional administration" missions, does not fund local administration itself. In addition to such tasks, these missions must also try to rebuild civil society and promote respect for human rights, in places where grievance is widespread and grudges run deep.[3]

The Reasons for Intervention

3.6   Although not necessarily inevitable, armed conflict has always been a feature of human experience. While the laws of war such as the Geneva Conventions are meant to govern the way in which fighting is conducted, the reality is that in many conflicts, the belligerents are either unaware of

---

1   DFAT. Submission No. 107, p. 1276.
2   DFAT. Submission No. 107, p. 1276.
3   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. 13.

these laws or wilfully disregard them to pursue deplorable ends. The lives of civilians are at risk in such conflicts, not merely as incidental casualties but often as targets themselves. In the worst cases, whole groups of people can be singled out as targets, as occurred during World War II and more recently in Cambodia, Rwanda and the Former Yugoslav Republics.

3.7 It is these most extreme examples of brutal conflict which provide the most compelling reason for military intervention, in order to stop the killing of non-combatants. On the one hand, it can be argued that there should be no role for the international community to intervene in another country's affairs. Others argue that repressive leaders should not be allowed to use sovereignty to conduct human rights abuses and even genocide with impunity.

3.8 Although the example of genocide is extreme, there are many other reasons for which the international community – through the UN – would intervene in what would otherwise be the exclusive preserve of sovereign states. In his submission to this inquiry, Mr Stephen Bouwhuis cites several factors which have been used by the Security Council to demonstrate that a threat to peace exists, such as:

- serious violations of humanitarian law;[4]

- the systematic violation of civil liberties;[5]

- the absence of the rule of law;[6]

- the lack of administrative institutions;[7]

- famine and drought;[8]

- the failure of a de facto government to comply with its agreements;[9]

- the failure of a party to a conflict to negotiate in good faith;[10] and

- the failure of a State to demonstrate renunciation of terrorism.[11]

3.9 However, there is no consensus at this time within the international community about when intervention is either warranted or needed.

---

4 Security Council Resolution 836 (1993).
5 Security Council Resolution 940 (1994).
6 Security Council Resolution 814 (1993).
7 Security Council Resolution 814 (1993).
8 Security Council Resolution 814 (1993).
9 Security Council Resolution 917 (1994).
10 Security Council Resolution 913 (1994).
11 Security Council Resolution 883 (1993).

Sovereignty and Peacekeeping

3.10   As discussed in Chapter 1, the tenet of sovereignty, which rules out external interference in a nation's domestic affairs, restricts the ability for the UN to intervene to keep the peace or to take enforcement action. This principle is enshrined in the Charter of the United Nations in Article 2(7).

3.11   Mr Michael Palmer described the background to sovereignty and the United Nations Charter:

> There is nothing clear in the United Nations Charter to authorize intervention in matters that are essentially within the domestic jurisdiction of the state except in the case of a threat to international peace and security. This respect for the sovereignty of the state is well founded and dates back to the Peace of Westphalia in 1648 before more recently codified into the United Nations Charter of 1945.[12]

3.12   However, a dilemma arises from the need to reconcile human rights concerns – the sovereignty of the individual – with the traditional concept of state sovereignty. Because states tend to guard their sovereignty jealously, there can be a serious tension between upholding human rights norms while maintaining the sovereignty of the state. This dilemma was elaborated by the Australian Defence Association in respect to human rights violations, suggesting that:

> … state authorities may be a party or a least incapable of establishing order in the face of that conflict for the benefit of those citizens which they have the primary responsibility. Given that those state authorities are also the holders of the state's representation in the global and regional organizations, there is then an in-built obstacle to any external intervention in the interest of the citizenry except on terms acceptable to the state authority.[13]

3.13   A different conception of state sovereignty is that of 'sovereignty as responsibility'. This accepts the role of states as protectors of the rights of groups and individuals, but only where those rights are actually protected. Where human rights are significantly abused, through widespread genocide, torture or crimes of war, then the state with responsibility to protect those individuals should lose its right of national sovereignty in that circumstance.[14] In this way, a state is responsible both to its own citizens and to the wider international community to protect

12   Palmer, Michael. Submission No. 7, p. 61.
13   O'Connor, Michael. Submission No. 5, p. 38.
14   Deng, Francis in Murphy, Craig N and Weiss, Thomas G, 'International Peace and Security at a Multilateral Moment: What We Seem to Know, What We Don't, and Why' in *Contemporary Security Policy*. December 1999, vol. 20, no. 3, p. 135.

those human rights. Without protecting its own citizens from human rights abuses, a state does not deserve protection by the international community from interference with its sovereignty.

3.14   The Secretary-General of the UN, Kofi Annan has advocated a new approach to the UN's intervention in state sovereignty. He has suggested that intervention is no longer about whether intervention will be permitted, rather it is about the circumstances under which intervention will take place:

> State sovereignty, in its most basic sense, is being redefined—not least by the forces of globalisation and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.[15]

3.15   In evidence provided to the committee, Mr Michael O'Connor of the Australian Defence Association noted the need for the UN to change its approach to the conduct of peace operations:

> You have got to work first at trying to persuade the United Nations that its peacekeeping tradition is simply not working. The pre Cold War peacekeeping tradition does not work. This runs hard up against the doctrine of sovereignty but it is the crunch issue. It is an area in which, if the United Nations is going to be effective in its primary task of maintaining international peace, some very hard decisions have got to be taken.[16]

3.16   Mr David Miles of the Global Foundation noted the difficulty of establishing general rules for intervention:

> Humanitarian intervention, we acknowledge, is a delicate issue. We acknowledge that there are issues that arise as to what is truly a threat to peace and security. We believe that the establishment of general principles, in terms of intervention, is a very difficult thing to come to grasp with and we see that each case needs to be

15   Annan, Kofi. 'Two Concepts of Sovereignty' in *The Economist*. 18 September 1999.
16   Australian Defence Association. Transcript, 6 July 2000, p. 230.

> considered on its merits and taken, importantly, by each country that may or may not be involved.[17]

3.17   Dr Glenister Shiel suggested that he believed that persecution of a nation's citizens was a legitimate cause for intervention in that nation's domestic affairs:

> It appears to me that the UN has failed to exert pressure on those Nations who are persecuting their people sufficiently to make them flee across borders into neighbouring States. This should be the first concern of the UN and is a legitimate cause for action.[18]

3.18   The committee believes that although the norms of state sovereignty may be evolving, the concept will continue to be a fundamental basis of relations between states for the foreseeable future. Although many in the international community and many Australians view gross abuses of human rights as a legitimate reason for intervention in the sovereign affairs of another state, unilateral action without prior sanction has the potential to make such a situation considerably worse. Consequently, the UN will remain the best hope for both preventing and mitigating the disaster of war. When there are such abuses, prevention and mitigation through intervention may be considered but only when legitimately sanctioned by the international community in the Security Council. Strengthening the current framework for governing this process appears to be essential and in Chapter 9, we consider several proposals for the reform of the Security Council.

Neutrality and Impartiality

3.19   Two of the most important principles of UN operations have been their neutrality and impartiality. This reputation was developed during the Cold War, where UN operations were necessarily limited by the use of the veto in the Security Council to prevent Chapter VII operations. As a result, most UN operations were observer missions and did not often involve the UN using force. However, increasing intervention in intrastate struggles rightly or wrongly has undermined the standing of the UN as a neutral and impartial peacekeeper.

3.20   The Medical Association for the Prevention of War Australia described the importance of neutrality in the following terms:

> Neutrality is vital because peacekeepers need the trust of all sides, and this can occur only if they are seen as neutral. Control of UN peacekeeping operations should be by the UN (Secretary-General).

---

17   The Global Foundation. Transcript, 6 July 2000, p. 254.
18   Shiel, Glenister. Submission No. 3, p. 17.

This should minimise problems over the political objectives of the operation and the acceptable military means to achieve those objectives.

It would indeed be preferable to avoid the use of personnel from nations with clear interests in the outcome of a particular situation, in favour of true neutrals. The nations with a conflict of interest should be taken to have disqualified itself.[19]

3.21   This concern was reinforced by Mr Colin Balmer, who suggested that it was possible for Australia to become too close to a situation, and should therefore decide not to participate in some peace operations:

On the one hand, on occasions it may well be that we are "too close" to serve as a suitably neutral and impartial party acting only in support of principles. Hence there may be occasions when we should, after due consideration, decline opportunities to be involved in matters affecting our near region … Conversely, it is possible that there will be occasions when our distance from a trouble spot will suggest strongly that our impartial, neutrality and distance from the situation (emotional and psychological as well as geographical) would fit us to play a key role outside our immediate region.[20]

3.22   Mr Tom King expressed the opinion that it was difficult for the UN to remain neutral in a conflict situation:

I don't believe any UN operation can be deemed "neutral". I appreciate what is being proposed, however, once an arbitrator involves himself in resolution of a conflict, a preference will emerge. The honesty and integrity of the UN is currency of greater value.[21]

3.23   The Brahimi report maintains that although peace operations will continue to be based on traditional principles, there are more important issues than impartiality at stake when terms of a peace agreement are broken:

The Panel concurs that consent of the local parties, impartiality and the use of force only in self-defence should remain the bedrock principles of peacekeeping. Experience shows, however, that in the context of intra-State/transnational conflicts, consent may be manipulated in many ways. Impartiality for United Nations operations must therefore mean adherence to the

---

19   Medical Association for the Prevention of War (Australia). Submission No. 90, p. 925.
20   Balmer, Colin J. Submission No. 88, p. 878.
21   King, Tom. Submission No. 53, p. 369.

> principles of the Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil. No failure did more to damage the standing and credibility of United Nations peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor.[22]

3.24   Marking a doctrinal shift in UN peace operations, the report draws a distinction between impartiality and neutrality, and asserts that peacekeepers must be able to carry out their mandate professionally and successfully:

> Impartiality for such operations must therefore mean adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles. Such impartiality is not the same as neutrality or equal treatment of all parties in all cases for all time, which can amount to a policy of appeasement. In some cases, local parties consist not of moral equals but of obvious aggressors and victims, and peacekeepers may not only be operationally justified in using force but morally compelled to do so. Genocide in Rwanda went as far as it did in part because the international community failed to use or to reinforce the operation then on the ground in that country to oppose obvious evil.[23]

3.25   In reality, it appears difficult and perhaps even counterproductive for the UN to intervene on a completely neutral basis. This may have the effect of merely deferring the conflict until the UN removes itself from the area. Instead, it may be more appropriate for the UN to take on the role of a 'biased mediator'.[24] Following the conclusion of a peace agreement, the UN has a responsibility to ensure that all parties to a conflict remain true to its letter and the spirit. However, where there is a clear belligerent or one side flagrantly violates the agreement, strict application of neutrality may be irrelevant and counterproductive when the UN is conducting peace operations.

---

22   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. ix.

23   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. 9.

24   Murphy, Craig N and Weiss, Thomas G, 'International Peace and Security at a Multilateral Moment: What We Seem to Know, What We Don't, and Why' in *Contemporary Security Policy.* December 1999, vol. 20, no. 3, p. 125.

The Current Framework for Peace Operations

3.26   It is common to define all peace operations conducted by the UN or other
         organisations as 'peacekeeping', although this description does not
         adequately account for other important peace operations. This confusion
         is not helped by the fact that different organisations use the same terms to
         describe marginally different practices.

3.27   As of 1 January 2001 there were 15 active UN peace operations, made up
         of 37,719 deployed military personnel and civilian police.[25] This is a
         reduction from the 76,000 peacekeepers in the field during September
         1994.[26]

Mandates

3.28   Many of the submissions to this inquiry remarked on the importance of
         having a robust and appropriate mandate for a successful peace mission.
         As shown in the UN's experience in Bosnia-Herzegovina, significant
         problems arise when a UN operation is conducted with the wrong
         mandate. It is critically important that UN missions are provided with an
         adequate mandate as well as the personnel, training and equipment to
         fulfil their objectives.

3.29   The Department of Foreign Affairs and Trade cited comments by the
         Secretary-General, to the effect that without an adequate support, UN
         peace operations are likely to fail:

>   He said that the first of the general lessons is that when
>   peacekeeping operations are used as a substitute for such political
>   consensus they are likely to fail. There is a role for peacekeeping,
>   but peacekeeping and war fighting are distinct activities which
>   should not be mixed. The Secretary-General went on to state in
>   very strong terms that peacekeepers must never again be told that
>   they must use their peacekeeping tools - lightly armed soldiers in
>   scattered positions - to impose the ill-defined wishes of the
>   international community on one or another of the belligerents by
>   military means. He felt strongly that if the necessary resources are
>   not provided - and the necessary political, military and moral
>   judgements are not made - the job simply cannot be done. This is
>   a view with which Australia would strongly concur and formed

---

25   United Nations. 'Background Note: United Nations Peacekeeping Operations', posted on
      1 March 2001. www.un.org/peace/bnote010101.pdf, visited 8 February 2001.

26   Jakobsen, Peter Vigo, 'Overload, Not Marginalization, Threatens UN Peacekeeping' in *Security
      Dialogue.* June 2000, vol. 31, no. 2, p. 168.

> an important part of our consideration of what role Australian forces might undertake in East Timor.[27]

3.30   Part of the problem regarding mandates in the past has been a tendency by the Security Council to micro-manage peace operations. The Australian Defence Association submitted that:

> Mandates and rules of engagement need to be more directive than specific, giving the UN Special Representative in the field greater autonomy in making changes. Similarly the military commander must have some freedom to modify rules of engagement so that he can protect not only his own force but also the overall mandate and the non-combatant civilian population.[28]

3.31   Within the Charter of the United Nations, at least two mechanisms are employed to provide peace operations with mandates. They are used for both the pacific settlement of disputes; and for taking action with respect to threats to the peace, breaches of the peace and acts of aggression. These are more commonly referred as Chapter VI or Chapter VII operations.

Chapter VI Operations

3.32   Chapter VI operations represent the conventional approach to UN peacekeeping during the Cold War. Typically, these operations involved the use of unarmed military observers interposing themselves between the forces of two warring states to implement a ceasefire or peace agreement. During the Cold War, Chapter VI operations were largely conducted by soldiers provided by smaller and non-aligned nations.

3.33   Within Chapter VI of the Charter, there exists no explicit statement that soldiers can be used for the pacific settlement of disputes, rather the Security Council has adopted this practice by convention. However, Article 37(2) of the Charter does allow the Security Council to make recommendations for terms of a settlement in a dispute in order to maintain international peace and security, and it is in this way that the Security Council has deployed peacekeepers or cease-fire monitors in the past.

3.34   The classic Chapter VI operations have been those on Cyprus or in Kashmir, where ceasefire lines are monitored. However, during the 1990s, 36 Chapter VI operations were undertaken by the UN. Several of these, in

---

27   DFAT. Submission No. 107, pp. 1281-2.
28   O'Connor, Michael. Submission No. 5, p. 49.

El Salvador, in Macedonia and in Mozambique could be considered a success.[29]

3.35   The Department's submission describes the restriction on the use of force in Chapter VI operations:

> The use of force in self defence formally permitted under a Chapter VI mandate has on some occasions been given a wide interpretation, extending beyond the defence of one's own life to the defence of comrades and any persons entrusted in that person's care, and of the post, convoy, vehicle or rifle. It is also deemed to include situations in which armed persons are attempting through the use of force to prevent UN personnel from implementing their mandate. In practice, however, there has been a reluctance in most cases to adhere to such a wide interpretation based on the recognition of the need to maintain the cooperation of the parties and to act impartially.[30]

3.36   For a Chapter VI operation to be successful, the Australian Defence Association's submission notes the need for genuine political agreement, and describes the tasks involved in conducting them:

> Traditional peacekeeping, based upon chapter VI, normally depends on the existence of a genuine (as distinct from tactical) political agreement between two states in conflict or between parties to a conflict within a state. The peacekeeping operation is concerned largely with monitoring the agreement, reconstruction work (including de-mining), and providing some sort of enforcement at the margins with the support of the parties to the formal agreement.[31]

3.37   Because of the nature of Chapter VI operations, it is important that they only be conducted in appropriate circumstances. However, the UN's traditional Chapter VI role in peacekeeping will continue to be of vital importance in the future. Chapter VI operations provide parties to a conflict with an opportunity to bring fighting to an end and to redress their differences. As always, however, the UN can only be useful in this way if the parties to a conflict are genuinely committed to peace. The failures of the UN in Bosnia, most clearly in Srebrenica, were the result of a peacekeeping mandate applied to a war. It was a failure of political will on the part of the Security Council which set the mandate. Over 70 resolutions were passed on the situation in the Former Yugoslavia over a

---

29   Jakobsen, Peter Vigo, 'Overload, Not Marginalization, Threatens UN Peacekeeping' in *Security Dialogue.* June 2000, vol. 31, no. 2, p. 171.

30   DFAT. Submission No. 107, p. 1280.

31   O'Connor, Michael. Submission No. 5, p. 40.

four year period from September 1991 to December 1995. Many of the instructions within them were inconsistent and contradictory. The UN Secretary-General at the time, Mr Boutros Boutros-Ghali, complained bitterly:

> This has never been done before. In war situations the international community should authorise the combat forces needed to deal with it. Where a ceasefire is in place and where the consent and cooperation of the parties is reliable, peacekeepers should be deployed.[32]

3.38   The mandates governing Bosnia became what has been characterised as a 'Chapter six-and-a-half' mandate.

'Chapter Six-and-a-half' Operations

3.39   'Chapter six-and-a-half' operations are those UN missions with a more ambitious objective than allowed under a Chapter VI mandate, but which lack the formal enforcement powers allowed under Chapter VII. These are sometimes Chapter VI operations which are later given greater latitude by the Security Council on rules of engagement or intended mission outcomes.

3.40   The submission of the Australian Defence Association suggested that in the case of Chapter six-and-a-half operations:

> … the Council has resorted to artifice: simply asserting, for example, that a threat to international peace exists; or basing the deployment of force upon support for a humanitarian operations such as famine or natural disaster relief. Such expedients are risky not least because, basing as they do on the authority of the UN on political expedient rather than law, they diminish the long-term authority that the UN ought to be seeking to build.[33]

3.41   Possible examples of operations that fall between the Charter's definitions of Chapter VI or Chapter VII might be the ECOMOG operation in Sierra Leone and more recently UNAMSIL and UNPROFOR, the UN Protection Force in the Former Yugoslavia.

Chapter VII Operations

3.42   In the event of a threat to the peace, a breach of the peace or an act of aggression, the Security Council can make recommendations for non-

---

32   The JSCFADT reported in detail on the questions of the UN mandates in Bosnia in Chapter 2 of its report, *Bosnia: Australia's Response*. 1996. Canberra.

33   O'Connor, Michael. Submission No. 5, p. 40.

military action to resolve the situation.[34] The term 'Chapter VII operations' typically refers to offensive military action authorised by the Security Council if these non-military measures are unsuccessful. Other than allowing for the imposition of sanctions in Article 41, Article 42 of the Chapter VII of the Charter allows the Security Council to call for forces to maintain or restore international peace and security. This authorisation allows the Security Council to take such action by air, sea or land forces to execute a resolution of the Council.

3.43   As the Department of Foreign Affairs and Trade describes:

> A Chapter VII mandate allows for the threat or use of force beyond self defence and does not require the consent of the host state. A peace operation mandated under Chapter VII is more correctly termed a peace enforcement operation though generally encompassed under the generic label "peacekeeping". Chapter VII of the UN Charter provides for the Security Council to make such recommendations or take such action as it deems necessary, including the resort to the use of force, where it has determined that there is a threat to the peace, breach of the peace or an act of aggression. However, a Chapter VII mandate does not necessarily provide for the unrestrained use of force. There is an important distinction between 'war fighting' and an operation based on a minimum use of force whilst authorised by the Security Council under Chapter VII to resort to the use of force where required.[35]

3.44   The Australian Defence Association illustrates some problems associated with Chapter VII operations:

> … chapter VII enforcement operations are based upon a response to an agreed threat to international peace. Almost implicit in the concept is the existence of a large scale conflict between states that has an impact beyond the immediate area of the conflict. For a range of reasons, the UN has traditionally been ineffectual in peace enforcement. One reason has been the difficulty of gaining consensus among the permanent members of the Security Council, or at least enough of a consensus to avoid the use of a veto.[36]

3.45   Chapter VII operations are particularly serious undertakings by the UN. In conducting a Chapter VII operation, the UN crosses the line from being an intermediary in a conflict, to becoming a party to that conflict. However, where there is a need to restore international peace and stability

---

34   Charter of the United Nations, Articles 40-41.
35   DFAT. Submission No. 107, p. 1280.
36   O'Connor, Michael. Submission No. 5, p. 40.

through military action, it is far preferable that a peace operation carries the legitimacy of a Chapter VII mandate.

3.46   Chapter VII mandates usually include reference to the use of 'all necessary measures' to achieve and objective. The United Nations Operation in the Congo (ONUC) was a Chapter VII mandate authorised by S/C Res 143(1960), 161(1961) and 169(1961) or the Unified Task Force in Somalia (UNITAF) was a Chapter VII mandate authorised by S/C Res 794(1992)

Chapter VIII Operations

3.47   Chapter VIII operations are those conducted by 'coalitions of the willing' on behalf of the UN. This method has the potential to provide much greater effectiveness to UN missions, in that it allows a coalition of forces to plan and execute operations according to their available capabilities, within the terms of an appropriate mandate from the Security Council.[37] Such 'sub-contracting' effectively limits the Security Council's role in peace operations to authorisation, monitoring of the operation and civilian activities.[38] These arrangements may fall into the category of either peacekeeping or peace enforcing.

3.48   The practice of subcontracting UN operations has occurred a number of times during recent years. The Military Observer Group of the Economic Community of West African States (ECOMOG) intervention in Sierra Leone and the International Force in East Timor (INTERFET) operation in East Timor are all examples of standing or ad hoc regional organisations being used to implement resolutions of the Security Council.

3.49   The Department of Foreign Affairs and Trade notes the possible merit in using regional organisations to carry out resolutions of the Security Council:

> We see considerable advantages to cooperation between the UN and regional countries which allow for the development and implementation of effective strategies for preventing crises, peacekeeping, peace support, humanitarian assistance and peace building. Such an arrangement enables the sharing of responsibility, based on the comparative strengths of each, leading to complementary effort and avoidance of competition. UN support provides legitimacy to operations established by regional countries while support for a UN operation by regional countries provide a stronger political base for action … Regional

---

37   Jakobsen, Peter Vigo, 'Overload, Not Marginalization, Threatens UN Peacekeeping' in *Security Dialogue.* June 2000, vol. 31, no. 2, p. 175.

38   Jakobsen, Peter Vigo, 'Overload, Not Marginalization, Threatens UN Peacekeeping' in *Security Dialogue.* June 2000, vol. 31, no. 2, p. 175.

organisations also offer information and knowledge regarding the root causes of conflict which can enhance the effectiveness of UN efforts. Regional organisations may also offer greater flexibility in the ability to react speedily and allocate resources and deploy assets more rapidly than the UN. Resource rich organisations may also be better placed to provide adequate resources to support their own operations.[39]

3.50 Mr Stephen Bouwhuis noted that using regional security organisations may be more effective than trying to arrange a UN mission from scratch:

This use of NATO and other non-United Nations forces is not surprising when one considers the United Nations generally lacks the capacity to conduct military operations against a determined opponent. Even where more extensive operations are conducted under the umbrella of the United Nations they are largely dependent upon the United States or one of its allies for the provision of command, control, communications and intelligence information. The general preference of member States to exercise more control over operations through dedicated structures such as NATO can be expected to exacerbate this trend.[40]

3.51 The Council for the National Interest submission suggested that operations conducted by regional organisations were preferable to UN-led operations:

The operation and outcome of the United Nations intervention in a number of countries has been abysmal. Much more is to be achieved by a co-operative effort by a number of countries jointly, under the command of one of the countries. INTERFET is a good example of what can be achieved by this procedure.[41]

3.52 However, conducting an operation using coalitions of the willing instead of a UN-led force also has associated problems. Nations participating in such coalitions are likely to have their own interests at stake, not merely those of the wider mission.[42] There may also be problems of probity and accountability, of proportionality and due respect for the laws of war during operations conducted on behalf of the UN. It is possible that the UN may be reluctant to insist on maintaining these important standards

---

39 DFAT. Submission No. 107, pp. 1288-9.
40 Bouwhuis, Stephen. Submission No. 100, p. 1048.
41 Council for the National Interest. Submission No. 103, p. 1171.
42 Murphy, Craig N and Weiss, Thomas G, 'International Peace and Security at a Multilateral Moment: What We Seem to Know, What We Don't, and Why' in *Contemporary Security Policy*. December 1999, vol. 20, no. 3, p. 125.

during an operation, especially when these nations are doing the bidding of the Security Council at a time when a UN-led operation is not possible.

3.53   The Medical Association for the Prevention of War (Australia) raised concerns about the status of regional security organisations and the need to maintain neutrality:

> Regional security organisations have no greater right to conduct operations than any of the member states. They should have no special role or status. Part of the danger with the development of formal relations between alliance systems and the UN is the possible compromise of the UN's neutrality.[43]

3.54   The Australian-led INTERFET operation demonstrated that a peace operation conducted by a coalition of the willing is successfully able to restore peace and stability to a situation of conflict and chaos. However, this experience demonstrated a clear need for a robust mandate from the Security Council, if possible, the cooperation of the sovereign state in question[44] and finally the backing of well trained and well-equipped personnel.[45]

3.55   The INTERFET operation would suggest that the Security Council and members of the UN have learnt much since Bosnia and Somalia about the need for clear and robust mandates. When the committee was in New York, however, the point was made that there was also a need for troop contributing nations to have a say in the mandates under which their forces will have to operate. This would require a longer period of consultation than that currently provided - at times not much more that a day.[46]

Unauthorised Intervention

3.56   Of concern to the international community is military enforcement action undertaken without proper authorisation by the Security Council. This was the case when NATO intervened in the Yugoslav province of Kosovo during 1999, following media reports of atrocities against civilians within the province. Despite attempting and failing to secure a mandate from the Security Council, NATO went ahead with bombing attacks on targets

---

43   Medical Association for the Prevention of War (Australia), Submission No. 90, p. 926.

44   It should be noted that 'intervention' is by definition an action conducted without the consent of the country concerned. Otherwise what is offered is assistance. Peace enforcement is usually intervention requiring a strong mandate. The committee accepts this. However, the committee believes that any intervention needs to be conducted strictly according to the legal sanction of the international community, authorised by the Security Council.

45   These matter will be discussed in Chapter 4.

46   Notes from the visit of the committee to New York, October 2000.

within Yugoslavia. This kind of unauthorised intervention could be regarded as a breach of the peace which is forbidden under Articles 2(2) and 2(3) of the Charter.

3.57   The Department of Defence notes some of the problems of legality in conducting peace operations:

> Under the UN Charter, the Security Council has the power to determine a threat to international peace and security, and it has identified in the past a number of internal humanitarian crises which it considered to have been such threats. The international debate is now focussed, particularly since NATO's intervention in Kosovo, on the legality of humanitarian intervention not sanctioned by the Security Council. Intervention in the case of failed states may be possible, as there is no effective state whose sovereignty can be breached. It may also be legally possible to intervene on the basis of upholding the 1948 Genocide Convention to prevent or halt genocide, so long as intervention is immediately referred to the Security Council, and its direction then followed. The difficulty, particularly in the case of prevention of genocide, is proving the intent of the protagonist was in fact genocide. In cases other than these, legality may be difficult to prove.[47]

3.58   The National Party of Queensland voiced concern in its submission that authorisation for any peace operations should be sought prior to a mission, rather than retrospectively:

> … when such organisations undertake military action it is essential that these actions are not in breach of international law and then latterly sanctioned by the UN.

> A case in point is the recent NATO action against Yugoslavia in relation to Kossovo. Throughout 1998 the UN Security Council unanimously declared the commitment of all member states to the sovereignty and territorial integrity of Yugoslavia (which included Kossovo). In 1999, NATO took unilateral military action against Yugoslavia in direct violation of international law and the UN Charter which the UN subsequently condoned and legitimised by offering KFOR. This is in marked contrast to the East Timor situation where UN involvement had been fully recognised and subsequent to armed challenge authorised the establishment and commitment of INTERFET.[48]

---

47   Department of Defence. Submission No. 108, p. 1330.
48   National Party of Queensland. Submission No. 106, p. 1210.

Failure to Intervene

3.59   The converse to unauthorised enforcement action, is the way in which many conflicts are ignored by the Security Council and the international community. This has especially proven to be the case either where there is little awareness of the conflict or where political sensitivities prevent action by the UN.

3.60   The United Nations Association of Australia described two factors behind decisions not to become involved in conflicts:

> One is the relative strength of the protagonists – for example, when a great power is [involved in oppression] (eg Russia in Chechnya), it is unlikely that the international community will get involved. Another is the relative awareness of the issue – few people in the world have not been aware of the problem of East Timor because of the substantial range of groups outside the region pressing for justice there. Another factor is alliances – countries with strong allies are more likely to get attention when they are in trouble.[49]

3.61   In a submission to the inquiry, Mr Alan Bull noted that:

> Unfortunately, the UN track record is not without substantial criticism regarding its peace-keeping role. It has chosen to all but ignore conflicts deserving of support and left aggressors to decimate innocent people's lives killing and maiming at will.[50]

3.62   This concern was reflected in a submission by the National Council of Women of Australia:

> It seems that too little too late and even the abandonment of unprotected peoples is becoming more and more commonplace around the globe. It results in the ruination of the lives of many innocent women and children.[51]

3.63   Although the committee is sensitive to the abuses of human rights wherever they occur, it is clear that the international community does not have the ability to put a stop to all internal conflicts throughout the world. The UN will always have to choose where to intervene. Establishing acceptable, agreed criteria for intervention is the most important step towards greater consistency of decision-making.

3.64   The committee believes that, in order to protect its reputation as a responsible international citizen, it is of vital importance that any

---

49   UNAA. Submission No. 71, p. 601.
50   Bull, Alan. Submission No. 76, p. 667.
51   National Council of Women of Australia. Submission No. 82, p. 747.

Australian military deployment should have proper authorisation and therefore legitimacy. Australia should consider supporting deployment of its troops on peace operations only where there exists either an appropriate resolution of the Security Council or a comprehensive multi-party peace agreement, similar to that reached amongst the parties on the island of Bougainville.

Recommendation 1

The committee recommends that Australia should only commit support to peace operations where there is:

- **P**r**oper authorisation of the Security Council and the mandate is sufficient to meet the circumstances; or**

- **In the absence of Security Council authorisation, an agreement and commitment between all parties to end a conflict; and**

- **A specified exit strategy within the operation.**

Success and Failure of UN Peace Operations

3.65   The conduct of peace operations by the UN has been criticised widely, especially its operations since the end of the Cold War. The failure of several UN peacekeeping operations since then, and the extreme longevity of some operations has led some to question the efficiency of the UN or whether the UN should be conducting peace operations at all. Failure to conduct peace operations successfully can have spectacular and disastrous consequences, as occurred when the UN intervened in Somalia, in Rwanda and in the Former Yugoslav Republic of Bosnia-Herzegovina.

3.66   For example, Dr Glenister Shiel suggested that many UN missions end in failure:

> The UN creates a "Peacekeeping Force" approximately every year but none of them so far is noted for having a successful outcome, for example: Somalia has been left in chaos, UN efforts in Cyprus have unintentionally preserved successfully Turkey's invasion for 25 years. In some gross cases the UN has failed to act until too late eg, Rwanda and Burundi; and the UN failed to act at all in the Sudan and Ethiopia.[52]

52   Shiel, Glenister. Submission No. 3, p. 15.

3.67   The Department of Foreign Affairs and Trade accepted that UN peace operations had a uneven record, but that this was mainly due to the changed nature of conflict today:

> Success of the United Nations' involvement in internal conflicts has been mixed. Earlier missions in Cambodia, Namibia and Mozambique are deemed to have been a success with the conflict brought to an end and democratic governments established. However, operations undertaken in Somalia, Rwanda and the former Yugoslavia are considered examples of the failure of the use of peacekeeping to restore or maintain peace in intra-state conflicts. Such missions have made clear that adherence to the traditional principles of peacekeeping may not be suitable and frequently inadequate when deployed in situations of internal conflict, particularly when being conducted in failed or distintegrated states.[53]

3.68   The Brahimi report suggests that the failures of UN peace operations in the past were due to these operations being carried out in inappropriate circumstances:

> It should have come as no surprise to anyone that some of the missions of the past decade would be particularly hard to accomplish: they tended to deploy where conflict had not resulted in victory for any side, where a military stalemate or international pressure or both had brought fighting to a halt but at least some of the parties to the conflict were not seriously committed to ending the confrontation.[54]

3.69   The Brahimi report noted the reasons for these problems lay in the more complex nature of operations today and suggested that:

> … traditional peacekeeping, which treats the symptoms rather than sources of conflict, has no built-in exit strategy and associated peacemaking was often slow to make progress. As a result, traditional peacekeepers have remained in place for 10, 20, 30 or even 50 years (as in Cyprus, the Middle East and India/Pakistan). By the standards of more complex operations, they are relatively low cost and politically easier to maintain than to remove. However, they are also difficult to justify unless accompanied by serious and sustained peacemaking efforts that seek to transform a ceasefire accord into a durable and lasting peace settlement.[55]

---

53   DFAT. Submission No. 107, p. 1277.

54   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. viii.

55   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. 3.

3.70   The Australian Defence Association noted the extreme longevity of some
        UN operations:

> Some, a few, of these operations have been successful. Many have
> not and some, such as those in Kashmir and Cyprus, for example,
> are characterised by their longevity and arguably an irrelevance to
> the actual situation on the ground. To paraphrase the bored
> soldiers' refrain, "they are there because they're there because
> they're there." These operations have taken on a life of their own
> instead of being part of a peace process that is actually moving
> ahead. It is even arguable that their presence in the field has
> become an obstacle to the peace process because they tend to
> excuse political inaction.[56]

3.71   Despite their longevity, the financial costs of maintaining even the longest-
        lived peacekeeping operations such as those in Cyprus or in Kashmir,
        represent an excellent investment compared to the human, material and
        financial costs of full-scale regional war. The success or failure of UN
        operations should not be judged only by how much they cost or how long
        they remain. Rather any such calculation should also consider the number
        of lives that were saved, the financial benefits of peace and the trust which
        can be built upon in the absence of war between otherwise hostile
        communities.

Department of Peacekeeping Operations

3.72   The effectiveness of the UN's Department of Peacekeeping Operations
        (DPKO) has been criticised for its lack of capacity and inability to plan
        missions in advance due to shortages of skilled personnel. The DPKO's
        function is essential to the successful conduct of UN peace operations,
        though the reality is that the Department is critically understaffed and
        under-resourced. Within the DPKO, only 32 officers administer the 38,000
        troops and military police deployed in some 15 UN missions. **By any
        reasonable comparison with Australian or other military planning
        staffs, this number is clearly insufficient to deal with the scale and
        complexity of UN peace operations.**

3.73   During the visit to New York, the committee was urged to consider the
        impact of this deficiency on UN operations. It was told that, to conduct
        effective operations, the DPKO needed a deployable headquarters and
        that it would be valuable to the department to have at its disposal a list of

---

56   O'Connor, Michael. Submission No. 5, p. 37.

available commanders. In addition they canvassed the possibility of using reservists for 18 month placements at UN headquarters.[57]

3.74   The proposal for a Readily Deployable Mission Headquarters was endorsed by the General Assembly in 1995. It was to be established within the DPKO as part of the Military Planning Service. Member states have not funded the proposal from the regular or the peacekeeping budgets and voluntary funding has not been forthcoming. Only two positions, a civilian police officer and a humanitarian officer have been appointed.[58]

3.75   This problem has been exacerbated by the removal of so-called 'gratis personnel' – military officers lent to the DPKO by member states. Following the end of the Cold War, many governments provided military staff to the UN at no cost, in order to facilitate the planning of the greater number of peace missions at the time. These officers were removed after September 1997, following complaints from some member states that the governments who provided them had too much influence on the planning and execution of peace operations.

3.76   Mr Michael O'Connor of the Australian Defence Association discussed the replacement of gratis personnel:

> These were experienced officers who were paid for by their own governments. They came from Britain, Germany, Australia, New Zealand, the United States, Canada and one or two others. That attracted the hostility of some of the smaller countries, Third World countries, who thought they were being denied access to the UN gravy train, and in fact a resolution was put up in the finance subcommittee of the General Assembly to have all these people sent home. It was sponsored by the Bahamas, of all places, and it got up and went through without a vote. So all those officers were effectively sacked and sent home.

3.77   Mr Rod Barton also noted the removal of gratis personnel with some concern:

> My concern however is that the General Assembly passed a Resolution … aimed at the elimination of gratis personnel from the UN (Australia supported this resolution). The objective of the resolution was to reduce the influence in UN Headquarters of North American and European countries, who mainly provided gratis personnel, to achieve a more equitable geographic balance.[59]

---

57   Notes from the visit of the committee to New York, October 2000.
58   Exhibit No 67. UN Rapid Deployment Initiatives.
59   Barton, Rod. Submission No. 25, pp. 166-7.

3.78   The Department of Foreign Affairs and Trade described the context behind the removal of gratis personnel:

> As mentioned above, changes to staffing arrangements within the DPKO have included the phasing out of some types of gratis personnel (military staff officers seconded from the armed forces of member states at no cost to the UN). Gratis personnel continue to be accepted in some exceptional cases and for exceptional expertise. The issue of gratis personnel was always a sensitive one, with personnel being sourced from those countries which have the capacity and the resources to provide such personnel. Developing countries became increasingly uneasy with a large and very obvious developed country presence at the heart of the UN's peacekeeping bureaucracy. The view of the opponents of the use of gratis personnel was that funds should be made available to expand the military planning and operational capacity of the DPKO through an increase of UN funded personnel drawn from a broader range of member states.[60]

3.79   While there may have been politically expedient reasons to remove gratis personnel, alternative means of ensuring the professionalism of peace operations need to be found. In order to put the DPKO and peace operations on a more secure footing the Brahimi report recommended:

> … a substantial increase in resources for Headquarters support of peacekeeping operations, and urges the Secretary-General to submit a proposal to the General Assembly outlining his requirements in full;

> Headquarters support for peacekeeping should be treated as a core activity of the United Nations, and as such the majority of its resource requirements for this purpose should be funded through the mechanism of the regular biennial programme budget of the Organization.[61]

3.80   The Secretary-General has responded positively to these recommendations, suggesting that there was a need to define properly minimum funding levels for the DPKO and mechanisms for funding temporary increases in peace operations.

3.81   However, regular additional funding has not yet been made available, with the result that the DPKO remains short-staffed. Although the political will may exist within the Security Council and there may be sufficient contributions of soldiers, any mission without adequate

---

60   DFAT. Submission No. 107, p. 1279.
61   *Report of the Panel on United Nations Peace Operations.* 2000. United Nations, New York, p. xiii.

planning at the operational level is bound to fail. This hollowness demonstrates that in some cases, effectiveness is preferable to efficiency – ineffectiveness being the greatest inefficiency.

3.82   The committee believes that the removal of gratis personnel represents a significant loss to the DPKO and therefore to the success of UN peace operations in general. However, we accept that there may be political impediments which will prevent their return to operate as they did in the past. Without an adequate and predictable funding structure for the future, the UN will have to rely more and more on the participation of lead nations or coalitions of the willing to carry out resolutions of the Security Council. This outcome would be in direct opposition to the reasons for the removal of gratis personnel in the first place – the excessive influence of some member states at the UN. The only credible alternative available at the present time is for the peace operations and the DPKO to be funded on a more regular and sustainable basis.

Recommendation 2

The committee recommends that the Australian Government support and encourage other members states in the UN to expand both the personnel and financial capacity of the Department of Peacekeeping Operations, in particular through the reintroduction of a system of gratis personnel and/or the specific funding of places from the regular budget for a Deployable Headquarters within the department.

Sanctions

3.83   Many of the submissions to this inquiry expressed concern at the way that comprehensive economic sanctions harm civilians as an unintended consequence of their use to enforce decisions of the Security Council. Sanctions are used by the international community in order to change repressive behaviour of some governments, or ultimately to change a repressive government itself.

3.84   To maintain or restore international peace and security, Article 41 of Chapter VII of the Charter allows for the Security Council to call on member states to implement a 'complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations', or in other words, to implement sanctions. Article 2(5) calls upon member states to refrain from providing assistance to those states against which the United Nations is taking preventive or enforcement action.

3.85   The Medical Association for the Prevention of War (Australia) described the dilemma of sanctions in the following terms:

> While sanctions have the capacity to bring about desirable change towards the protection of human rights, they also have the capacity to severely damage human rights, especially the economic rights of the innocent and powerless. The abuse by the UN Security Council of the capacity to impose sanctions has been directly responsible for the near total destruction of civil society in at least one country, Iraq.[62]

3.86   However, the Association noted the objectives behind sanctions in the case of South Africa:

> All this is not to say that some form of sanctions can never play a part in the protection of human rights. Sanctions are generally credited with being one of the factors which helped to overthrow the apartheid system in South Africa, although a significant difference between the cases of Iraq and South Africa was that in South Africa the sanctions were generally supported by the victims of oppression, whereas in Iraq they were not. However experience has shown that, by and large, economic sanctions target civilian populations rather than governments. As in Iraq, governments subject to sanctions will generally use whatever resources are available to maintain their positions of power.[63]

3.87   Mr Rod Barton described the effect of comprehensive economic sanctions in Iraq:

> … now that UNSCOM no longer has a presence in the country, the main effect of the sanctions is punishment of the Iraqi people. It could be argued that continuation of the sanctions are in conflict with the UN Charter regarding Human Rights; in fact on the one hand the UN imposes sanctions and on the other takes measures to alleviate their effects.[64]

3.88   The United Nations Youth Association urged the Australian Government to withhold support for the blanket application of sanctions. As the Association writes:

> Such sanctions generally have long-term harmful consequences for innocent civilian populations and have little effect on ending hostilities. UNYA instead urges the Australian Government to support the application of alternative measures, such as arms

---

62   Medical Association for the Prevention of War (Australia). Submission No. 90, p. 931.
63   Medical Association for the Prevention of War (Australia). Submission No. 90, pp. 932-3.
64   Barton, Rod. Submission No. 25, p. 165.

> embargoes, the targeting of foreign bank accounts and withholding International Monetary Fund and World Bank financial packages.[65]

3.89   ACFOA's submission agreed that 'smart sanctions', using only specifically targeted measures, were preferable to comprehensive economic sanctions, and that sanctions should only be applied where those who were being repressed called for them:

> It is the view of ACFOA member agencies that sanctions should normally only be applied in response to calls from the oppressed groups and should ideally have greatest impact on those groups responsible for the oppression. When the use of sanctions is considered appropriate, they should be carefully planned, executed and monitored to ensure they comply with the humanitarian imperative. Much more attention needs to be given to the use of 'smart sanctions' which target those who are responsible for abuses or violence, e.g. denial of visas, freezing financial transactions, arms embargoes, etc.[66]

3.90   Despite the success of comprehensive economic sanctions in effecting change in South Africa, they have not been as successful in changing political behaviour in Iraq. While there was a need for Iraq to comply with a robust regime for weapons inspections, the fact remains that comprehensive economic sanctions against Iraq resulted in suffering in that country.

3.91   The committee believes that any Australian Government participation in future UN sanctions arrangements should maintain a proportional perspective. Such arrangements could make use of the 'smart sanctions' as proposed to the committee, but caution should be exercised before agreeing to support any future comprehensive economic sanctions.

---

65   UNYA. Submission No. 47, p. 322.
66   ACFOA. Submission No. 101, p. 1099.

Recommendation 3

The committee recommends that:

- **Australia should only support comprehensive economic sanctions as a last resort; and**

- **The Government examine and report on a range of new sanction strategies which might be proposed as an alternative.**