UNITED NATIONS SECURITY COUNCIL CONFLICT MANAGEMENT HANDBOOK

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UNITED NATIONS SECURITY COUNCIL
CONFLICT MANAGEMENT HANDBOOK

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FOREWORD

The effectiveness of the United Nations Security Council is often measured by the degree to which its resolutions are implemented on the ground. However, there is a less tangible, but equally important role that the Council plays in preserving peace and security: that of accompanying, enabling and consolidating peace efforts.

As parties to a conflict embark on the challenging journey towards peace, the Council's attention to those efforts can signal wider international support to this endeavor. While this can happen through public pronouncements, it may not always be that way: deliberations behind closed doors can provide mediators with the guidance and backing they need to facilitate difficult conversations. The Council's ability to maintain unity will be a critical factor in the success of conflict resolution initiatives. A unified Council sends a strong, encouraging signal to the parties, and it can deter spoilers. A divided Council, on the other hand, can hinder progress towards sustainable peace.

During its tenure on the Council (2022 -2023), the United Arab Emirates has sought to be a pragmatic and constructive member, advancing solutions and building bridges wherever possible. It is in that spirit that this Handbook is presented to the UN community, as a reflection of aspects of those challenges and the solutions to them, with the hope that it will encourage and enable future Council members to actively and constructively engage in the Council's work.

This Handbook explores how the Council can accompany, enable and consolidate conflict resolution efforts. It addresses the contribution that it can make in setting the agenda, and in supporting the good offices role of the Secretary-General. It outlines how critical Council attention can be to ensuring the oversight, monitoring and implementation of agreements, from ceasefires to peace settlements. And it pays particular attention to the efforts to sustain peace and prevent a relapse into conflict.

We hope that Member State delegations, UN staff, researchers and others find this practical guide useful to achieve positive outcomes while navigating complex challenges throughout the conflict continuum. In that way, we hope that it makes an ongoing contribution to the maintenance of international peace and security and the future of the United Nations.

Nickolay Mladenov
Director General
Anwar Gargash Diplomatic Academy

Lana Nusseibeh
UAE Ambassador and Permanent
Representative to the United Nations

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The *Handbook* was conceived and authored by a team of independent, world-leading specialists and guided by a group of eminent senior advisers. It was extensively consulted with over 70 experts in various fields. It was also user-tested by diplomats who have previously served on the Security Council.

The drafting team comprised Haidi Willmot, Scott Sheeran, Renata Dwan, Richard Gowan, Adriana Abdenur, Mona Ali Khalil, Ian Johnstone, Paul Williams and Colin Keating. The senior advisory group comprised Hasmik Egian, Jean-Marie Guéhenno, Victoria Holt, Ellen Margrethe Løj, Haile Menkerios, Robert Mood and Álvaro de Soto. Special reviews were undertaken by Linda Opongmaa Akua Darkwa, Mathias Forteau and Security Council Report.

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Scott Sheeran was the chief legal editor of the *Handbook*. Scott has worked as a diplomat, barrister, military officer, academic, and UN and human rights adviser, including in New York and Geneva. He served as part of the delegation of the New Zealand Permanent Mission to the UN twice, first as New Zealand's representative to, and Vice-Chair of, the UN Legal (Sixth) Committee, and later as Senior Legal Counsel and Leader of the Peace Operations and Sanctions Teams during New Zealand's term on the Security Council. He has appeared as legal counsel in various cases, including before the International Court of Justice (ICJ), and has published extensively. Scott completed his undergraduate degrees at the University of Otago, and postgraduate degrees in law at the universities of Cambridge and Essex.

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Security Council Report

Security Council Report (SCR) undertook an overall review of the *Handbook,* providing suggestions for amendments to the editors. SCR's mission is to advance the transparency and effectiveness of the UN Security Council. SCR seeks to achieve this by making available timely, balanced and high-quality information about the activities of the Council and its subsidiary bodies; by convening stakeholders to deepen the analysis of issues before the Council and its working methods and performance; by encouraging engagement of the Council with all member States and civil society; and by building capacity on Council practice and procedure through assisting incoming members and other training and assistance programmes. SCR is independent and impartial; it advocates transparency but does not take positions on the issues before the Council.

EXECUTIVE SUMMARY

The United Nations Security Council Conflict Management Handbook is a practitioner's guide. It is intended to provide current and prospective Council delegates with an overview of the spectrum of tools at the disposal of the Council, and advice on how they might be employed to enable more effective and earlier conflict management.

The *Handbook* comprises three main parts:

PART 1	**Threats:** Understanding conflicts and identifying objectives
PART 2	**Tools:** Security Council conflict management tools
PART 3	**Tradecraft:** Practical ideas for effective Council engagement

The material is presented and arranged to be practical and accessible. The *Handbook* is designed so that it need not be read from cover to cover but so that a practitioner may dip in and out, focusing on particular aspects of interest. In this way, Parts 1, 2 and 3 and each of the tools stand alone. But they are also linked so that a practitioner can follow a logic chain, should they wish to do so.

The *Handbook* emphasizes that Security Council conflict management is ultimately a political exercise, not a technical one, but strives to bring creativity and rigour to the process by guiding the reader through a series of questions to enable thoughtful and tailored conflict management strategies, with a good chance of success:

PART 1	What are our conflict management objectives?
PART 2	What tools can we use to pursue those objectives?
PART 3	How do we successfully employ those tools?

First, the *Handbook* sets out the legal framework for the Security Council's work. It explores the Council's mandate and powers, the bodies of law relevant to its work, the rules and procedure that govern its decision-making, as well as offering some helpful advice on language usage and interpretation in Council resolutions.

PART 1 explores the evolution of threats to international peace and security since the establishment of the United Nations, identifying key trends and dynamics. It emphasizes the importance of appreciating the dynamism of conflict and understanding the features of a particular conflict at any given time, offering a conflict analysis checklist. It goes on to identify four conflict management objectives:

1. Conflict prevention (preventing the outbreak or escalation of armed conflict)
2. Conflict containment and mitigation (minimizing the damage from armed conflict)
3. Conflict settlement (ending armed conflict)
4. Recovery support (maintaining and building peace after armed conflict)

PART 2 emphasizes the importance of combining tools, through a "cocktail of medicines", to achieve a targeted, coherent and effective conflict management strategy. The tools are divided into three categories: diplomatic, legal and operational. They are all presented in the same way, offering the following information and analysis:

- Summary and examples
- Description of the tool
- History of the tool
- Conditions for success / lessons identified
- Benefits and risks
- Legal basis and legal issues
- Further reading

The fold-out wall poster at the back of the *Handbook* offers a quick-reference summary of the tools.

PART 3 offers practical ideas and advice for developing and leading conflict management strategies and navigating Council politics, practice and procedure to successfully move initiatives through agreement and implementation. It covers issues including:

- Preparation
- Reliable and timely information
- Early Council engagement on an issue
- Customizing conflict management tools
- Taking a leadership role
- Building support and momentum
- Use of procedure and working methods
- Council subsidiary bodies
- Harnessing capacity from elsewhere in the UN system and from external sources
- Thematic issues
- Strategies for broader global security threats

Finally, the *Handbook* recognizes that often what is most needed for more effective conflict management by the Council is greater political cohesion and improvement in the timeliness and implementation of existing tools. However, there are instances which call for fresh thinking to respond to the evolving global security environment or to break through intractable conflict management issues. In this context, the *Handbook* concludes by offering some ideas that Council Members may consider as they seek new and innovative solutions for managing conflicts.

INTRODUCTION

INTRODUCTION

A PRACTITIONER'S GUIDE

The United Nations (UN) Security Council sits at the apex of global conflict management efforts, charged with the primary responsibility for the maintenance of international peace and security. Since the creation of the UN, Council tools and practices have grown and evolved to meet the dramatically changing global security environment.

Over the years, the Council has proved itself innovative and dynamic, significantly expanding the scope of its own competence to include a wide range of threats, and developing a broad spectrum of diplomatic, legal and operational tools. Some of the most notable have included peacekeeping operations, transitional administrations, ad hoc criminal tribunals, and a compensation commission.

This dynamism has been critical both for saving lives and maintaining the relevance of the Council in the international system. However, there have also been periods when the Council has been paralysed by the political differences of its permanent members. Periods when it has come under extreme criticism for its failure to engage on horrific conflicts in a meaningful or timely manner. And periods when its relevance has been questioned and the international community has looked elsewhere for leadership.

Faced with entrenched political paralysis, it is easy for Council Members to lower their expectations of what can be achieved and to fall back on tools and language that offer the path of least resistance. The Security Council is a political body, and its actions necessitate a political compromise among the five permanent members, but also its 10 elected members. Designing and implementing Security Council conflict management strategies is not a technical exercise – it is part legal, part operational, but ultimately political. This Handbook offers practical advice and options for identifying and employing the best tools for the job, in the hope of improving the timeliness and effectiveness of Security Council conflict management, and through that contributing to international peace and security, and saving lives.

Purpose

The *Handbook* is a practitioner's guide, structured and styled in a way to make it accessible and practically useful. Its purpose is to provide current and prospective Council delegates as well as UN staff with an overview of the spectrum of tools at the Council's disposal, and advice on how they might be employed to enable more effective and earlier crisis management.

Scope

The *Handbook* focuses on conflict management. While the Council has a broader range of responsibilities including countering terrorism and containing the proliferation of weapons of mass destruction, the *Handbook* is principally concerned with the Council's conflict management role.

The idea of conflict management is approached broadly. "Conflict" is not limited to the definitions of international and non-international armed conflict in the Geneva Conventions, and "management" is not limited to a certain phase of the conflict cycle. The information and analysis offered is relevant for the prevention, containment, settlement and recovery aspects of all types of armed conflicts.

When considering conflict management tools and Security Council working methods, the *Handbook* is not limited to current practices of the Council. It includes past practices which have been lost to history but could be successfully employed again today. It includes potential practices such as those that may have been recommended in UN reports but not yet implemented. And it draws upon good and innovative practices of other relevant bodies, particularly regional organizations.

Structure

The *Handbook* comprises three parts:

PART 1	**Threats:** Understanding conflicts and identifying objectives
PART 2	**Tools:** Security Council conflict management tools
PART 3	**Tradecraft:** Practical ideas for effective Council engagement

The conflict management tools are divided into three categories: diplomatic, legal and operational. They are all presented in the same way, offering the following information and analysis:

- Summary and examples
- Description of the tool
- History of the tool
- Conditions for success/lessons identified
- Benefits and risks
- Legal basis and legal issues
- Further reading

Each entry also recommends further sources of information should the reader wish to delve deeper into a particular tool.

Readership

The Handbook is primarily targeted at those who are directly involved in Security Council conflict management: serving delegates, delegates who will soon take up a role on the Council, and UN staff who support the Secretary-General to develop options and recommendations for Council action. Given that historical memory is often lost in the regular turnover of diplomatic delegations, the Handbook will hopefully be useful to both elected and permanent Council Members.

It may also be of interest to other UN delegations, and to research and advocacy organizations who wish to promote Security Council action on a particular situation. In addition, UN commentators and students may also find it a useful resource.

Review

The *Handbook* will be periodically reviewed to ensure that it remains current and useful. The scope of the publication may be expanded in future editions.

USING THE HANDBOOK

The *Handbook* is designed so that it need not be read from cover to cover. The parts and each of the tools stand alone, so that a practitioner may dip in and out, concentrating on specific areas of interest. The parts are also linked so that a practitioner can follow a logic chain. In this way the *Handbook* seeks to guide the reader through a series of questions to enable thoughtful and tailored conflict management strategies, with a heightened chance of success.

PART 1	**What are our conflict management objectives?**	What is the nature of the threat? What are the features of the conflict? What do we want to do about it?
PART 2	**What tools can we use to pursue those objectives?**	What tools do we have at our disposal? What tools might be most effective given the nature of the conflict and our conflict management objectives?
PART 3	**How do we successfully employ those tools?**	What is practically and politically possible and likely to succeed given the range of factors at play?

Conflicts are messy and dynamic. Designing and implementing a conflict management strategy, particularly in the Security Council context, is a complex and nuanced exercise. Actions taken by the Council will be the result of a range of factors including the political preferences of its most powerful members; the positions and activities of key actors including the conflicting parties, regional organizations and influential States; funding considerations; and the capability and tolerance for risk of available military forces.

The Council may have several conflict management objectives and employ a number of complementary tools. Conflict management efforts are not linear and should not be static, but continually evolve along with the conflict.

The *Handbook* offers frameworks for analysis, options for action, and advice on diplomacy. Recognizing that ultimately actions taken by the Council will be the result of the balance of many considerations, the *Handbook* seeks to provide delegates and Secretariat officials with information and analysis that will enable the best possible outcomes.

UN SECURITY COUNCIL DECISION-MAKING

There are many factors that affect Security Council conflict management outcomes. The four primary influencers of Council decision-making will be:

1. **Factual:** Situation on the ground, particularly humanitarian aspects.
2. **Legal:** International law and Council practice and procedure.
3. **Political:** Political context, including dynamics within the Council.
4. **Practical:** Available resources/response options.

Legal context

The UN Security Council is relatively unique in that it develops, interprets and enforces international law, while itself being the creation of a multilateral treaty and bound by international law.

The UN Charter sets up a collective security system with the Council at its heart. The Council's mandate includes the right to take decisions on matters of international peace and security that bind UN Member States under international law. Even recommendations made by the Council carry great political weight with the UN membership.

The Charter makes clear that the UN Member States confer the powers on the Council, and that the Council acts on their behalf. Accordingly, the Charter also establishes certain limitations to the mandate bestowed on the Council, including that the Council acts in accordance with the principles and purposes of the Charter.

Council Members use international law both as a reference point and for promoting their national positions in debates and decision-making. There are three key aspects of the Council's decision-making in which international law and, by extension, legal argumentation, is particularly relevant:

- Whether a situation before the Council engages violations of international law such as the Charter's prohibition on the use of force, and international humanitarian and human rights law.
- Whether a situation constitutes a "threat to the peace, breach of the peace or act of aggression", which are grounds for using the Council's powers to impose binding measures under Chapter VII, and the scope of those powers.
- The interpretation of the operative paragraphs of a resolution and the legal effect of a binding Council decision, relevant to both negotiating and implementing the Council's resolutions.

While legal argumentation is common in the Council, achieving the necessary voting majority or avoiding the veto is ultimately determined by political context and national interests. Nonetheless, international law is essential for the Council's legitimacy in the eyes of the UN membership and more generally. Acting in furtherance of the UN Charter and implementing international law bestows legitimacy on the Council and promotes compliance with its decisions, while the converse does not.

Political context

The political context in which the Security Council operates is often the most dominant characteristic of its response to specific conflict situations. The political preferences and behaviours, political alliances and relationships, and political agendas pursued by Council Members may be directly related to the conflict situation in question, but may also be much broader. The interests of Council Members may be influenced by domestic political considerations and pressures, or by regional objectives, or issues with a link to an aspect of the conflict. They may relate to the maintenance of relationships with other Council Members and partners outside the Council. They may relate to a desire not to see a precedent set in the Council, or to avoid strengthening a particular norm of international law. Or they may be reflective of a fundamental ideological disagreement or entrenched animosity between Council Members that has little to do with the situation at hand.

Political interests play out in two important ways: first, in respect of what issues get taken up by the Council, and second, what tools are employed by the Council in respect of any particular situation on its agenda.

The Politics of Theatre

Understanding the political context of the Security Council means also appreciating that there are cases where the Council can become a vehicle for "political theatre". The audience for this theatre may be domestic or international. A debate in the Council on a matter which an important constituency holds dear can appeal to some politicians. Holding a high-profile public debate in the Council attracts publicity and international focus, and this can sometimes serve domestic political or foreign policy objectives.

The objective of a theatrical political event might not be for the Council to adopt any practical measures, but rather to call attention to an issue, to help deter or deflect unwanted behaviour, or to instil political momentum in a positive direction. There may also be cases where the purpose of such a debate is to force the hand of a Council Member, to bait or provoke an opponent with a view to exposing their position to the glare of publicity, or to cause political embarrassment. This has sometimes been called "veto baiting".

These uses of the Council reflect the reality that as a political forum, the Council will at times be used to achieve political objectives.

The Politics of Seizure

In Council practice, a key question is whether the Council becomes "seized" of an issue. This means whether a decision (or a "determination" in the language of Chapter VI) has been taken to adopt an agenda item relating to the situation in question. Often this question is extremely politically fraught, but there are some exceptions.

Sometimes there is widely held consensus among members that the Council should become seized of an emerging situation. Sometimes the parties involved in a situation request Council involvement, seeing their interests as being best served in that way. This may often follow from engagement with the parties by mediators, including by the UN Secretariat, regional organizations or State or non-governmental mediators.

More commonly, however, one or more of the parties will try to prevent the Council making a determination and taking up the situation. Often this will be because that party fears that a formal determination – or internationalisation of the issue – will be politically damaging to its reputation. Also, it is common for parties to fear that their position on the ground vis-à-vis an opponent will be prejudiced or that the opponent's position will be strengthened if the weight of the international community is brought to bear. Often a formal determination by the Council and the consequent external involvement will also be very sensitive in domestic politics.

This typically leads to intense political lobbying to try to get the necessary votes to block a decision by the Council to become seized of the issue. Historical friendships, alliances, ideological symmetry, economic levers, domestic connections, and personal political connections between leaders are all commonly used. But political action of this kind often leads the other party or parties to pursue the exact opposite political goal.

When Council Members adopt a national position to champion one party or the other, Council decision-making can also become quite politicized. This is when the advocacy veers towards legal arguments. However, it is very rare for any specific case to be determined by legal issues. The political context always dominates. Sometimes the matter is resolved by political negotiation between Council Members and a resulting compromise. Sometimes by a vote.

Ultimately, if it comes to a vote, the politics of seizure are determined by nine affirmative votes. Adopting an agenda item is a procedural matter under Article 27(2) and no vetoes apply. However, in Council practice there are examples where using Article 27(2) to seize a new agenda item can result in a pyrrhic victory due the consequent implacable opposition by one or more permanent members to taking any consequential action under Chapters VI or VII.

The Politics of Action

Conflict management by the Council will almost always require, at some point, a substantive decision – one that can command not only the necessary nine affirmative votes but also the absence of a negative vote by a permanent member.

Even at the earliest stages of the evolution of a potential conflict situation, engagement by the Council is likely to invoke intense political considerations for the affected parties, and this political perspective may often be mirrored by one or more of the permanent members.

History shows that sometimes initial political opposition by a permanent member may change, especially when the situation deteriorates so much that there is a humanitarian disaster or the severity of the threat to global security interests outweighs the particular political concerns. But sometimes a permanent member will remain obdurate.

Even when Council Members agree to take action, the action that is taken will be influenced by the political context, and the resulting political compromise may be far from the ideal or most effective response. If the conflict is highly political, action authorized by the Council

may focus on narrow and less political aspects such as the humanitarian response or the destruction of illegal weapons. If certain members of the Council are not supportive of UN action but feel pressured to be seen to be "doing something", less effective or "tokenistic" response measures may be selected. Whether and how the Council uses its legal tools may be reflective of members' general positions on sanctions and international courts, as well as any concerns that they may be used against them or their allies.

Understanding the Council's conflict management options requires as much careful attention to the politics as to the practicalities of the tools. Too often advocacy of ideal outcomes can poison the ground for outcomes that are less good but nevertheless sufficient. In the Council the perfect can very quickly become the enemy of the good. Sometimes skilful negotiation and openness to compromise sufficiently early in the process will enable a middle ground to be found in New York. But sometimes a mutually acceptable middle ground can only be generated in capitals and sometimes only with personal engagement by ministers or leaders. Multilateral success is often built on the integration of both multilateral diplomacy and effective bilateral diplomacy.

An important provision of the UN Charter that is very rarely considered is the rule in Article 27(3) that a Council Member which is a party to a dispute must abstain if the decision is being taken under Chapter VI or Article 52. Many of the conflict management tools considered in this Handbook would fall within those provisions. There is, however, little past practice on the issue.

It has been argued that when Council Members are in a prolonged public disagreement about the application of conflict management tools to a specific situation, a political dispute exists which would render Article 27 applicable. Ultimately, if the issue were pursued, under the Provisional Rules of Procedure, the Council President at the time would need to make a decision.

The scenario would involve high stakes and high risk and would undermine the constructive context which is desirable for future Council engagement on a situation. Sometimes, however, it may be an outcome that is the best way forward. In other cases, the prospect of such a scenario playing out in public may be helpful in negotiating a compromise solution. The level of a party's obduracy may be influenced by the risk and political embarrassment of being compelled to abstain. Moreover, if some negotiating incentives can be offered, this may make the prospect of a voluntary abstention more attractive.

Just as not every conflict can be prevented, not every active conflict can be de-escalated with a peace process, and civilians cannot always be saved by intervening forces. Some conflicts are resistant to resolution. A sense of normalization around a conflict can emerge, building fatalism on the part of protagonists and an awful intergenerational humanitarian tragedy for the population. It is the role of the Council to avoid becoming part of this normalization and to continue searching for initiatives that might offer constructive and balanced solutions.

Long-standing calls for the reform of the membership of the Council to better – and more equitably – reflect the geography, population and economic relations of today's world have

increased against the backdrop of more than a decade of deep Council divisions over some of the most destructive wars on its agenda, especially the conflict in Syria and, more recently, Ukraine. Some permanent members in 2022 voiced support for reforms to enable better regional representation on the Council, especially from Africa.

Practical context

The Security Council can make decisions that obligate its members and has the authority to enforce those decisions. However, in reality, the conflict management tools the Council can employ in any given circumstance are limited by practical considerations of personnel, finance and time.

The founders of the UN envisaged that the Council would have at its disposal a standing force to enable it to take "urgent military action", and have in place agreements for members "to make available to the Security Council, on its call … armed forces, assistance, and facilities" to enable "combined international enforcement action" (Articles 43 and 45). Because such arrangements failed to eventuate, the Council does not have access to an independent military capacity. So while in theory the Council can authorize whatever military response it thinks appropriate, in practice the military action that will actually be undertaken is dependent on what UN members are willing to do – the troops, assets and financial resources they are willing to provide and for what purposes – in any particular situation.

This means that although the facts of a situation may call for a robust military force to be urgently deployed to deter an invasion, repel aggression or protect civilians, even if the international legal criteria are met, and Council Members are in agreement, such enforcement action can only be undertaken if there are UN Member States with the military capability and political willingness to deploy in that way. A case in point is the situation in Rwanda in May 1994, when the Council belatedly approved an expanded operation under Chapter VII to combat the genocide (S/RES/918 (1994)). It was one of the first real protection of civilians mandates, but sadly not implemented as no Member States with sufficient resources were willing to deploy their forces. In recent practice the Council and Secretariat usually try to determine what the membership is likely to support before mandating military actions.

A further constraint on the Council is that States with the capability and willingness to deploy into a high-threat environment often prefer to do so "green-hatted" under national/coalition command and control, rather than "blue-hatted" under the UN. This is because they usually have strong national interests engaged, and therefore prefer to retain control over the campaign and responsibility for the safety of their personnel. This is why complex and robust military action is usually undertaken by coalitions of States and/or regional and other security organizations. In these instances, Security Council authorization is often sought for reasons of both legal and political legitimacy. However, even when such actions are authorized by the Council, it usually has little input into the design and oversight of enforcement campaigns.

Member States are more inclined to deploy their personnel and assets "blue-hatted" under UN control in less dangerous environments into which peace operations might be more

appropriately deployed. However, even in the case of such peace operations, the Council's options are limited by what the membership will support. The size of the mission and the tasks it will perform are limited not only by what personnel and assets Member States are willing to contribute, but also what the membership is willing to fund, a decision made by the General Assembly through negotiation in the Budgetary and Finance (Fifth) Committee. The most serious challenges to the funding for peace operations usually come from the permanent members of the Security Council who are responsible for a higher proportion peacekeeping budget.

An additional limitation on UN peace operations is the time it takes to deploy troops and assets in the field. The process of generating and deploying troops and assets, and logistically preparing the mission area is complex. It can take more than six months from the date the Security Council authorizes a resolution to the date there are "boots on the ground". It can take years for the mission to reach its full authorized strength.

The decision to deploy other operational tools, such as weapons of mass destruction (WMD) monitoring and destruction mechanisms, raises both political and practical issues. The ability to draw on the services of the International Atomic Energy Agency (IAEA) and Organization for the Prohibition of Chemical Weapons (OPCW) is a valuable resource for the Council. When no such agency exists, for example, regarding biological weapons or missiles, the Council may have to create a subsidiary organ that has the expertise to manage highly sensitive information and technology.

There are also practical limitations on the Council using sanctions to enforce the outcomes that it seeks. The effectiveness of a sanctions regime ultimately depends on Member States' readiness and ability to implement the sanctions and the will of the Security Council to enforce the regime, including through additional measures, if necessary. Some parties ignore sanctions. Sanctions can also be undermined by neighbouring parties with interests in the issue or by parties with trading interests which lead them to circumvent sanctions or to turn a blind eye to the evasion of sanctions by their nationals or private companies. The challenges come in the Council's usual political unwillingness to enforce its sanctions through binding secondary sanctions.

The Council's judicial dispute settlement options present some practical challenges. The resolution of a dispute in the International Court of Justice may take years, and even the production of an advisory opinion can take many months. While international or hybrid criminal tribunals can contribute to peace and security, primarily they are focused on individual accountability. These tribunals are costly, can only try a modest number of individuals, and can take many years to complete their work.

The challenges of employing the Council's diplomatic tools are more political than practical. Limitations are likely to be associated with creating the political space and traction for UN engagement, rather than issues of personnel and finance.

UN SECURITY COUNCIL LEGAL FRAMEWORK

UN SECURITY COUNCIL LEGAL FRAMEWORK

The relevance of international law to the Security Council's work is an enormous topic, on which thousands of pages have been written. To understand the Council, and to engage effectively in its work, requires a basic understanding of the legal framework. The overview of that framework provided below does not replace deeper study or situation-specific advice from a legal professional.

UN SECURITY COUNCIL LEGAL FRAMEWORK

The UN Charter provides the Council with a broad mandate to take actions in support of the peaceful settlement of disputes and the maintenance of international peace and security. The Charter provides both the substantive and procedural framework for the Council's work. It sets out the global collective security agreement, articulates the substantive law on the use of force, and broadly sets out the Council's mandate and procedures. It also articulates the general "purposes and principles" of the UN within which the Council must act.

More specifically, Article 2(4) of the Charter provides for a general prohibition against the threat or use of force between States. The exceptions to this prohibition are the right of self-defence (Article 51) or a collective military action authorized by the Council (Chapter VII, Article 42). "Intervention by invitation" of the host State is not considered to violate Article 2(4). A legal right of humanitarian intervention and an international responsibility to protect civilian lives have been argued as other exceptions to the general prohibition, and while both doctrines have garnered significant support, neither has crystalised into international law. The Council's role is central in the prohibition against the threat or use of force: it polices the prohibition; receives reports of self-defence; authorizes the use of force by UN or non-UN-led operations (other than those taken in self-defence); and authorizes other enforcement actions not involving the use of armed force. More generally, the Council provides a forum for Member States to address matters of international peace and security.

The Charter establishes the Council as a principal organ and sets out its mandate, powers and key procedures. Under Article 30, the Council is the master of its own procedure. It has developed further rules and guidance for its work, most notably the Provisional Rules of Procedure and the President's Note S/2017/507 (Note 507), as well as a number of supplemental Presidential Notes on working methods – 13 at the end of 2022.

The Charter exists within the broader international legal system. There are other bodies of international law – both treaties and customary law – that are relevant to the Council's work. This includes the international law of disarmament and non-proliferation; international humanitarian, human rights and refugee law; and international criminal law; as well as peremptory norms of international law. These collectively establish rules that affect the Council's work and legal regimes that interact with the law of the UN Charter. These other rules also provide contours and further content to the law of the Charter.

Under Article 103, the obligations of the Charter prevail over any other international agreement obligations of the Member States. The Council's binding decisions taken in accordance with the Charter therefore override other treaties that conflict, including other multilateral treaties. This provides the Council with great power and responsibility, but also means that political and legal checks and balances are equally important.

The Charter is not legally interpreted and applied like a regular treaty; it is a living instrument and somewhat like a constitution, with evolving interpretation to address emerging international issues and norms. This is natural for a broad-purpose treaty written in a different time and context to which it is now applied.

At the San Francisco Conference of 1945, which founded the UN, it was decided that each UN organ would interpret its own competence under the Charter. This is generally reflected in the Rules of Procedure of the intergovernmental organs of the UN. As such, the Council's past practice is an important factor in interpreting and applying its powers under the Charter. This is demonstrated in the legal doctrine of the implied powers of the Council and therefore the Organization itself. The International Court of Justice has also addressed matters of interpretation of the Charter, including in its *Reparations for Injuries, Certain Expenses, Namibia, Construction of a Wall*, and *Kosovo* advisory opinions.

MANDATE AND POWERS

The Security Council's mandate and powers are detailed in the UN Charter. Chapter V of the Charter establishes the structure, composition, authority and processes for the Council. Chapters VI, VII, VIII and XIV explain in more detail the mandate and powers of the Council and indicate in general terms the kinds of tools and measures that the Council may choose to apply in any given situation. In accordance with Article 24(1), the Council acts on behalf of the UN membership. Article 24 of the Charter establishes the broad legal context for the Council's work and its policy and political decisions. It provides:

- The Council has "primary responsibility" for the maintenance of international peace and security.
- It has a duty to "ensure prompt and effective action by the United Nations".
- It must "act in accordance with the Purposes and Principles of the United Nations".

"Primary responsibility"

The Council has primary but not exclusive responsibility for the maintenance of international peace and security. The General Assembly also has a responsibility, as do regional organizations with their own peace and security architecture and capacity. This sharing of responsibility is clarified in Chapters IV and VIII of the Charter.

The Council's primacy in respect of the maintenance of international peace and security derives from the Article 24(1) reference to its "primary responsibility", and Article 12(1) providing that the General Assembly shall not make any recommendation with regard to any "dispute or situation" while the Council is exercising its functions in respect of that

matter. Similarly, in Articles 53 and 52, the Council's primacy is also emphasized in the context of regional organizations.

There are important historical examples of the General Assembly exercising its authority in this regard, including in the establishment of peacekeeping operations. Furthermore, the interpretation of Article 12(1) has evolved such that the General Assembly has made recommendations where the Council fails to exercise its primary responsibility due to a lack of consensus among the five permanent members (P5) – whether the Council is seized of the matter or not. This is reflected in the "Uniting for Peace" General Assembly resolution 377A of 1950, and the holding of "emergency special sessions" in relation to 12 different matters of international peace and security.

Article 51 of the Charter preserves States' inherent right of self-defence, whether individual or collective, but only if there is an armed attack against them and only until such time as the Security Council has taken the necessary measures. To that end, there is a requirement to "immediately" report to the Council measures taken in the exercise of this right of self-defence.

"International peace and security"

The Council's mandate is to maintain "international peace and security". Its practice traditionally focused on disputes between States, especially those that might lead to armed conflict. However, the Council's authority today has often been extended to intra-State conflict or instability within a State, where the situation may endanger international peace and security. This includes cross-border effects and wider security implications for other States and regions, or for the international community as a whole. Most situations on the Council's agenda over the past 30 years have involved situations in which the issue did not involve a dispute between two States. Many involve internal armed conflict or terrorist acts and/or significant violations of international humanitarian and human rights law.

The Council's decision to take up a matter is essentially political. In most cases, Council Members have insisted on there being a reasonable connection between the issue and the endangering of international peace or security. In this context, the terms "peace" and "security" should not be considered as synonymous. While Article 39 indicates that the Council may take action under Chapter VII based on a "threat to the peace, breach of the peace or act of aggression", Chapter VI outlines powers the Council can use to settle existing disputes without using force. In addition, it provides a range of tools which the Council can deploy before actual fighting or armed conflict breaks out, namely, situations that "might lead to international friction or give rise to a dispute".

There may be situations in which international security is at risk but physical violence is not imminent. For example, large refugee flows, uncontrolled movements of peoples, or highly contagious diseases (such as Ebola, HIV/AIDS and COVID-19) may pose an existential risk to a State. The Council has discussed security threats in this wider sense, and such matters have been included on its agenda. However, the Council's involvement with some issues has been controversial (such as climate change), and there is disagreement about what action, if any, the Council should take.

"Purposes and principles"

The Council is required under Article 24(2) to act in accordance with the "purposes and principles of the United Nations". These are set out in the Preamble and more specifically in Article 1 on "Purposes", and Article 2 on "Principles", and in some other articles of the UN Charter. In the broader framing, there are around 19 purposes and principles. In order of appearance, they include:

Preamble

- Saving succeeding generations from war.
- Faith in fundamental human rights and equality of men and women.
- Equality of States large and small.
- Maintaining justice and respect for international law.
- Promoting social progress and better standards of life in larger freedom.
- Practising tolerance and living in peace as good neighbours.
- Uniting to maintain international peace and security.
- Ensuring that force is not used except in the common interest.
- Promoting the economic and social advancement of all peoples.

Article 1 (the Purposes)

- Taking effective collective measures for the prevention and removal of threats to the peace.
- Developing friendly relations between States.
- Respecting equal rights and self-determination of peoples.
- Cooperation to solve economic, social, cultural and humanitarian problems.
- Promoting human rights and fundamental freedoms for all.

Article 2 (the Principles)

- Sovereign equality of all UN Members.
- Fulfilling Charter obligations in good faith.
- States settling disputes peacefully and not endangering international peace and security and justice.
- States refraining from the threat or use of force against any State's territorial integrity or political independence.
- States giving every assistance to the UN and not assisting States against which the UN is taking action.
- The UN not intervening in or requiring settlement of matters essentially within the domestic jurisdiction of any State, other than enforcement measures under Chapter VII.

The Council's practice suggests that to "act in accordance" with the purposes and principles means to account for them in Council debates, promote them, and not infringe on them in decisions. However, the purposes and principles are also broad and general, and at times may be in tension with each other. For example, the principle of State sovereignty, territorial

integrity and non-intervention can conflict with human rights and self-determination.

The dynamics and tensions between various purposes and principles often feature in controversial issues before the Council. A balance must be struck in each individual case. While debating proposals for Council action on specific issues, members often gravitate to the principles and purposes that favour their immediate political positions and interests.

Legal limitations

The unique combination of the UN Charter's interpretative tools helps to provide the Council with significant powers – the Council determining its own competence, the implied powers doctrine, and the role of practice in determining powers. As the International Court of Justice (ICJ) stated in the *Certain Expenses* advisory opinion: "when the Organization takes action which warrants the assertion that it was appropriate for the fulfilment of one of the stated purposes of the United Nations, the presumption is that such action is not ultra vires the Organization".

As a result, it is not easy to conceive of a Council decision that would be politically agreed but considered unlawful by the UN membership or the ICJ. However, in exceptional circumstances, regional and national courts have rejected as unlawful a Member State's implementation of a binding Council decision. This has occurred most notably in the context of due process concerns with implementation of the Council's terrorism designations. Such decisions led to the eventual establishment of the Ombudsperson's Office and the Focal Point for De-listing individuals against whom sanctions were imposed under resolutions 1267, 1989 and 2253.

While the broad obligation to act in accordance with the Charter's purposes and principles leaves much room for interpretation, it nevertheless serves to impose some constraint on the Council's relatively unfettered discretion to decide how it will respond to threats to international peace and security. In carrying out its functions, there is no doubt that some Council decisions have gone beyond the Charter's text and drafters' intent. For example, this has occurred in the development of UN peacekeeping; the general legislating for counter-terrorism obligations in the absence of a multilateral treaty; judicial-type decisions relating to State borders and international liability and reparations (such as for Iraq); the establishment of international criminal tribunals; and immunity of UN peacekeepers from ICC jurisdiction. Such decisions have been largely accepted and implemented by the UN membership.

As yet, while reserving the right to review certain Security Council actions, the ICJ has not found that the Council has exceeded its jurisdiction and powers (see the *Lockerbie* and *Bosnian Genocide* cases). The ICJ's position on future Security Council actions cannot be predicted, but the possibility remains that such actions may be scrutinized by the Court. In this regard, both political and legal checks and balances are important for managing the Council's exercise of powers.

INTERNATIONAL LAW AND COUNCIL DECISION-MAKING

Binding decisions

International law is important for the constructive and enabling role of the Council. The Council may adopt binding decisions or non-binding recommendations. Where there is a political will to reach a binding decision, the policy objective must be translated into an appropriate legal text. While resolutions and Presidential Statements (PRSTs) are both formal products of the Council, it is typically resolutions that contain the decisions with a binding effect. However, there have been PRSTs that have included language commonly associated with a binding decision (for example, PRST/1994/1 and PRST/2015/5).

The UN Charter outlines the requirements for a binding Council decision. Article 25 provides that the UN Members "agree to accept and carry out the decisions of the Security Council in accordance with the present Charter". The requirement on Member States to carry out Council decisions is reinforced in Article 48. In addition, the Council's powers under Chapter VII are expressly stated as to "make recommendations, or decide what measures shall be taken". To understand whether the Council has taken a decision that is binding requires the interpretation of the resolution or statement and in particular the specific text in question. The ICJ stated in its Namibia advisory opinion that this is done by "having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council".

Once the Council adopts a binding decision, it is most commonly government ministries of UN Member States, such as for foreign affairs and justice, that interpret and apply the binding decisions in their national laws and policies as required under Article 48. Less frequently, the interpretation and application process is carried out by national courts or international tribunals. Furthermore, the Council's binding decisions apply to UN Member States and the UN Organization itself, but they may also bind non-State actors, such as armed groups in an intra-State conflict. The Council has indicated this, for example, by directing its decisions to "all parties" to a conflict or dispute.

There are three main elements that, taken together, clearly indicate a legally binding decision in a resolution adopted by the Council:

1. **Existence of a threat to the peace, breach of the peace, or act of aggression:** The Council must determine that such a threat exists, under Article 39, to adopt binding measures of enforcement under Chapter VII. This may be expressed in different terms (such as "determining" or "determines" a "threat to international peace and security" or "threat to regional peace").

2. **Acting under Chapter VII:** The Council commonly indicates that it is acting under Chapter VII in the final preambular paragraph of a resolution containing a binding decision. This may also be satisfied by a reference to Articles 40, 41 or 42 from Chapter VII. However, and less commonly, it appears that the Council may make

decisions that are not under Chapter VII that are nevertheless binding (see the ICJ's Namibia advisory opinion of 1971).

3. **Language of a binding decision:** For the Council to take a "decision" within the meaning of Article 25, it is necessary to identify the specific text of the binding decision. In this regard, the clearest binding language on Member States is "decides" and "authorizes" (often for peace/other operations). The language "requests" is mandatory, in an institutional context, if it is directed to the Secretary-General/UN Secretariat. The language that Member States "shall" is also indicative of a binding decision, in contrast with the use of "should". A decision to authorize the use of force by a UN peace operation, or a non-UN operation, usually refers to "all necessary means" or "all necessary means to carry out its mandate". Other terms such as "empowered" and "demands" have been previously used to indicate a binding decision. "Calls upon" when used is not commonly understood as binding, although it depends on the broader context. In contrast, the terms "encourages", "invites" and "urges" typically indicate a non-binding decision.

Given the political nature of Council negotiations, the above elements operate only as a general guide. In some circumstances, for example, if elements 1 (the threat) and 3 (binding language) are present in a decision, it may be possible to either do without or imply element 2 (Chapter VII). The Council's practice over time has developed to largely following the three elements when a binding decision is intended. However, in recent times, the Council has sometimes deliberately excluded a reference to Chapter VII despite the use of language intended to be binding. Clearly, there are circumstances in which constructive ambiguity concerning a resolution's binding effect has been necessary to reach Council agreement. In addition, the presence of a binding element within a Council resolution does not make the whole decision binding in its entirety, only the applicable components of the decision.

International law in Council decisions

The Council's resolutions may reference and engage elements of international law, whether or not they contain binding decisions. In this regard, a Council resolution may not only impose obligations, it may determine facts and refer to applicable law, including violations thereof, and also promote legal objectives. Broad references to international law often appear in preambles, whereas specific legal claims may appear in operative paragraphs. The main areas in which international law is commonly engaged, and may require international legal advice, are indicated below. This list is neither exhaustive nor does it provide categories which are completely distinct from each other:

- **Sovereignty and territorial integrity:** Territorial disputes, self-determination, and cross-border access for humanitarian aid.
- **Use of force at inter-State level:** Use of force by one State/entity against another, a violation of Article 2(4) or non-intervention, including through proxies/armed groups.
- **UN peace operations and non-UN forces:** Mandates and authority, status of forces/mission agreements, territorial administration, and protection and accountability of operations' members.
- **International human rights, humanitarian and refugee law:** Investigating or acting on serious violations, establishing commissions of inquiry, restatement that the parties must abide by these obligations.
- **Disarmament and non-proliferation:** Obligations under UN Security Council resolution 1540, prohibited weapons, non-proliferation and investigations.
- **Counter-terrorism:** Obligations under UN Security Council resolutions 1373, 1540, 1267, 1989 and 2253 on criminalization, financing and other sanctions.
- **Peaceful settlement of disputes:** Mediation, inquiry and/or referral for judicial settlement including by the ICJ.
- **International criminal justice:** Cooperation with, and referrals to, the International Criminal Court (ICC), mandating of international criminal tribunals, transitional justice, and other related processes.
- **Sanctions regimes:** Addressed to States and to be imposed including on armed groups and individuals/leaders through arms embargoes, freezing of assets, travel bans and restricting financial enablers of conflict (such as oil, charcoal, minerals).
- **Peace and political agreements:** Negotiation, monitoring, electoral support, assistance in implementation and enforcement.
- **Other legal/political principles**: Protection of civilians, responsibility to protect (R2P), extradition or prosecution, rule of law.

COUNCIL PROCEDURE

Under Article 30 of the UN Charter, the Council is the master of its own procedure. The Council's procedure is reflected in its Provisional Rules of Procedure and the practice it has developed over time. This is a vast and complicated topic, some of which is further discussed in this *Handboo*k and is covered in detail in the Further reading section.

Council Members' delegations that are skilled in procedure can be effective at promoting, but also frustrating, the Council's work. Unsurprisingly, the political positions of Council Members on an issue will often play out on matters of procedure. Due to their continuity, the P5 often have an advantage in mastering the Council's procedures as compared to the elected members.

The Charter creates a basic procedural framework within which the Council must carry out its functions. This framework includes that:

- The Council's meetings may be convened at any time (Article 28(1)).
- "Periodic" meetings can be held at which each Council Member may be represented (only used once in 1971, and the Council now functions continuously) (Article 28(2)).
- Meetings may be held away from UN Headquarters (Article 28(3)).
- The Council may establish subsidiary organs (Article 29).
- The Council adopts its own Rules of Procedure (Article 30).
- The Council may invite any UN Member State to participate in the discussion of a question when the Council "considers that the interests of that Member are specially affected" (Article 31).
- Any State which is "a party to a dispute under consideration … shall be invited to participate" in the Council's discussion relating to the dispute (Article 32).

The Council establishes "subsidiary bodies" under its direct authority and comprised of its members, such as sanctions and counter-terrorism committees, and working groups. Reflecting a broader interpretation of "subsidiary bodies", the Council has also established peace operations, international criminal tribunals, commissions, good offices missions, special representatives' offices, an ombudsperson, sanctions monitoring groups and expert panels, and other individual offices or groups requested to perform specific tasks.

Some of the subsidiary bodies are mandated with full independence from the Council, such as the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. Each subsidiary body that is a sanctions or counter-terrorism committee comprised of all Council Members has adopted its own guidelines governing its practice and procedures. Some, but not all, of the thematic subsidiary bodies comprised of all Council Members have also adopted guidelines. However, the meetings and work of these bodies are generally informal, and not all procedural issues that may arise will be addressed by such guidelines.

Arguably, the Council's single most effective legal and political feature is the veto, which derives from Article 27(3) of the UN Charter. The veto pervades the work of the Council and is applied across different aspects of the Council's work. It enhances the power of the P5 relative to elected members and other stakeholders, and because it can play a role in election and re-election of the Secretary-General, it also affects the UN Secretariat at the highest levels.

Article 27 of the Charter provides:

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members;

provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

The distinction between "procedural matters" and "all other matters" in Article 27 is important, given that the veto does not apply when the Council votes on procedural matters.

Interpretation of "procedural matters" in Article 27(3)

Under the Council's early practice, there were several cases in which whether an issue was procedural or non-procedural (the "preliminary question") was determined by the veto (the so-called "double veto"). The Council now has considerable practice on what issues are procedural or substantive. As such, a double veto has not occurred since 1959. The issues that are commonly understood in the Council's practice to be procedural include:

- The inclusion of an item on the agenda for the consideration of the Council.
- A submission to the UN General Assembly (UNGA) of questions relating to the maintenance of international peace and security.
- A request that UNGA make a recommendation on a dispute or situation (including a request for an Emergency Special Session on a specific matter).

In 1949, UNGA in resolution 267(III) had recommended to the Council that it consider as procedural a detailed list of issues that included the issues above, but also the Council's establishment of a subsidiary organ. In the practice of the Council, however, the establishment of such subsidiary organs has become commonly understood to be a substantive matter, not procedural as recommended by UNGA.

More recently, UNGA adopted resolution 76/262 (2022), which requires the President of the General Assembly to convene a formal meeting of UNGA within 10 working days of the casting of a veto by one or more permanent members. It also invites the Council to submit a special report on the use of the veto in question for UNGA debate. The practice on the interpretation and application of this UNGA resolution remains to be developed.

Interpretation of Article 27 abstention and absences

Article 27 addresses the issue of abstentions in only a limited way. Initially in Council practice there was uncertainty about whether a permanent member's abstention on a non-procedural matter constituted a veto. Ultimately, it has become accepted Council practice that the proper interpretation of Article 27 is that permanent members, like elected members, are entitled to cast an abstention (that is, a nuanced vote that expresses a measure of disagreement but also allows acquiescence to the resolution's adoption). This has also been confirmed by the ICJ in its ruling in the Namibia advisory opinion. Accordingly, an abstention by a permanent member is a "concurring" vote and, therefore, is not a veto under Article 27(3). Similarly, under Council practice, a permanent member's absence is also not interpreted as a barrier to the adoption of a Council decision.

The matter of abstentions also arises under the proviso to Article 27(3). This requires all members, including permanent members, that are "a party to a dispute" to abstain if the decision is under Chapter VI (on "Pacific Settlement of Disputes") or Article 52 (on regional

arrangements). However, the proviso's application has been rarely discussed in the Council. The Council does not appear to have applied Article 27(3) to some vetoes on matters of substance, where it appears permanent members were party to a dispute, with vetoes being cast in respect of situations concerning the Suez (by the United Kingdom and France), Georgia, Ukraine and the Democratic People's Republic of Korea (by Russia), and Libya, Grenada, Nicaragua and Panama (by the United States).

Rules of Procedure

The Council's Provisional Rules of Procedure were last amended in 1982 (S/96/Rev.7) and now contain 60 Rules and one Appendix. In practice, the Rules of Procedure are not provisional, they are treated as being in full and continuing effect.

The Chapters in the Provisional Rules of Procedure address the following topics: (i) Meetings; (ii) Agenda; (iii) Representation and Credentials; (iv) Presidency; (v) Secretariat; (vi) Conduct of Business; (vii) Voting; (viii) Languages; (ix) Publicity of Meetings, Records; (x) Admission of New Members; and (xi) Relations with Other United Nations Organs; and an Appendix on dealing with communications from private individuals and non-governmental bodies. Since 1982, the Rules have been twice updated, but in each instance by Presidential Notes (S/26389 and S/2019/996).

As the UN Charter and the Provisional Rules of Procedure are neither comprehensive nor exhaustive, the Council's practice and prior decisions are essential for determining its procedure. In this regard, the President of the Council has issued Note S/2017/507 and 13 subsequent Presidential Notes which contain extensive guidance on the Council's working methods. The Notes' provisions are "intended to be a concise and user-friendly list of the recent practice and newly agreed measures, which will serve as a guide for the Council's work". The 23-page Note S/2017/507 builds on and consolidates the Council's practice and working methods, including as agreed through the work of the Informal Working Group on Documentation and Other Procedural Questions. Note 507 has been updated numerous times prior to 2017 and is expected to updated again in the future.

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PART 1 – THREATS

UNDERSTANDING CONFLICTS AND IDENTIFYING OBJECTIVES

PART 1 – THREATS: UNDERSTANDING CONFLICTS AND IDENTIFYING OBJECTIVES

A thorough understanding of the features and likely trajectory of a conflict, as well as clarity of conflict management objectives, is critical to designing tailored conflict management strategies. This part of the *Handbook* considers the ways in which threats to international peace and security have evolved and some of the ways in which the Security Council has responded to them. It sets out some of the elements that may shape individual member or collective Council assessment of a particular crisis or conflict as well as the objectives that the Council may seek to pursue in tackling conflicts it has designated threats to international peace and security.

THE EVOLUTION OF THREATS TO INTERNATIONAL PEACE AND SECURITY

The prevention of large-scale conflicts between States was the primary purpose of the United Nations (UN). The founders of the UN were driven by the devastation of World Wars I and II – the "scourge of war" – which, as the Preamble to the UN Charter notes, "twice in our lifetime has brought untold sorrow to mankind". Unsurprisingly, therefore, the Charter focuses on the threats posed by disputes between States, setting out rules and norms for State behaviour and mechanisms to regulate disputes between them.

The Council's approach to threats to international peace and security has evolved and expanded considerably since 1945. It concentrates more today on threats from conflicts within States and actors other than States, in particular violent armed groups operating in and across States. It has tackled destabilizing consequences of conflict, including large-scale displacement and movement of people as a result of war, and the disproportionate ways in which armed violence affects women, girls and children. It has examined the threats posed by the unregulated spread or use of weapons – conventional as well as nuclear, chemical and biological – and the tactics used by conflict parties, including sexual violence and the denial of access to food. More recently, the Council has recognized that hate speech, racism, racial and gender discrimination, and acts of extremism can contribute to the outbreak, escalation and recurrence of conflict. It has also sought to grapple with the impact of systemic changes – such as climate, infectious diseases and information technology – on existing or potential conflicts.

This expansion in understanding of threats and possible responses to them is sometimes explained in terms of the state of relations among members of the Council, in particular, the five permanent members (P5). The end of the Cold War undoubtedly enabled the Security Council to forge more frequent consensus on threats to international peace and security and to agree on collective response measures. Renewed divisions between major States in the decades since 2010 have made it harder to achieve consensus on what constitutes such a threat or how to respond. This is reflected in the decline in the Council's engagement on ongoing crises on its agenda, the relative lack of new conflict-related

issues it is taking up, and the expanded use of the veto by the Council's five permanent members.[1]

Yet the Council's approach has also been shaped by wider developments and changes in the sources and character of threats to international peace and security and the ways in which they affect the planet, regions, States and people. Many of the tools developed and deployed by the Council reflect efforts by States and other intergovernmental organizations to respond to these changes, some of them profound, over more than 75 years. The most significant of these long-term trends, from the perspective of the Council's role in peace and security, are: (i) the decline in incidences of major armed conflict between States; (ii) the increase in intra-State conflicts; (iii) changes in the character and techniques of contemporary conflict; and (iv), the rise of non-State and unarmed threats to international peace and security.

The decline of wars between States

One of the most striking features of warfare since the mid-1970s has been the decline of incidences of major inter-State conflict. Since the 1990s, the number of active conflicts between States has remained between one and three per year.[2] Such incidences, while fewer in number, have typically been more intense and destructive than other forms of armed violence with significant and far-reaching domestic and international consequences.

Many explanations are offered for the decline of large-scale war between States, from the end of European colonialism to the existential threat produced by the development of nuclear weapons; from the decreasing utility of war in an era of global economic interdependence to normative changes in many societies regarding crimes of mass atrocity and attacks against civilians; from the distribution of power in the international system to the character of domestic political systems.[3] The UN Charter's prohibition of armed attacks by one State on another, the Council's role in addressing conflict and the dense network of international institutions that helps govern political, security, economic, social and environmental relations between States may also have contributed to raising the threshold for inter-State war.

A major feature of the post-1945 international order has been the decline of cases of States seeking to forcefully acquire territory or go to war over disputed territory or borders. Yet long-standing unresolved territorial and boundary disputes remain a source of recurrent inter-State clashes that can quickly escalate into major conflict, such as the outbreak of fighting between Armenia and Azerbaijan in 2020 or the 1998–2000 war between Ethiopia and Eritrea. In some instances, States have evoked new territorial claims to defend the

1 For details on the questions considered by the *Council see the Repertoire of the Practice of the Security Council*, available at https://www.un.org/securitycouncil/content/repertoire/agenda-items-overview.

2 Data on armed conflicts is drawn from the Uppsala Conflict Data Program (UCDP) and its yearly datasets, https://www.pcr.uu.se/research/ucdp/.

3 John Mueller, *The Obsolescence of Major War,* Bulletin of Peace Proposals, vol. 21, no. 3 (1990), 321–328; Francis Fukuyama, "The End of History?", *The National Interest*, 16 (1989), 3–18; Steven Pinker, "The Better Angels of our Nature: Why violence has declined", (2011); Nils Petter Gleditsch, Steven Pinker, Bradley A. Thayer, Jack S. Levy and William R. Thompson, "The Decline of War", *International Studies Review*, vol. 15(3) (2013), 396–419.

use of force against another State, such as Iraq's 1990 invasion of Kuwait. While the direct causes of the Iraqi invasion were disputes over financial debt and levels of oil production, Iraq claimed that historically, and prior to colonialism, Kuwait had been an integral part of its territory. Similar references to alleged historical unity have been made in the context of Russian actions toward Ukraine since 2014, notwithstanding Russia's recognition of Ukraine's territorial integrity in 1994.[4]

The decline in active inter-State hostilities does not mean that the threat of war has been overcome. Some experts argue that a higher threshold for conflict has led to the proliferation of tools for the conduct of hostilities by other means including economic blockades and sanctions, cyber and hybrid attacks on military or civil infrastructure, or propaganda and misinformation activities. The lack of agreed rules and norms regulating the use of such tools and the potential for States to misinterpret the intent or signals behind them have raised concerns that disputes between States today face more risk of escalation than in the past.[5]

States involved in instances of major armed conflict since the end of the Cold War have tended to use three principal arguments to justify armed attacks on other States. The first is self-defence. The incursion of Ugandan and Rwandan military forces into the eastern Democratic Republic of the Congo (DRC) in 1996, which expanded the ongoing civil war in that country, was justified by these countries as a response to perceived threats to their security from armed groups in the DRC (an argument subsequently rejected by the International Court of Justice (ICJ) in the case of Uganda). Rwanda also defended its incursion in terms of protection of threatened ethnic communities there. The United States-led invasion of Afghanistan in 2001 was triggered by the 9/11 attacks on United States territory by the Afghanistan-based Islamic extremist armed group, Al-Qaida, and the Taliban authorities' refusal to expel the group from the country. The United States position was that its use of force was based on Article 51 of the UN Charter and, in subsequent resolutions 1368 and 1373, the Council recognized the applicability of the right of self-defence in this context.

A second reason given by States to defend an armed attack on another State is the protection of civilians under imminent threat of violence. This was introduced as an issue on the agenda of the Council in 1999.[6] The use of force by NATO against the Federal Republic of Yugoslavia (Serbia) in 1999 and against Libya in 2011 was presented – and in the case of Libya, authorized by the Council – as a response to the threat of major violence to civilians from State forces in these countries. The Russian Federation defended its annexation of the Crimean Peninsula from Ukraine in 2014 as support to the self-determination of Russian-speaking populations

4 Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, December 1994, A/49/765.

5 See for example David E. Sanger, *The Perfect Weapon: War, Sabotage and Fear in the Cyber Age* (New York, Crown, 2018); James M. Acton, "Escalation through Entanglement: How the Vulnerability of Command-and-Control Systems Raises the Risks of an Inadvertent Nuclear War", *International Security*, 43 (1) (2018): 56–99.

6 Resolution 1265 introduced protection of civilians as a thematic issue on the Council agenda and marked the start of the Council's authorizing relevant UN peacekeeping operations to use force to protect civilians under "imminent threat of physical violence", S/RES/1265 (1999).

in the region and to their defence from undefined "extremists". It presented its 24 February 2022 invasion of Ukraine as a step to "demilitarise and de-Nazify Ukraine" in order to protect people subjected to alleged bullying and genocide by Ukraine's democratically elected Government. By March 2022, Russia had declared its objective to be the "liberation" of Ukraine's eastern regions of Luhansk and Donetsk. This has become the most significant inter-State war over territory since 1945.

On one occasion since the end of the Cold War, a State has attacked another with the stated goal to enforce Council decisions. The United States stated the goals of its 2003 invasion of Iraq as being to "disarm Iraq of weapons of mass destruction, to end Saddam Hussein's support for terrorism, and to free the Iraqi people". It framed its actions with reference to the calls in Council resolutions 678 and 687 to use all necessary means to compel Iraq to comply with its international non-proliferation obligations.

Despite the UN Charter's focus and intent, the Council has found it difficult to address war between States regularly or systematically. Some territorial and boundary disputes, for example, the situations in Jammu and Kashmir and in Nagorno-Karabakh, are long-standing items on the Council's agenda but are rarely taken up and have seen little progress towards resolution. In some cases where there has been broad agreement among the permanent members, such as in the 1990 Iraq–Kuwait war, the Council has acted decisively and authorized a collective security response. But where the interests of a permanent member are directly involved or where there is no consensus among the permanent members, the Council has had limited impact addressing or resolving the conflict. In such instances, the threat or use of vetoes by one or more permanent members prevents the Council from authorizing action, such as the 1999 Kosovo crisis, the 2014 Russian annexation of Crimea, and the 2022 Russian invasion of Ukraine. Even attempts in such situations to adopt Security Council decisions in accordance with Chapter VI have faced challenges. This is despite Article 27(3) of the Charter which provides that a permanent member which is a party to a dispute must abstain on any Council decision under Chapter VI. It should not have a right of veto in that case.[7]

Council actions in most situations of large-scale inter-State conflict tend to be limited and focus on mitigating the consequences of violence and/or supporting settlements agreed outside of the Council, as for example, in UN peace operations deployed in the aftermath of the Ethiopia–Eritrea war and the United States-led invasion of Iraq, or endorsement of the 2020 United States–Taliban peace agreement.

In recent decades there has been a modestly growing trend for States to refer classic boundary and territorial disputes to the ICJ and the Court has been active in helping to address such disputes. However, the Court's jurisdiction is effectively limited in most such cases to situations where both parties agree to seek its assistance. On the occasions that the Council has addressed violent inter-State disputes, it has not drawn on the legal advice of

7 The 7 June 1945 San Francisco "Statement on Voting Procedure in the Security Council" by China, the UK, the US and the USSR, which sought a narrow interpretation of Article 27(2) on what constitutes a procedural matter, seems to anticipate that the proviso in Article 27(3) would be effective to block a veto.

the ICJ.[8]

The Council's inability to act in many situations of large-scale conflict, the use of the veto by permanent members to prevent action in conflicts where they have a stake, and in particular Russia's use of the veto to prevent the Council addressing the situation in Ukraine, led the General Assembly in April 2022 to vote to formally convene to consider situations where one or more permanent members of the Council casts a veto.[9] These limitations have raised profound questions as to the future authority and relevance of the Security Council – and thereby the wider UN – in addressing threats to peace and security.

The increase in intra-State conflict and related violence

While wars between States have declined, the overall number of conflicts around the world has risen since the establishment of the UN. In 2021, there were 54 active armed conflicts underway, more than at any time since the end of World War II. The vast majority of these are conflicts within States, of which more than half are in Africa.[10]

Civil wars are sometimes examined as a relatively new feature of international affairs, a consequence of the post-Cold War period and the break-up of the Soviet Union and the former Yugoslav federation. But conflict within States has consistently been the most frequent type of armed conflict since 1946. As the number of States expanded from 51 to 193, so too have the number of conflicts within them. What has changed over the past almost 80 years is the range and complexity of civil wars and the engagement of the Security Council in trying to address them.[11]

The end of the Cold War in 1989 increased the demands and opportunities for the Council to engage on civil wars. Initially, this engagement was in support of the disengagement of proxy Cold War conflicts such as Angola, El Salvador, Namibia and Nicaragua. But as the Council noted in 1992, "the absence of war and military conflicts among States does not in itself ensure international peace and security".[12] From the mid-1990s, the Council's approach to civil war was driven by the threat of an internal conflict spilling beyond its borders to neighbouring countries and dominated the Council's initial response to wars in Bosnia and Somalia. The second and subsequent factor driving Council engagement was the human impact of intense fighting, especially in the wake of the Rwanda and Srebrenica genocides.[13]

These two concerns shaped the Council's efforts to regulate and limit the intensity of the

8 Brian Taylor Sumner, "Territorial Disputes at the International Court of Justice", Duke Law Journal, vol. 53, no. 6 (2004); Security Council Report, *In Hindsight: The Security Council and the International Court of Justice*, (2017), https://www.securitycouncilreport.org/monthly-forecast/2017-01/in_hindsight_the_security_council_and_the_international_court_of_justice.php.

9 A/77/L.52 26 April 2022.

10 Shawn Davies, Therese Pettersson and Magnus Öberg, "Organized violence 1989–2021 and drone warfare", *Journal of Peace Research*, 59(4) (2022), 593–610, and Uppsala Conflict Data Program.

11 There were four civil wars on the agenda of the Council in 1989, see Christoph Mikulaschek, James Cockayne, and Chris Perry, T*he United Nations Security Council and Civil War: First Insights from a New Dataset* (International Peace Institute, 2010).

12 United Nations Security Council Summit Statement Concerning the Council's Responsibility in the Maintenance of International Peace and Security, *International Legal Materials*, 31(3) (1992), 758–762.

13 See for example S/RES/918 (May 1994).

conduct of hostilities. Well-documented failures to prevent deadly mass violence led the Council to re-evaluate its approach to civil wars, especially the objectives, design and activities of UN peacekeeping operations, through the 2000 Brahimi Report as well as the adoption of the Responsibility to Protect doctrine in 2005. The scale and impact of fighting on human suffering has remained a dominant consideration in the Council's determination of what civil wars constitute a threat to international peace and security and how it might respond, although divisions on the Council especially over Syria have made it harder to reach a consensus. The Council's attention has also expanded to include efforts to resolve conflicts and, increasingly, to supporting the maintenance of peace after the negotiation of a conflict settlement.

Key trends in contemporary armed conflict

Intra-State conflict is increasingly difficult to characterize. The range of State and non-State actors involved in wars such as those in Syria, Libya and Yemen, or the cross-border incursions that feature in conflicts such as in Mali and the Sahel region, highlight how blurred the boundaries between internal or international conflict can become. Violent clashes between nomadic Fulani herders and communities across many parts of western Africa, or the rise of global networks of violent extremist groups such as Al-Qaida and the Islamic State of Iraq and Syria (ISIS), point to the transnational dimensions of conflict that make patterns of violence harder to predict. The interplay between political, economic and criminal agendas in environments as diverse as the Central African Republic (CAR), the Democratic Republic of the Congo (DRC), Colombia and Haiti show how organized violence can take on many forms even within a single conflict environment. These examples highlight the difficulty of applying tidy labels or neat descriptions to diverse conflicts.

Some of the key trends in contemporary armed conflict with which the Council has sought to grapple, with varying levels of success, include:

Internationalization of intra-State conflict

The intervention of external States on one or both sides of an intra-State conflict is one of the most striking trends in contemporary conflict. In 1991, 4 per cent of civil wars involved the deployment of external State forces. By 2020, 45 per cent of active civil wars involved the military participation of outside governments.

The conflict in Syria illustrates some of the implications of the involvement of external State troops and firepower. One is the potential for more diversified and intense warfare, as a greater range of weapons and modes of warfare are introduced.[14] This can have significant impact on the lethality of conflict, as the more than 350,000 civilians killed in Syria attest. Internationalized intra-State conflicts in Afghanistan and Yemen reflect similar patterns of lethality and blur distinctions between what we understand to be international and civil conflict.

The involvement of other State parties can also extend the duration of a conflict, providing materiel and other support to parties that otherwise might be forced to concede or withdraw

from fighting. They often have a profound effect on the social and economic structures of the conflict country in question as political, trade and economic relations evolve to reflect and leverage proxy support and dependencies. Practically, the involvement of multiple States complicates the organization and conduct of peace negotiations and can give rise to parallel or even competitive peacemaking initiatives, as Libya's various peace processes illustrate. Internationalized civil conflicts pose particular challenges for the Council, not least as in many such instances, permanent members or close allies of them number among the external actors involved.

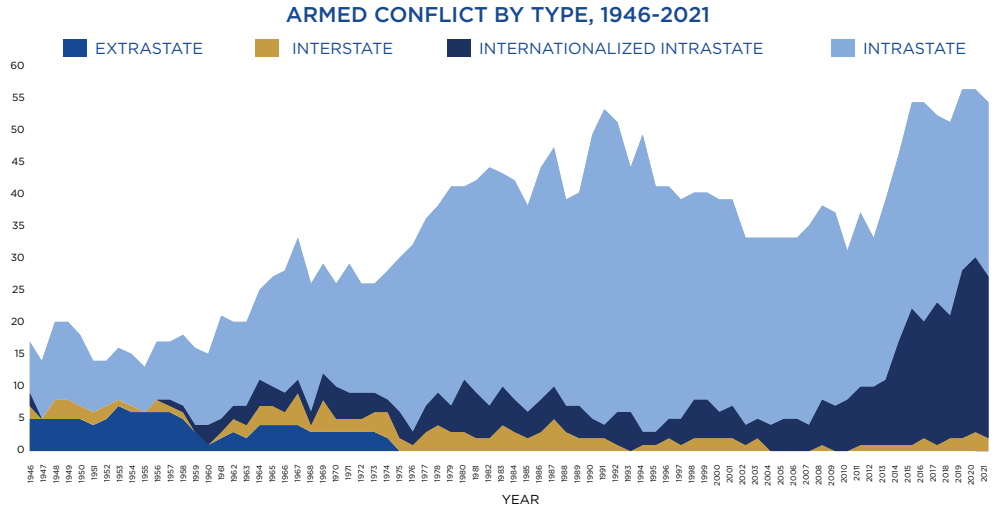

Figure 1. Armed conflict by type 1946–2021[15]

Increase in the number and diversity of non-State armed groups

Intra-State conflict involves at least one non-State actor pitted against a State authority. What distinguishes contemporary conflict is the scale and variety of non-State armed groups fighting and the international connections of many of these groups. The brutal conflicts in the former Yugoslavia and the horrors of the 1994 Rwandan genocide led many to explain the growth of non-State armed groups in terms of ethnic identities and grievances.[16] While ethnic, tribal, religious and other group associations are critical features of many internal conflicts, identity does not explain the proliferation of all rebel groups, warlords, militias and criminal gangs in conflicts today. Many such groups use organized violence routinely against civilian populations, competing groups or State forces in the pursuit of narrow group goals, whether economic, social or security. In such instances, the prevalence of non-State armed groups may be less a reflection of grievances against any one State and more a consequence of the lack of State presence or ability to deliver basic services, including security.

The "greed over grievance" debate highlights the ability of non-State armed groups to

15 Supra note 10 and https://ucdp.uu.se/downloads/charts/graphs/png_22/armedconf_by_type.png.

16 Charles King, "The Myth of Ethnic Warfare: Understanding Conflict in the Post-Cold War World", *Foreign Affairs*, Nov/Dec 2001.

access weapons, funding and resources as a consequence of the globalization of capital and markets, licit and illicit.[17] Transregional trafficking routes such as those across the Sahel region facilitate contact and trade in contraband goods and enable non-State actors to grow and extend their reach. Natural resource-rich environments provide durable sources of revenue as global demand for minerals grows. Lucrative criminal networks are difficult to combat not just because of their scale and resources but because they are dynamic and able to adapt to changes in the local and regional environments. The proliferation and fragmentation of non-State armed groups in eastern DRC is one such example.[18] Co-option and corruption can further weaken the legitimacy and authority of State institutions to counter them, as the collapse of internationally supported Governments in Afghanistan and Mali has demonstrated.

Since 2001, the rise of global networks of violent jihadist groups, advocating a pan-Sunni identity and the establishment of a global caliphate, has dominated international attention. These loosely connected groups have spread beyond Muslim majority countries, often exploiting local grievances, as in the case of the ISIS affiliate-led insurgency in northern Mozambique, and drawing on international networks for recruits and funds. In pursuing an extra-national agenda – the creation of a global caliphate – violent jihadism goes beyond intra-State conflict as the presence of ISIS in Syria and Iraq illustrates. Yet in seeking to occupy territory and govern by the application of an extreme interpretation of Sharia law, the focus of such groups is internal – often highly localised – and resistant to standard multilateral responses, as the example of Boko Haram in northern Nigeria shows. The maximalist demands of such groups, meanwhile, can make them resistant to negotiated outcomes and, in turn, make States reluctant to seek compromise with them.

Decline in the intensity of conflict but increased impact on civilians

The decline in major armed conflict between States, and the mass mobilization that they involve, has lowered the overall number of troops and civilians killed in war. Most intra-State wars are relatively low-intensity, with a small number of conflicts accounting for 80 per cent of annual battle-related deaths.[19] However, conflicts in Syria and Afghanistan, and extensive use of aerial bombing in each, have driven up the number of people killed in war in 2013–2015 to figures not recorded since the early 1990s. The current inter-State conflict in Ukraine is likely to drive a significant rise in battle-related deaths from 2022.

17 Paul Collier and Anke Hoeffler, "Greed and Grievance in Civil War", Policy Research Working Paper no. 2355, World Bank (2000); Mary Kaldor, *New and Old Wars: Organized violence in a global era*, 3rd ed. (Cambridge, Polity Press, 2012).

18 See for example Adam Day, *States of Disorder, Ecosystems of Governance: Complexity Theory Applied to UN Statebuilding in the DRC and South Sudan* (Oxford, Oxford University Press, 2022).

19 Supra note 10.

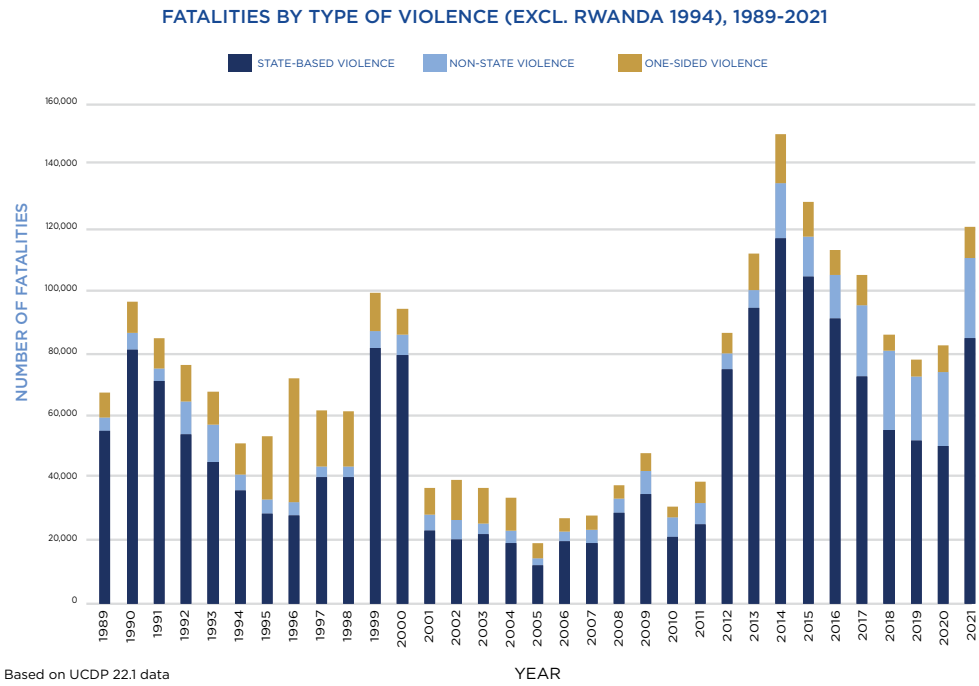

Figure 2. Fatalities by type of violence 1989–2021 (excluding Rwanda 1994)[20]

Yet deaths alone do not capture the scale or impact of conflict on societies. Dense, increasingly urban populations are often directly affected by the physical destruction caused by artillery and air firepower and further affected by the disruption to utilities and social services. Rural populations are more severely affected by disrupted supply chains and markets with limited access to services. In 2015, the number of people forcibly displaced reached levels not seen since World War II. The numbers have continued to rise and are currently around 82.4 million. More than two thirds of these people came from just five countries, including Syria, Afghanistan and South Sudan.[21]

Incidences of purposeful harm to civilians by State and non-State parties, in violation of international humanitarian law (IHL), feature prominently in consideration of contemporary conflict. While the targeting of civilians is not a new feature of conflict, it garners more attention today in part because of greater international awareness – and concern – about the effects of war on communities and civilians, better media access to conflict zones, as well as improved data regarding the effects on civilians. Many of the features of contemporary conflict exacerbate threats to civilians – the proliferation of armed groups and their access to powerful weapons, use of asymmetric warfare tactics by both State and non-State parties which include the use of, and attacks on, civilian infrastructures, weak and disrupted governance, predatory conflict economies and pervasive impunity among belligerents, State or non-State.

20 Supra note 10 and https://ucdp.uu.se/downloads/charts/graphs/png_22/fat_by_tov_excrw.png.
21 UNHCR, Refugee Population Statistics Database, https://www.unhcr.org/refugee-statistics/.

Violations against children during armed conflict, including their forcible abduction to serve as child soldiers, as well the deliberate targeting of schools and hospitals, have been regular issues on the agenda of the Council since 1999 and have become a key feature of the Council's consideration of threats to peace and security. In 2000 the Council's landmark resolution on women, peace and security (S/RES/1325 (2000)) noted the disproportionate ways in which conflict affected women and girls and called for special measures to protect women and girls from the consequences of armed conflict. In 2010, the Council recognized that sexual violence as a tactic of war could "significantly exacerbate and prolong situations of armed conflict and may impede the restoration of international peace and security" (S/RES/1960 (2010)). In all of these cases the Council has sought to tackle purposeful civilian harm through underscoring existing legal obligations on conflict parties, deterring, through inter alia, threats of sanctions, and pursuing accountability, including by tasking the Secretary-General to monitor and publicly report parties that are credibly suspected of attacks against children or conflict-related sexual violence. Effective practical enforcement, however, remains an acute challenge.[22]

Increased incidences of the deliberate use of food insecurity and starvation as a tactic of war, reflected in the rise of hunger among people living in conflict-affected areas after 2015, were taken up by the Council in 2018 as a threat to international peace and security. Resolution 2417 adopted the same approach as that for other harmful threats noted above although in this instance, the Council also indicated its willingness to consider sanctions on individuals or entities obstructing the delivery of humanitarian assistance. As of 2022, one individual (Ag Albachar in Mali) and one entity (Houthis in Yemen) have been sanctioned under this provision. In 2020 the number of people facing acute hunger due to conflict and instability rose by 20 per cent to 88 million.[23]

Some of the most lethal environments today for civilian populations are non-conflict situations in which the Security Council is rarely engaged. Large-scale levels of organized violence are particularly marked in Central and South America where non-State groups vie with each other and against State authorities for control of lucrative drug manufacturing and trafficking. Mexico alone recorded 16,300 violent deaths in 2020, accounting for 71 per cent of recorded global fatalities from non-State violence that year.[24]

Increase in the duration of conflict and decline in the durability of peace settlements

The cumulative effect of the above trends has been to make conflict more protracted and less amenable to settlement. The proliferation of parties in conflict, and the external support that they may receive, makes it difficult for any one side to achieve military dominance,

22 See resolutions 1261 (1999), 1612 (2005) and 2564 (2021). "Perpetrators of Sexual Violence in Armed Conflict Must Be Brought to Justice, Security Council Delegates Demand amid Calls for Explicit Sanctions Criteria", 13 April 2022, https://press.un.org/en/2022/sc14860.doc.htm.

23 UN Office for the Coordination of Humanitarian Affairs (OCHA), "Hundreds of millions of people face hunger as historic food crisis looms", https://humanitarianaction.info/article/hundreds-millions-people-face-hunger-historic-food-crisis-looms, 30 November 2022.

24 Therése Pettersson, Shawn Davies, Amber Deniz, Garoun Engström, Nanar Hawach, Stina Högbladh and Margareta Sollenberg Magnus Öberg, "Organized violence 1989–2020, with a special emphasis on Syria", *Journal of Peace Research*, 58(4) (2021), 809–825; Igarape Homicide Monitor, https://homicide.igarape.org.br/.

much less victory. Unstable balances of force result in recurrent armed clashes that are difficult to anticipate and harder still to overcome. Conflict economies drive continued low-intensity violence on which profitable criminal activity often depends. Such violence in turn undermines the State, further eroding the ability of governments to overcome armed groups and to offer sustainable economic alternatives to crime.

In addition to lengthening conflict, these factors make disputes more resistant to long-term settlement. Even where ceasefires or peace settlements are achieved, around half of all armed conflicts since 1989 have recurred. Of these, 64 per cent are estimated to have returned to violence over the same or overlapping grievances, underscoring the importance, as well as the difficulty, of resolving often long-standing and deep-seated issues of contestation between and within societies.[25] Longer conflicts continue to evolve with new actors and new issues layering over and sometimes obscuring initial root causes, as the conflict(s) in the Central African Republic, Sahel and Syria illustrate. To that extent, addressing contemporary conflict, regardless of its form, may be less about navigating recurrence than understanding and responding to the dynamic ways in which a conflict changes.

This trend in durability and resistance to comprehensive peace settlement has presented significant challenges to increased international policy development and practical engagement in conflict resolution and peacemaking over the past three decades. The conflict mediation field has expanded both in relation to the entities providing peace facilitation services – regional and subregional organizations, individual States, private and non-State individuals and groups – as well in the forms of peace agreements now negotiated. The comprehensive peace settlements authorized or overseen by the Security Council in the 2000s are increasingly rare. Instead, we see far more diverse and diffuse agreements negotiated between belligerents at a range of levels – community, local, national and subregional – many with little or no involvement by the Council and, in some cases, unacknowledged internationally. This more complex peacemaking environment challenges the Council's primacy in managing threats to international peace and security even as it offers opportunities for it to serve as a platform to facilitate, profile and exchange with a diverse range of peacemaking processes and stakeholders.

The Security Council and regional organizations

The UN Charter highlights the role of regional arrangements in addressing the maintenance of international peace and security both in relation to pacific settlement of local disputes as well as enforcement action under the authority of the Security Council (Chapter VIII, Articles 52 and 53). The end of the Cold War led to renewed Council attention on these roles and, in response to the Council's request, the Secretary-General's 1995 Supplement to the Agenda for Peace outlined five forms of cooperation between the UN and regional and other organizations for the maintenance of peace and security. These included consultation, diplomatic support, operational support, co-deployment of peace missions, and joint operations. This was further expanded in 1999 with the articulation of suggested principles and mechanisms for cooperation between the UN and regional organizations in a peacekeeping environment.

Since then, the scope of Council engagement with regional organizations has expanded considerably. The Secretariat submits a biennial report to the Council on cooperation with regional bodies in addition to regular reports on specific bilateral relationships including with the European Union and the League of Arab States. It also submits reports by regional arrangements undertaking peace and security activities under a UN mandate, such as NATO's role in the implementation of the Dayton Peace Agreement in Bosnia and Herzegovina and United States-led international forces in Afghanistan and Iraq.

The partnership between the UN and the African Union has a particular focus of attention given the number of Africa-based peace and security matters on the Council's agenda as well as the scale of practical cooperation between the two organizations,including on mediation initiatives and a joint hybrid peacekeeping operation in Darfur, Sudan (2007–2021), as well as extensive but as yet inconclusive discussions on potential financial support from UN-assessed budgets for AU peacekeeping activities.

Access to new communications and weapons technologies

Contemporary conflicts are fuelled by warring parties' access to a greater range of emerging technologies that previously tended to the purview of State forces. Communicating and shaping public perceptions is an increasingly central feature of contemporary warfare, enabled by tools as simple and accessible as a mobile phone and a social media account. This regularly includes disinformation tactics to undermine the legitimacy and populations' support for opposing parties. Increasingly, mediators and peacemaking at local, national and international levels include efforts to restrain and/or agree basic rules regarding social media and digital information tactics and behaviours.

Affordable and relatively easy-to-use information technologies such as satellites and GPS allow armed actors to track and evade enemies, while unmanned systems, including armed drones, sensors and electronic and cyber technologies enable belligerents to mount attacks on a broader range of targets with greater precision and at less risk to themselves. Access to

such technologies may help level the battlefield between State and non-State armed forces but also increases the destructive as well as escalatory potential of conflict as higher-grade weapons and firepower become more readily available to wider groups.

The Council has struggled to systematically consider the effects of new technologies on conflict not least because all of its permanent members are significant arms producers and invest considerable resources in research and development of lethal technologies for national comparative advantage. In situations where the Council has imposed sanctions or arms embargoes on individuals or groups, dedicated panels of experts often monitor and collect detailed information regarding the weapons and technologies traded and employed by sanctioned entities. Joint mission analysis cells of mandated UN multidimensional peace operations, meanwhile, often monitor and report on weapons and patterns of warfare by conflict parties. Such tracking by the Council remains situation-specific. The Council has, however, recognized the need for UN peace operations and their military and police components to have better access to information and surveillance technologies as well as modern weapons to enable force, mission and mandate protection in hostile environments.[26]

Threats to international peace and security beyond armed conflict

Despite the commitment of the Security Council's 1992 Summit to give priority to non-military sources of instability in the economic, social, humanitarian and ecological fields, only very occasionally has the Council identified non-conflict issues as a threat to international peace and security. With the exception of its response to the 2001 attacks on the United States, it has done so cautiously, preferring to tackle such threats in the context of existing conflicts or situations already on the agenda of the Council and encouraging the "appropriate bodies" of the Organization to address them. Moreover, it has sought to frame non-conflict issues as risks that compound, rather than cause, conflict situations. This is particularly the case for systemic risks, such as climate change, as well as dual use digital technologies used for malicious purposes. Both of these issues have been discussed by the Council in recent years but, as yet, have not been identified as threats to international peace and security.

Acts of terrorism

Efforts to develop international frameworks to prohibit and combat terrorism have a long history in the UN but historically it was the General Assembly and specialized agencies, rather than the Security Council, that addressed them. It wasn't until the events of 9/11 that the Council asserted primacy over collective action on terrorism. Security Council resolution 1368, issued one day after the coordinated attacks by the non-State Islamic extremist group Al-Qaida on the United States, identified "acts of international terrorism" as a threat to international peace and security. This was followed by a series of landmark resolutions calling on States to amend their domestic laws and ratify international conventions on terrorism, and create a Council subsidiary body – the Counter-Terrorism Committee – to monitor and report on State compliance.[27]

26 See for example S/RES/2589 (2021) and statement on technology for peacekeeping, S/PRST/2021/17.

27 S/RES/1368 (2001), S/RES/1373 (2001) and S/RES/1540 (2004).

The Council has since taken action to tackle other instances of illicit activities by non-State actors including piracy and human trafficking. It has repeatedly expressed concern at the destabilizing effects of organized criminal activities, including drug trafficking in different parts of the world. In doing so, however, the Council has been cautious in identifying the acts themselves as threats to international peace and security. As in the case of piracy off the coast of Somalia, it has framed such actions as exacerbating situations already identified as a threat to international peace and security.[28]

Weapons proliferation, illicit transfer and misuse

Concern at the risks posed by international terrorism led the Council to expand its consideration of threats beyond acts to the means of violence. In 2004, it identified the proliferation of nuclear, chemical and biological weapons as a threat to international peace and security. While the focus of resolution 1540 and the body established to oversee its implementation is on preventing non-State actors from acquiring or manufacturing such weapons, it marked the first time that the Council identified the spread of weapons outside a particular conflict situation as a threat to peace and security.

The Council broadened its approach to weapons management further in 2013 when it identified the illicit transfer, accumulation and misuse of small arms and light weapons in many regions of the world as threats to peace and security. The Council also went beyond consideration of non-State actors as the sources of illicit trade or assessing the risks of weapon proliferation in specific and existing conflict situations. In a clear reference to the role of arms embargoes and sanctions in tackling conflicts, the Council asserted that illicit arms trade undermined the effectiveness of the Council in discharging its primary responsibility for the maintenance of international peace and security and acknowledged the importance of the Arms Trade Treaty adopted by the General Assembly that same year for "international and regional peace, security and stability".[29]

Health and humanitarian emergencies

Health crises have progressively moved the Council to expand its definition of threats to international peace and security beyond acts or means of violence. The Council's consideration of the HIV/AIDS crisis in 2000 and 2011 signalled growing willingness to consider major non-violent sources of instability for regions and States, even if it did not declare the HIV/AIDS virus a threat.

In the case of the 2014 Ebola virus outbreak in West Africa, the Council determined that its "unprecedented extent" constituted a threat to international peace and security. In this instance the scale and speed of transmission of infectious disease, more than its lethality, drove Council engagement.[30] The Council used the same term to describe the COVID-19 pandemic but framed the nature of the threat posed in the wording of Chapter VI (Article 34) as "likely to endanger" peace and security, rather than Chapter VII.[31]

28 S/RES/2125 (2013).

29 S/RES/2117 (2013). The 2013 Arms Trade Treaty is the first legally binding instrument to establish common standards for the international transfer of conventional weapons.

30 S/RES/2177 (2014).

31 S/RES/2532 (2020) "[c]onsidering that the unprecedented extent of the COVID-19 pandemic is likely to endanger the maintenance of international peace and security" reproduces the wording of

In rare instances, the Council has declared a humanitarian emergency a threat to peace and security. Such determinations have been made in order to enable the deployment or expansion of an international humanitarian operation or the reconfiguration of a UN peacekeeping mission, such as after the 2010 earthquake in Haiti. In doing so, the Council has been careful to specify that the nature of the threat is regional rather than international.[32]

CONFLICT ANALYSIS

The Security Council's management of threats to international peace and security, as noted above, is heavily influenced by the geopolitical environment, the positions of its permanent members and relevant experiences of the Council in the particular conflict situation. This evolutionary approach relies on case-by-case consideration of a particular crisis as well as on precedent, building on past Council definitions and practice.[33] Ultimately, the decision to engage the Council in the settlement or containment of a conflict is a political one, almost always driven by the interests, priorities and calculations of one or more of the five permanent members. It is rarely the outcome of comprehensive or impartial review.

Nevertheless, some shared facts and analysis of a particular situation and some shared assessment of the likely threats posed are indispensable to enabling the Council to explore – whether through informal discussions or formal debate – if and how the situation represents a threat to international peace and security. The more Council Members understand – and can agree facts on – the conflict situation they are addressing, the greater individual and collective potential they have to craft effective responses to it.

Conflict analysis is a diagnostic tool that can help Council Members identify the context, root causes and contributing factors that are triggering violence; the motivations and interests of the parties involved; the views and interests of regional or international players; and the institutions that may or may not be able to assist in dealing with the conflict. It is also a helpful way of identifying gaps in information that can then inform Council taskings to the Secretariat.

Good conflict analyses should reflect the complex interplay of issues and interests that the Council needs to address in designing its approach to the conflict. This includes the priorities and preferences of permanent members with regard to the conflict in question, something the Secretariat often finds challenging to do publicly. At their most effective, conflict analyses can serve as a basis for building consensus among Council Members on whether the Council should engage, for what purposes and how. They can also provide a basis for dialogue with governments and regional organizations that may play a role in managing the conflict.

Many conflict analysis frameworks exist. Some focus on the issues – long-term or immediate – that propel violence. Others emphasize the positions and interests that drive different stakeholders to or from armed violence.[34] Some analyses map the relations between

Article 34 of the UN Charter

34 See for example Siân Herbert, "Conflict analysis: Topic guide", University of Birmingham (2017),

stakeholders and the sources or limits of influence between them. Most conflict analyses look at the local, national and regional context in which violence is occurring. This includes considerations of extra-regional factors, whether global commodity prices or the roles of non-regional actors. Critically, good conflict analyses try to shed light on the processes, formal or informal, by which interests are pursued in a given society or conflict situation and the incentives that may lead a party to a conflict to consider pursuing their interests through alternative, non-violent, means.

The Council (and the UN Secretariat) has no agreed template for analysing conflict and tends to combine consideration of structural factors such as patterns of inequality within a society with assessments of the positions and relations of different conflict parties. Like most, the Council tends to be better at identifying longer-term grievances and root sources of disputes than at anticipating the specific triggers that lead (or not) to outbreaks of violence.

The below checklist summarizes some of the ways in which Council Members and delegations might examine conflicts. It is important to remember that any conflict analysis is a snapshot of a moment in the time and history of a conflict. It rarely captures the dynamic interaction between grievances, actors and the political, economic and security environment as well as the incidences and patterns of violence that shape the way a conflict evolves. It does not provide a blueprint for the future or the actions of the Council. When regularly undertaken and reviewed, however, conflict analysis offers a solid basis with which to identify the most critical issues to be addressed as well as potential opportunities for engagement.

https://gsdrc.org/wp-content/uploads/2017/05/ConflictAnalysis.pdf; UN Children's Fund (UNICEF), *Guide to Conflict Analysis* (2016), https://www.unicef.org/media/96581/file/Guide-to-Conflict-Analysis.pdf.

CONFLICT ANALYSIS CHECKLIST

Context

- ☐ History of conflict
- ☐ Patterns of violence
- ☐ Past conflict management and peacemaking efforts

Grievances

- ☐ Territory, security, political (representation, participation, access, equity)
- ☐ Identity (ethnic, religious, tribal, social, gender)
- ☐ Economic (resource access and allocation)
- ☐ Duration (recent, long-standing, recurring)
- ☐ Extent to which grievances are zero sum/bargainable or not

Structures

- ☐ Types, formal and informal
- ☐ Resource allocation frameworks (formal and informal)
- ☐ Bargaining processes and their inclusivity
- ☐ Dispute resolution mechanisms

Stakeholders

- ☐ Types
- ☐ Positions, interests, needs and perceptions
- ☐ Power (leadership, capabilities, resources, supply lines, relationships)

Violence

- ☐ Types of violence (weapons, scale and execution of attacks)
- ☐ Location(s) and targets
- ☐ Periodicity and duration
- ☐ Beneficiaries (territory, influence, resources)

Geography and physical environment

- ☐ Location, terrain, weather
- ☐ Resources and supply chains
- ☐ Regional security situation

Human impact

- ☐ Casualties and security, including gender patterns
- ☐ Basic services: water and sanitation, health, shelter, education
- ☐ Poverty, economy, food security
- ☐ Movement and displacement

International political context

- ☐ Positions and interests of UNSC members
- ☐ UN roles, presence and relations
- ☐ Positions and interests of regional organizations and key States
- ☐ International, regional and domestic NGO/civil society/diaspora positions and interests
- ☐ Private actors (private security actors, private mediators, faith-based groups)
- ☐ Economic interests and issues (trade and finance flows, commodity supply and demand, inflation and currency rates, remittances and debt)
- ☐ International and domestic media coverage

Future development

- ☐ Potential flashpoints
- ☐ Triggers for increase in violence
- ☐ Most likely and most dangerous trajectory of the situation

Opportunities

- ☐ Opportunities for peacemaking
- ☐ Points of leverage

CONFLICT MANAGEMENT OBJECTIVES

The objectives that the Council sets in addressing a particular conflict are the product of negotiations. As such, they reflect the interests and preoccupations of a range of stakeholders and may be multiple, overlapping or even competing. Council objectives for situations that have been on its agenda for many years, for example, the DRC, can expand and lead to what has been described as "Christmas tree" mandates for the UN peace operations deployed there. The Council has recognized the need to prioritize objectives and although it has committed to better articulate priorities for new and existing peace operations, this remains aspirational.[35]

Yet, part of the challenge of prioritizing Council objectives is the nature of the conflicts the Council seeks to address. The trajectory of war is rarely predictable or sequential and the more complex civil conflicts become, the more violence ebbs and flows before, during and after the start or formal end of a conflict. The Council therefore tends to pursue prevention, peacemaking and peacebuilding goals together at any one time in a given conflict situation. Certain objectives, such as promoting dialogue between conflict parties, are integral to the Council's approach to threats and feature at all times regardless of whether as part of a prevention, conflict management or a peacebuilding strategy. Finally, the Council's choice of tools to achieve its conflict management objectives may also shape and refine goals. The deployment of a human rights monitoring capacity, for example, can help build greater international knowledge of the precise nature of threats to civilians in conflict and the most vulnerable groups in a society. This information can lead the Council to refine or frame new objectives, such as the prevention of gender-based violence in a particular conflict situation.

These factors suggest that while it is important to identify clear – and achievable – objectives in addressing conflict, goals tend to be intertwined, interdependent and draw on many of the same tools and activities. Two consequences flow from this: the first is the need for sustained communication within the Council and between the Council and the actors that it tasks to implement objectives to maintain consensus on conflict management priorities and strategies at any one time. The second is the importance of regular review and assessment of progress against objectives with a view to calibrating, adapting approaches, and tools deployed. This can be challenging for the culture and work methods of the Council.

CONFLICT MANAGEMENT OBJECTIVES

CONFLICT PREVENTION

(preventing the outbreak or escalation of armed conflict)

- Preventing outbreak of armed violence
- Promoting dialogue among conflicting parties
- Preventing intensification of hostilities

CONFLICT CONTAINMENT AND MITIGATION

(minimizing the damage from armed conflict)

- Containing the geographic spread of conflict
- Reducing the intensity of hostilities
- Limiting human rights abuses
- Mitigating the impact of violence on:
  - civilians
  - the delivery of humanitarian assistance
  - the functioning of the State
- Eliminating weapons of mass destruction

CONFLICT SETTLEMENT

(ending armed conflict)

- Promoting/facilitating negotiated agreement to end conflict
- Halting hostilities (supporting ceasefires, monitoring, disengaging forces)
- Defeating a conflict party

RECOVERY SUPPORT

(maintaining and building peace after armed conflict)

- Supporting comprehensive political settlements and new power dispensations
- Promoting and supporting security, public order and the rule of law
- Promoting and supporting security and justice sector reform
- Supporting transitional justice and human rights
- Supporting public administration and institution building
- Facilitating IDP, refugee and demobilized forces returns
- Promoting economic recovery and basic service delivery

Conflict prevention (preventing the outbreak or escalation of armed conflict)

The Council has only once deployed a UN peacekeeping operation with the explicit purpose of preventing the outbreak of armed violence, the UN preventive deployment force in the then former Yugoslav Republic of Macedonia (UNPREDEP). More commonly it has sought to prevent the intensification of hostilities in situations of active conflict and to prevent the recurrence of conflict after ceasefires or peace settlements have been established. The latter was the objective of the early peacekeeping operations in Kashmir, in Sinai and in the Golan Heights through the deployment of military observers to monitor ceasefire lines or buffer zones agreed between State parties. This goal remains the primary purpose of these missions to this day.

The measures employed by the Council to prevent the spread and intensification of armed conflict are various and directed at belligerents as well as States and actors external to the conflict. They include monitoring and reporting on the actions of conflict parties, including efforts to examine allegations and incidences of the use of force, inter alia through fact-finding missions. Preventive efforts may also include exhortations and warnings to conflict parties, including threats to consider hostile acts punishable as crimes of war as well as sanctions targeting individuals, such as visa and travel bans, or arms embargoes to prevent the acquisition and transfer of weapons to countries and parties at war. The Council typically seeks to promote dialogue between disputing parties often instructing the Secretary-General to appoint a Special Envoy for this purpose or delegating responsibility for dialogue to a regional organization or group of States. The Council may also engage directly in dialogue efforts, including through visits to the conflict location.

The Council has occasionally sought to prevent conflict resulting from the political violence that followed the takeover or collapse of democratically elected governments. Support to the government in Haiti in 1994 or the French-led intervention in Mali in 2012 reflect both the Council's concern to deter illegal power seizures and to prevent a violent breakdown of public order.[36] This may include the deployment of police and law enforcement personnel as part of a UN peace operation.

Conflict containment and mitigation (minimizing the damage from armed conflict)

The methods employed by the Council to prevent conflict typically overlap with its efforts to contain the scale and location of armed conflict, and to mitigate its impact on a region, State and/or population. As the Council's engagement on situations of active civil war increased in the decades after 1990, so too did its efforts to constrain the worst excesses of war. The range of approaches and instruments employed by the Council to prevent the spread of violence include political engagement with neighbouring and external States; financial and economic sanctions on warring States, parties and individuals; and the arms embargoes previously noted. It includes the establishment of UN and regional peacekeeping operations, or the authorization of military operations by coalitions of States and, in the case of Darfur in western Sudan, the authorization of a UN–African Union joint peace operation.

In incidences of active hostilities, the Council regularly issues public warnings and condemnations to warring parties, reminding them of their obligations under IHL

36 S/RES/940 (1994).

(international humanitarian law) and calling for the preservation of cultural artefacts. It frequently sanctions the targeting of civilian infrastructure, in particular schools and hospitals including, more recently, civilian infrastructure in a neighbouring State (2019 Houthi attacks on Saudi Arabian civilian infrastructure). As part of this deterrence effort and with a view to future justice, it has mandated the documentation and investigation of war crimes during situations of ongoing conflict (for example, Burundi in 1995, Sudan in 2004).

A majority of the Council's demands to parties to the conflict seek to mitigate the effects of fighting on civilians. Even before the end of the Cold War the Council sought to promote the security and access of humanitarian actors and the delivery of humanitarian aid. Its members engage publicly and through bilateral and multilateral diplomacy to appeal for humanitarian action. In the post-Cold War period it has authorized UN, regional or State-led military deployments in situations such as Somalia and Rwanda to protect and enable humanitarian access. All UN peacekeeping operations include an in extremis humanitarian support mandate, and some political missions, such as the mission in Afghanistan, are tasked to coordinate and facilitate humanitarian assistance.

Perhaps the biggest area of expansion in Council action concerns its demands to belligerents, UN and other stakeholders for measures to protect civilians. This includes the identification of specific groups, in particular women and children, that the Council considers especially vulnerable or the subject of targeted violence. Civilian protection through political, law enforcement and military action has become a central objective for multidimensional UN peace operations deployed in active conflicts, with often quite specific and detailed taskings as to who, where and how to protect civilians under threat of violence from groups or warring parties, including government forces. The scale of Council engagement in mitigating the effects of conflict on civilians has led some to criticise what they consider to be a concurrent diminishment of Council attention on the pursuit of peace and the resolution of conflict through negotiated settlement.[37]

Conflict settlement (ending armed conflict)

Resolving conflict through negotiated settlement has been an objective often sought, but less frequently led, by the Council. During and after the Cold War the Council advocated for ceasefires between, and disengagement by, military forces to buy time and space for peace processes and the mediated end to conflicts. Such deployments reflected the Council's preference to support the maintenance of peace arrangements led by individual or groups of States or personal envoys with the Council's blessing. Recognition of political realities, adherence to the principle of national ownership and reluctance to engage in processes where the Council has limited leverage or powers to compel has encouraged caution with regard to the direct involvement of the Council in peacemaking.

It has, however, been a strong advocate for mediated end to conflict and has encouraged and thrown its political and diplomatic support behind settlement negotiation efforts by UN-appointed, regional, State-led or belligerents. The limitations of some conflict settlements in addressing war crimes, reconciliation of communities or justice for those affected, such as peace agreements negotiated in Sierra Leone and Liberia in the 1990s, have made the

37 High-Level Independent Panel on Peace Operations (2015).

Council more forthright on the issues to be included in negotiated peace agreements with a view to preventing accommodations that may sow seeds for the recurrence of conflict. That being said, as conflict settlements in Sudan and South Sudan illustrate, where the parties and regional stakeholders reach a negotiated settlement, the Council rarely seeks to override such arrangements, however limited they may be.

A feature of the last decade has been the more frequent authorization by the Council of action to support a government in its attempts to defeat a non-State enemy by force. In the case of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo's (MONUSCO) Force Intervention Brigade in the DRC, the Council mandated the use of offensive force by a dedicated component of a UN peacekeeping operation to defeat a non-State armed group. It has tasked regional, French and UN peacekeepers in Mali to assist national authorities to forcefully respond to threats by transnational Islamic extremist armed groups. This was subsequently expanded to a regional response, through a regional force, G5 Sahel. In the case of Côte d'Ivoire, the Council authorized the use of force by the UN mission there to repel attempts by the incumbent president to reject the outcome of elections and remain in power. Offensive mandates have been controversial, however, with some arguing that they risk UN peace operations being considered legitimate targets, regardless of mandate, by warring parties, and others arguing that they undermine the capacity of UN operations and envoys to mediate in a conflict situation.

Recovery support (maintaining and building peace after armed conflict)

Support to a ceasefire or peace settlement has been the primary focus of the Council's engagement on threats to international peace and security, historically through the deployment of military peacekeeping operations. During the Cold War, this objective was often framed in a minimal way, less about transforming a conflict situation than safeguarding a temporary end to hostilities and enabling the delivery of humanitarian assistance in the hope that the absence of fighting would create the space for more comprehensive peace arrangements to follow.

In the decades after the Cold War, the Council's objectives expanded to measures intended to create the conditions for comprehensive conflict settlement and recovery. This included efforts to facilitate new political dispensations to distribute power and resources within a State and their legitimation through the conduct of elections. Multidimensional peace operations, no longer limited to largely military personnel, were deployed to monitor the implementation of peace agreements and to support reconfigured State authorities in establishing a monopoly over the use of force, including through the disarming and demobilization of combatants. In early post-Cold War environments, such as Cambodia, Mozambique and Namibia, the Council sought the assistance of individual Member States to reform and train military and police personnel of the post-conflict State but progressively mandated UN peace operations to carry out security sector support and reform tasks.

From 1991, the Council expanded its approach to peace settlements to include monitoring of human rights and support to transitional justice and the rule of law, including truth and reconciliation commissions and local and national dialogue. Post-conflict governance reform and support has also been a critical component of peacebuilding and has led the

Council, in four instances (Cambodia, Eastern Slavonia, Kosovo and Timor-Leste), to assign UN operations authority to exercise temporary direct control over parts or all government functions with a view to the establishment of a viable State administration.

One area where the Council has been slow to expand its authority in support of comprehensive peacebuilding is around the post-conflict economy. In some limited cases, UN peacekeeping operations or sanctions' panels of experts have been mandated to monitor the extraction, management and export of key natural resources, such as rubber in Liberia, diamonds in Sierra Leone or timber in the Central African Republic because of the potential that contests over their control may turn violent. Only in Kosovo and Timor-Leste did the Council's peacebuilding objective extend to oversight of economic activity and revenue generation. The Council has tended to defer to bilateral and multilateral development actors, including the IMF and the World Bank, to take the lead on supporting economic and social aspects of post-conflict recovery. The establishment of the UN Peacebuilding Commission (PBC) in 2005, meanwhile, has provided a venue for the development of policy and resources on sustainable peacebuilding outside of the Council.

THE ROLE AND RELEVANCE OF THE SECURITY COUNCIL IN CONFLICT MANAGEMENT

As the above discussion illustrates, the Security Council's track record in managing conflict is at best mixed. Its authority derives primarily from its legal primacy, given that it is the only international body that can issue binding decisions in respect of mandating the use of force, and approve any changes to the UN Charter. This remarkable degree of legal power would be impossible to establish in today's geopolitical environment. The future of global collective responses to conflict, therefore, depends on the extent to which the Council can adapt its approach and tools to tackle contemporary armed conflict. The ability of its five permanent members to find ways to cooperate on specific conflict situations, even as they compete for global influence, is a precondition for this.

To some extent, the Council has navigated this dilemma for most of its existence. It has done so by limiting its engagement in the function for which it was established – the prevention of war between States – and focusing on the conflicts where a degree of consensus could be reached among its permanent members: decolonization processes, limited boundary wars and civil conflicts. In so doing, it established significant areas of consensus on the importance of containing active conflicts, preventing their regional spillover, and encouraging restraint by neighbours (and, to a mixed degree, members of the Council themselves). These conflict management practices, however limited, are today at risk. The Council's future relevance lies in its ability to re-establish its authority, at a minimum, as a body committed to limiting the spread of armed conflict between and within States.

In many ways the greatest conflict management success of the Council has been its emphasis on the effects of conflict on civilians and on societies. It should seek, at a minimum, to preserve this record, a challenge in recent conflicts in Ethiopia, Myanmar, Syria and Ukraine. In the period since the Cold War it has increased profile and attention on the ways in which

civilians and vulnerable groups are harmed by conflict. It has overseen the establishment of a raft of legislation and operational tools to mitigate these risks, including many that were not foreseen in the Charter, from peacekeeping operations to binding decisions concerning protection of civilians, children and women, and humanitarian assistance. And it has pursued compliance and the accountability of individuals and entities found in breach of these laws.

In so doing, the Council has tended to follow rather than lead, building on precedent and sustained advocacy by States, regional organizations, humanitarian agencies, civil society organizations, as well as on occasion the Secretary-General, adapting its tools cautiously, often only after their failure has been conclusively and publicly demonstrated and documented. This reactive approach reflects the politics of the Council but it also reflects the politics of Member States. The legitimacy and authority of the Council, in many respects, rests on it adopting a cautious approach to constraining States' sovereignty, especially with regard to their right to exercise self-defence in confronting threats. As a consequence, the Council has had limited success in addressing some of the grievances at the heart of contemporary conflicts – issues over the distribution of power, resources and voice in societies. It has struggled to chart effective responses to the proliferation of non-State armed groups and it has been silent on situations of political violence that blur to and from conflict. It is one of the reasons why the Council remains a relatively limited actor in preventing the outbreak of conflict.

Arguably, over the past two decades the Council has sought to do too much. In the decades following the Cold War the Council's agenda expanded both in terms of conflict situations and thematic peace and security issues. It has sought to track and shape conflict trajectories and peacebuilding efforts, in some situations, for decades. As a consequence, the Council's attention on any one conflict situation at any time is limited and partial and the periodicity of its review of mandates or annual thematic issues can create the impression that Council Members are performing pro forma rather than a substantive review of progress, challenges and obstacles.

Increasingly, the future of the Council's role in conflict management may rest on its ability to more carefully delimit those issues for which it has exclusive purview or comparative advantage. This may mean a smaller set of larger, more deadly conflicts, whether inter- or intra-State and with greater focus on exploring options for mediated ceasefires and progressive settlements. It may mean investing greater attention in more exploratory missions to assess the scope for prevention, more positive inducements for peace, and more agile use of punitive measures, including sanctions.

It may mean working more collaboratively and accountably with bodies within the UN system, such as the PBC, regional organizations or groups of States to support and oversee the negotiation and implementation of conflict settlements and recovery after conflict. This may involve delegation of oversight of binding decisions, as is the case with sanctions, to subsidiary bodies of the Council or, where appropriate, to specialist intergovernmental bodies. Oversight of mandated and authorized peace operations, UN or otherwise, could be undertaken by an empowered working group on peacekeeping. This would not only allow

the Council to concentrate on a smaller set of issues, but provide scope for the delegated bodies to develop more innovative approaches and tools for the consideration and, ultimately, approval by the Council.

The extent to which the Council can serve as a platform for a range of entities to share information, build shared understandings and, potentially, scope for international engagement on a specific conflict depends on the degree to which the permanent members are willing to recognize the authority and capacity of regional and specialist intergovernmental bodies. It will have to engage more and recognize the role that regional groupings and ad hoc groups of States may play in addressing specific conflicts and invest in hearing from a broader range of stakeholders potentially in a more informal dialogue setting, while at the same time being frank about the political, financial and logistics capacity that some regional organizations can face.

It also means recognizing the increasingly important role that elected members play in articulating the concerns and priorities of broader Member State groups, regional organizations, and civil society voices; introducing new issues of relevance for conflict management, such as climate change; and negotiating consensus for practical Council action. Recognizing that the future relevance of the Council depends on the extent to which it can be seen to address conflicts of which permanent members are a party may necessitate the delegation of some "pen-holding" responsibilities to one or more elected members, where appropriate and acceptable to the conflict parties. For elected members, it means anticipating and investing in a greater burden of work on the Council.

PART 2 – TOOLS

SECURITY COUNCIL CONFLICT MANAGEMENT TOOLS

PART 2 – TOOLS: SECURITY COUNCIL CONFLICT MANAGEMENT TOOLS

While the UN Charter sets general parameters for the work of the Council, it has immense scope regarding how it responds to conflict. As outlined in the introduction to this Handbook, the main limitations are political and practical. Over the years the Council has taken advantage of such broad powers to develop numerous innovative conflict management measures.

SECURITY COUNCIL CONFLICT MANAGEMENT TOOLS

This section includes tools currently used by the Council, as well as those that have been used in the past, and potential new tools. They are covered in three categories:

- Diplomatic tools
- Legal tools
- Operational tools

There is a vast spectrum of conflict management tools available to the Council. They are not limited to those contained in this *Handbook*. Furthermore, the tools contained herein need not be employed in the exact way presented; any tool will need to be tailored to the specific circumstances. The purpose of this part of the *Handbook* is to provide an overview of the range of conflict management tools in the Council's tool kit.

Each tool is presented in the same manner, providing both factual and analytical information following a template that covers:

- Summary and examples
- Legal basis
- Description of the tool
- History of the tool
- Conditions for success and/or lessons identified
- Benefits and risks
- Legal considerations
- UNSC procedure
- Further reading

The following table shows a range of tools that could be considered by Council members aiming to achieve various conflict management objectives. This table is indicative, intended to help readers understand what tools are often used or may work best to achieve which objectives during different phases of a conflict. It is not definitive nor intended to suggest that certain tools are constrained to pursuing only certain objectives.

Conflict management tools and objectives

KEY

- **Conflict prevention** (preventing the outbreak or escalation of armed conflict)
- **Conflict containment and mitigation** (minimizing the damage from armed conflict)
- **Conflict settlement** (ending armed conflict)
- **Recovery support** (maintaining and building peace after armed conflict)

	CP	CCM	CS	RS
DIPLOMATIC TOOLS				
1. Early warning	■	■		
2. Fact-finding	■	■		
3. External information	■	■	■	
4. Presidential Statements	■	■	■	■
5. Press statements and press elements	■	■	■	■
6. Visiting missions	■		■	
7. Recommendations	■	■		
8. Good offices	■	■	■	
9. Mediators and special envoys	■	■	■	
10. Regional offices and regional envoys	■		■	■
11. Support to regional organizations	■	■		■
12. Confidence-building measures	■	■	■	
13. Peacebuilding Commission	■			■
LEGAL TOOLS				
Judicial mechanisms				
14. Commissions of Inquiry	■			■
15. Advisory opinion from the ICJ	■			■
16. Referral to the ICJ	■		■	■
Accountability mechanisms				
17. Establishment of ad hoc international criminal tribunals			■	■
18. Referral to the ICC	■			■
Compensation mechanisms				
19. Compensation commission			■	■

	CP	CCM	CS	RS
Sanctions mechanisms				
20. Assets freeze				
21. Travel ban				
22. Arms embargo				
23. Goods embargo				
24. Interdiction and inspections of ships and other vessels				
25. Diplomatic sanctions				
26. Comprehensive economic sanctions				
OPERATIONAL TOOLS				
27. Peacebuilding strategies				
UN operations - special political and peacebuilding missions				
28. SPM: Comprehensive mandates				
29. SPM: Focused mandates – political process management				
30. SPM: Focused mandates – security				
UN operations – peacekeeping operations				
32. PKO: Comprehensive mandates – multidimensional peacekeeping operations				
32. PKO: Comprehensive mandates – stabilization operations				
33. PKO: Comprehensive mandates – international transitional administrations				
34. PKO: Focused mandates – preventive military deployments				
35. PKO: Focused mandates – observation and monitoring				
36. PKO: Focused mandates – policing and rule of law				
37. PKO: Focused mandates – civilian protection				
38. PKO: Focused mandates – neutralizing identified armed groups				
Other UN operations				
39. Cross-border humanitarian relief operations in contested environments				
40. Health emergency response operations				

	CP	CCM	CS	RS
41. Weapons of mass destruction inspection and destruction operations				
UN operational support to non-UN operations				
42. Hybrid operations				
43. Support to regional peace operations				
44. Support to coalition military deployments				
UN-authorized non-UN operations				
45. National, coalition or regional peace operations				
46. Military enforcement for humanitarian or human rights purposes				
47. Military enforcement to repel aggression				

Combining tools

Conflict management tools may be used separately, jointly or combined. The Council may employ several tools at once as part of its conflict management strategy, and may also employ different tools in a range of configurations over the course of a conflict.

The configuration of tools used will depend on many factors, including the situation on the ground, the cooperation of the conflicting parties, the political environment in the Council, and the interests and activities of other key actors. As the situation on the ground evolves, so too should the tools used by the Council in order to effectively respond to the changing circumstances.

If coordinated and well employed, the conflict management tools at the Council's disposal can be mutually reinforcing, and a multifaceted approach is likely to have a greater chance of success.

The trajectory of conflicts is not linear; a conflict will increase and decrease in intensity at various times. In addition to the intensity of the conflict, the key factors that will determine the range of tools the Council might employ are whether or not the Council has made a determination of the situation as a threat to or breach of international peace and security, and whether or not a peace agreement or settlement has been achieved.

In instances of an emerging conflict, Council Members may look to diplomatic tools aimed at prevention and de-escalation. They may concurrently employ tools such as early warning, external information, a press statement, good offices and perhaps recommendations. If the issue at the heart of the conflict is one of a legal nature, the Council may also request an advisory opinion from the International Court of Justice (ICJ).

As the conflict evolves and heightens in intensity, in addition to diplomatic tools, Council Members may look to legal and operational tools aimed at containment and settlement. They may concurrently employ tools such as mediators and special envoys, a visiting mission, support to regional organizations, referral to the ICJ, deployment of a mission focused on political process management, or an observation and monitoring operation.

Once the Council makes a determination that the situation represents a threat to the peace, breach of the peace, or act of aggression (triggering the operation of Chapter VII of the UN Charter), this opens to it the full gamut of tools including the use of military force and sanctions. Once a conflict is of sufficient intensity to warrant such a determination, there will usually be a regional organization and other key actors centrally involved in attempting to manage the conflict, and it will be important for the Council to ensure that the configuration of tools it employs are coordinated with, and complementary to, those of other key players. In addition to the raft of diplomatic tools that will likely be in play at this stage, the Council may employ more forceful tools, such as putting in place sanctions on goods or movement, authorizing a regional or coalition military operation, or deploying WMD inspection and destruction operations.

As the conflict evolves and a settlement or peace agreement is reached, the parties to the conflict may look to the UN as an impartial provider of the security guarantee, and the regional organization and other key players will likely be inclined to provide more space for UN involvement in the peace consolidation phase. The conflict could still be quite volatile at this stage and may quickly devolve back to high-intensity violence, so enforcement measures will likely be necessary for some time. In addition to the ongoing diplomatic, legal and operational tools in place, the Council may deploy a UN peacekeeping operation to work with, and eventually take over from, any regional or coalition presence. To aid recovery the Council may request the development of a comprehensive peacebuilding strategy, and could establish a compensation commission. In particular circumstances, where the machinery of State has been destroyed, the UN may decide to establish a transitional administration.

Once peace is consolidated and the situation no longer presents a threat to international security, the configuration of tools will change again. Enforcement tools will no longer be necessary, and focus will draw back to tools targeted toward recovery and sustaining peace. These may include a peacebuilding mission, legal accountability mechanisms, and eventual handoff to the PBC.

COMBINING TOOLS

There are critical points during a conflict, where there is a window of opportunity for the international community's engagement to significantly impact the trajectory of the situation. The following examples are contrasting instances where the Security Council effectively harnessed, and failed to effectively harness, a combination of tools to positively affect the trajectory of the conflict.

Liberia

The Council's engagement on the situation in Liberia, particularly during the critical years of 2003–04 demonstrated the effective use of a range of mutually reinforcing tools.

In the 1990s, the UNSC imposed an arms embargo and other sanctions on Liberia, and following the signing of the Cotonou Peace Agreement, it established the UN Observer Mission in Liberia (UNOMIL) to work alongside the ECOWAS Monitoring Group (ECOMOG), and later the follow-on UN Peacebuilding Support Office (UNOL).

However, following a return to civil war, the inditement of former President Charles Taylor by the Special Court for Sierra Leone, and intense fighting for control of Monrovia, the Council revised its conflict management strategy. In June 2003, a Council visiting mission travelled to Liberia, Sierra Leone and Côte d'Ivoire. In August, United States troops were deployed, the Council approved the establishment of a multinational force in Liberia and requested the UN peacekeeping mission in Sierra Leone (UNAMSIL) to provide logistical support to the ECOWAS components of that force (ECOMIL). Following the signing of the Comprehensive Peace Agreement in Accra, at the request of the parties, in September, the Council established the UN Mission in Liberia (UNMIL), and United States forces withdrew. In December, the Council reimposed an arms embargo, a travel ban, and sanctions on the export of diamonds and timber from Liberia. In March of 2004, the Council imposed sanctions on Charles Taylor and his associates. And in June, a second Council visiting mission travelled to Liberia, Sierra Leone and Côte d'Ivoire. Over time the mandate of UNMIL was expanded to address specific circumstances including providing security for the Special Court for Sierra Leone, temporary deployment of troops in Côte d'Ivoire, strengthening its border presence with Guinea, and to apprehend and detain Charles Taylor in the event of his return to Liberia.

Although Liberia continued to face challenges over the following years, the combination of diplomatic, legal and operational tools employed by the Security Council during the critical period 2003–04 set in place a conflict management architecture to support effective peace consolidation. This was reinforced by good coordination with ECOWAS and other key players, the timing and sequencing of the lifting of sanctions, and transitional justice mechanisms that were an important part of building trust between the population and the State.

South Sudan

The Council's engagement on the situation in South Sudan in advance of the outbreak of civil war in 2013–14 was a demonstration of tools not being well used.

The Council had been engaged on the situation in South Sudan for many years prior to the country's independence in 2011. In July 2011, the Council established the UN Mission in South Sudan (UNMISS) with a broad security and peacebuilding mandate. In the external information it received, including reporting from the mission and from others, there were clear indications early on that the situation was deteriorating and becoming increasingly volatile. The High Commissioner for Human Rights, in particular, issued several warnings to the Council about the resurgence of armed activity and growing human rights violations.

In January 2012, the Council issued a press statement expressing concern at intercommunal violence, and another in December deploring the shooting down of an UNMISS helicopter. In April 2013, the Council issued another press statement condemning attacks on UNMISS peacekeepers.

In mid-December, violence broke out in Juba in response to an alleged coup attempt. Over the remainder of the month and into the new year, horrendous violence spread across the country resulting in hundreds of deaths, and thousands of civilians seeking refuge at UN bases. Between 15 and 31 December, the Council issued three more press statements. The Council also passed a resolution increasing the military and police capacity of UNMISS, but this was something of an empty gesture given the time it takes to generate uniformed personnel for UN missions. Over the following months the violence continued to increase, the Council received external information from various sources and continued issuing press statements – two in January 2014, one in February, and two in April. Finally, in May 2014, the Council altered the mandate of UNMISS to focus on the protection of civilians.

At this critical time in the conflict in South Sudan, the Council was slow and limited in reacting to the changing situation on the ground. While there was a desire among the international community to see South Sudan succeed following independence, the concerted focus on peacebuilding and determined support of the Government resulted in an underestimation of the indicators and warnings of growing instability. Had the Council dealt with the realities on the ground earlier, and brought to bear a more targeted and nuanced combination of tools rather than just successive press statements, it may have been able to put in place a multistranded conflict management strategy that could have lessened the terrible loss of life that followed.

Cross-cutting considerations

In employing any of the Council's tools there are a number of issues that the Council has committed itself to considering. These are issues that are dealt with systematically through the Council's thematic work and then often specifically incorporated into particular tools. The foremost of these are the protection of civilians, and women, peace and security. The Council also deals thematically with the protection of other vulnerable groups including children, people with disabilities, humanitarian personnel, journalists, and medical personal. And it deals thematically with issues such as human rights, justice and impunity, and disarmament and counter-terrorism.

Protection of civilians

Following the extreme levels of civilian suffering in the conflicts of the 1990s (Somalia, Bosnia, Rwanda, Angola, Liberia, the Democratic Republic of the Congo, Sierra Leone, Timor-Leste and Kosovo), and UN failures during the Rwandan genocide (1994) and the Srebrenica massacre (1995) the UN entered a period of reflection. The imperative of protecting civilians was emphasized in successive inquiries and UN reform initiatives, and in 1999 the Council held its first thematic debate on the protection of civilians. At the Council's request, the Secretary-General produced a report with recommendations of how the Council could improve the protection of civilians through its work. Following on from that report, the Council concluded its first thematic resolution in September 1999 (S/RES/1265), and it gave the UN Mission in Sierra Leone the first explicit civilian protection mandate.

In resolution 1265 (OP10), the Council expressed "its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council's disposal in accordance with the Charter of the United Nations". It then went on to elaborate ways that might occur, including through:

- Enhancing compliance with international humanitarian, human rights and refugee law.
- Facilitating access to humanitarian assistance.
- Protecting women, children and forcibly displaced persons.
- Providing protection through UN peace operations.
- Promoting accountability.

The protection of civilians work of the Council has continued to be conceived in that multifaceted way.

Support for the protection of civilians agenda waxed and waned within the Council, being overshadowed by a focus on the more contentious Responsibility to Protect doctrine for a while. However, the protection of civilians is now solidly part of the Council's work. An open debate is held annually, in advance of which the Secretary-General provides a report on the issue. At the Council's request, the UN Office for the Coordination of Humanitarian Affairs (OCHA) prepared an Aide Memoire to support its work on the protection of civilians, and the Council also has an Informal Experts Group on the Protection of Civilians.

Having the protection of civilians as an overarching imperative for the Council's work

impacts both what tools are brought to bear on a situation and the content of those tools. The most high profile and discrete example of the Council fulfilling its stated protection intentions is through the mandates of UN peacekeeping missions. Almost every mission deployed since 1999 has carried a protection of civilians mandate, and it is the primary focus of several. However, while a large amount of work has been done by the UN Secretariat and broader UN community on supporting implementation of those mandates, significant challenges remain.

Nine of 15 sanctions regimes include protection of civilians-related listing criteria. Sanctions may be linked to violations of international humanitarian law (IHL) and international human rights law (IHRL), sexual violence, forced recruitment of children into armed forces, attacks against civilian infrastructure such as hospitals and schools, forced displacement of civilians, and the obstruction of humanitarian assistance.

The Council also includes language in most of its resolutions urging parties to comply with IHL and IHRL, encouraging States to pursue accountability for breaches, and in some cases setting in place monitoring and reporting mechanisms to support this. It has established commissions of inquiry to investigate breaches in Sudan (Darfur) and the Central African Republic. And it has referred the situations in Sudan (Darfur) and Libya to the International Criminal Court.

The Council's engagement on humanitarian access is often limited to calling on parties to allow access to populations in need and the importance of humanitarian access has been recognized in several thematic resolutions on protection of civilians. Several UN peacekeeping operations and non-UN military operations have also been mandated/authorized to support the delivery of humanitarian aid in contested environments. However, the issue remains politicized in the Council regarding the extent to which the Council can and should insist on humanitarian access in contentious situations where it is being obstructed by the State.

Women, peace and security

The Council's women, peace and security (WPS) agenda was initiated by resolution 1325 (2000), which affirmed the important role of women in the prevention and resolution of conflicts and in peacebuilding initiatives. The Council went on to adopt another nine resolutions, which together establish the agenda around four pillars:

1. **Prevention:** Prevention of conflict and all forms of violence against women and girls in conflict and post-conflict settings.
2. **Participation:** Women's equal participation and gender equality in peace and security decision-making at all levels.
3. **Protection:** Women and girls are protected from all forms of sexual and gender-based violence and their rights are protected and promoted in conflict situations.
4. **Relief and recovery:** Specific relief needs of women are met and their capacities to act as agents in relief and recovery are strengthened in conflict and post-conflict situations.

A key implementation tool is the National Action Plans, which were called for by the Security Council in 2005. The Council remains updated on progress on WPS through the

publication of annual reports of the Secretary-General, which are based on reporting against key indicators. It also holds an annual debate on WPS. In 2016, resolution 2242 established an Informal Expert Group on WPS to provide greater Council engagement with and oversight of WPS issues. UN Women, the UN entity dedicated to gender equality and the empowerment of women, leads on implementing the WPS agenda.

In 2021, Ireland, Kenya and Mexico formed a "Presidency Trio for Women, Peace and Security" agreeing to make WPS a priority across their consecutive Council presidencies. Throughout 2021–2022, eight other members – Albania, Brazil, France, Gabon, Niger, Norway, the United Arab Emirates and the United Kingdom – agreed to carry on the initiative throughout their presidencies. The focus of the initiative was to create momentum around implementation of the WPS agenda. In 2023, in its resolution on "Tolerance and International Peace and Security" the Council recognized that gender discrimination, along with hate speech, racial discrimination and acts of extremism, can contribute to the outbreak, escalation and recurrence of conflict.

Almost a decade after its establishment, the part of the WPS agenda concerned with conflict-related sexual violence (CRSV) was carved out and provided a dedicated leadership and framework. In 2008, the Security Council adopted resolution 1820 which recognized CRSV as a threat to security and an impediment to the restoration of peace. The following year it adopted resolution 1888, which recognized the systematic use of sexual violence as a weapon or tactic of war and condemned the impunity enjoyed by perpetrators, acknowledging that sexual violence is a crime that is preventable and punishable under international law. The resolution also established the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC). The Council holds an annual open debate on CRSV, separate to the debate on WPS.

The SRSG-SVC produces annual reports on CRSV which deal with both thematic issues and country specific situations and list parties credibly suspected of committing or being responsible for patterns of rape or other forms of sexual violence in situations of armed conflict on the agenda of the Council. The SRSG-SVC engages in advocacy, makes field visits, briefs the Council, and issues guidance notes. The Office establishes Joint Communiqués or Frameworks of Cooperation, with States establishing commitments for prevention and response to CRSV. The Security Council also created the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict to assist national authorities globally in strengthening the rule of law, with the aim of ensuring criminal accountability for perpetrators of conflict-related sexual violence. It also mandated the establishment of monitoring, analysis and reporting arrangements (MARA) on CRSV in situations of armed conflict, post-conflict and other situations of concern. The CRSV agenda does not have a dedicated subsidiary body within the Security Council. CRSV issues can be addressed through the Informal Expert Group on WPS.

Women, peace and security considerations have manifested in the Council's work in a number of ways. Most UN peacekeeping missions include WPS language in their mandates and gender advisers on their staff. There have been gender briefings at some country specific meetings as well as thematic meetings. There has been a significant increase in female briefers

to the Council. References to WPS are often included in Security Council resolutions and PRSTs. Ten out of 15 existing sanctions regimes include direct or indirect references to SGBV (including the Democratic Republic of the Congo, Somalia, the Central African Republic, South Sudan and Mali), and SGBV is often referenced in experts' reports to sanctions committees. In addition, sexual violence has been recognized as a tactic of terrorism, integral to recruitment, resourcing and radicalization strategies, formally linking the issue to global action aimed at curbing terrorist financing, including the work of relevant sanctions regimes.

The WPS agenda has been solidly embedded as a consideration for the Council in all its work. However, continued expansion of the agenda has proved controversial, with some Council Members asserting that the Council should focus on its core work of threats to international peace and security, while there are other UN bodies, including the General Assembly, responsible for promoting a broader women's agenda.

DIPLOMATIC TOOLS

DIPLOMATIC TOOLS

Chapter VI of the UN Charter gives the members of the Security Council significant leeway to engage in preventive diplomacy and the "pacific settlement of disputes". Although the most important innovation in the Charter was to grant the Council sweeping enforcement powers under Chapter VII, the body's members have engaged in prevention, peacemaking and peacebuilding since it began work in the 1940s. The Council has also overseen the development of a significant set of mechanisms for conflict resolution under the authority of the Secretary-General, going beyond the UN founders' initial vision.

Article 33 of the UN Charter makes it clear that UN members and conflict parties should in the first instance attempt to resolve their disputes through means of their own choosing. But the Charter grants the Council the authority to call on parties to resolve their conflicts through peaceful means, investigate disputes and make recommendations on how to resolve them.

Building on this basis successive generations of Council Members and UN officials developed diplomatic tools ranging from very light-touch interventions – such as press statements – to UN-led mediation initiatives and inquiries into ongoing conflicts. There was a particular surge in UN-led mediation processes in the 1990s, and although this has tailed off in subsequent decades, the UN retains special expertise on mediation. In more recent years the Council, and UN system as a whole, have also prioritised post-conflict peacebuilding and "sustaining peace". The Council has never pretended to be the sole actor in conflict resolution, and in fact Chapter VIII of the UN Charter explicitly sets out a role for regional arrangements to deal with matters of international peace and security. Particularly in the post-Cold War period, the Council offered political and operational support to crisis diplomacy by regional organizations.

The Council's diplomatic tools are, therefore, flexible and have evolved (and will continue to evolve) in light of specific conflicts. One notable example of this evolutionary process is that in the post-Cold War period UN preventive diplomacy and mediation increasingly focused on civil wars rather than inter-State conflicts. Despite these variations in the Council's focus over time, its diplomatic tools can be divided into five main categories:

- **Gathering and sharing information:** One basic function of the Council is to act as a clearing house to improve the dissemination and reach of information on current disputes. This can take place through early warning briefings by the UN Secretariat, or through the Council engaging with regional organizations and civil society through formal and informal formats. Obtaining information offers the Council insights into challenges on and off its agenda, and may in some cases deter conflicting parties from actions to which the Council might react negatively.

- **Statements and political signalling:** The Council has a number of tools short of adopting formal resolutions by which it can make its collective opinion on disputes and crises clear. These include Presidential Statements and various types of press statements. Although all these statements are ultimately "mere words" and

lack the binding power of resolutions, they allow the Council to signal concern – and potentially more substantive action – over disputes and crises, and to put its combined political weight behind peace initiatives.

- **Direct diplomacy and fact-finding initiatives:** Council Members can also engage in direct collective diplomacy with parties through their visiting missions to specific countries and regions. The Council can also launch fact-finding missions of various kinds to build up evidence around disputes and conflicts, either to clarify the circumstances of a crisis or to lay groundwork for future international legal processes to hold conflict parties to account. In particular, Article 34 of the Charter empowers the Council to investigate any dispute or situation in order to determine whether its continuance is likely to endanger international peace and security.

- **Good offices and mediation initiatives:** Rather than engage in direct diplomacy, the Council can turn over responsibility for preventive diplomacy and conflict mediation to the UN Secretary-General, UN envoys, and non-UN actors. It can do this by: (i) simply requesting the Secretary-General to exercise his/her good offices in a situation; (ii) mandating or endorsing a mediation process or other diplomatic efforts led by a UN envoy; or (iii) endorsing a regional organization's mediation and diplomatic efforts. The UN Secretariat has developed a range of tools to support these activities, including a hub of mediation experts in New York and a small network of regional offices to act as "forward platforms" for prevention. While focusing on mediation the UN can make recommendations on process or substance and can also foster complementary confidence-building measures and other activities conducive to peacemaking.

- **Peacebuilding:** The Security Council's conflict management responsibilities extend across all phases of a conflict – from situations of emerging conflict, through active conflict, to post-conflict recovery. The Peacebuilding Commission is uniquely placed to support the conflict management activities of the Council where the objective is maintaining and building peace after conflict. This can be done in a number of concrete ways. The ultimate objective is for a situation to be sufficiently stabilized and peace sufficiently consolidated that the Council can wind down its formal engagement while the PBC and the UN's development machinery continue to implement recovery support.

The boundaries between these tools are often blurred. The Council may use a mix of tools based on Chapter VI to deal with a crisis, or mix diplomatic tools with legal, security and economic measures. In other, especially politically divisive cases, the Council can only use some of the tools outlined here in a minimal way – and even this may be difficult. In some cases, the General Assembly and Human Rights Council can authorize similar tools – such as envoys and fact-finding efforts – to those available to the Council. Nonetheless the Council retains a unique role in overseeing the diverse array of multilateral diplomatic tools described below.

In the post-Cold War era, diplomats and UN officials have placed an emphasis on the importance of prevention in all aspects of the Organization's work. "Prevention" is a flexible term and can apply to long-term efforts to avert conflicts and short-term crisis diplomacy. The Security Council has faced criticism for tending to react to conflicts rather than prevent them. While the diplomatic tools outlined in this section can be used in many different contexts, it should be noted that they may have particular value as elements of preventive diplomacy, where political circumstances allow.

Further reading

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DIPLOMATIC TOOLS

1. EARLY WARNING

Summary

Early warning is the provision of information warning of an emerging or escalating conflict or a likely flashpoint. The purpose of conflict early warning is to enable prevention and early response efforts.

The UN does not have a systematic early warning system. However, the Secretary-General has "Article 99 authority" to bring matters of concern to the Council's attention. And, over the years, the Council has developed a number of initiatives to access early warning information, including "horizon scanning" and "situational awareness" briefings, as well as other informal meeting formats and external briefings that can offer early warning information.

Examples: In 1960 Secretary-General Hammarskjöld used his Article 99 authority to warn of conflict in the Congo. In the 1990s the Secretariat provided a daily situational awareness briefing to Security Council Members. In 2010, the United Kingdom instituted monthly Security Council horizon scanning briefings. And in 2016 New Zealand instituted monthly Security Council situational awareness briefings.

Legal basis

The UN's responsibility for conflict prevention is set out in Chapter 1, Article 1 of the UN Charter. Chapter VI, Article 34 specifies that the Council can investigate situations "that *might lead* to international friction or give rise to a dispute" (emphasis added), underlining that it can engage in early warning. Article 99 states that the Secretary-General "*may* bring to the attention of the Security Council any matter which in his/her opinion may threaten the maintenance of international peace and security" (emphasis added). This gives the Secretary-General and UN Secretariat considerable leeway to give early warning of crises.

Description

Early warning is the provision of information warning of an emerging or escalating conflict or a likely flashpoint. Such information is usually derived from systematic monitoring of indicators, followed by analysis of the information, and forecasting of the likely trajectory of the situation. The purpose of early warning of conflict is to enable early response efforts aimed at prevention, de-escalation or, if necessary, taking early action.

Although the Secretary-General has authority under Article 99 of the UN Charter to bring matters of concern to the Council's attention, the UN does not have a systematic early warning system. Instead, analysis from Secretariat departments, and UN agencies, funds and programmes

filters up to the Council, usually through the Department of Political and Peacebuilding Affairs (DPPA). However, this information is usually in the form of regular reporting on situations already on the Council's agenda and can be sanitized.

In response to the absence of systematic early warning information, the Security Council has over time developed a number of early warning mechanisms. All these options risk controversy, as Member States can react very negatively to the Council discussing their affairs.

The Secretary-General can bring threats to the Security Council's attention, either through a letter to the Council President or directly with members. The Council President may include horizon scanning meetings in the monthly Programme of Work, although this will require the agreement of other Council Members. Alternatively, Council Members can request informal situational awareness sessions. Emerging concerns can be flagged in regular debates on the work of the UN's regional offices or during the Any Other Business (AOB) segment of closed consultations. Council Members can also organize Arria-formula meetings or even less formal discussions – for example, co-hosting meetings with conflict prevention NGOs at their missions. This is done at their own discretion, without requiring the assent of other Council Members.

UN officials typically brief at horizon scanning and situational awareness meetings. While DPPA officials (usually at the Under-Secretary-General (USG) or Assistant Secretary-General (ASG) level) normally lead on horizon scanning sessions, a wider range of Secretariat departments brief situational awareness sessions. Briefers in Arria-formula meetings and other informal discussions can include civil society representatives from countries at risk of conflict. A number of international NGOs (such as Human Rights Watch and the International Crisis Group) fairly regularly co-host informal meetings with like-minded Council missions.

There is no standard Council approach to early warning. There are very few concrete examples of Secretaries-General formally citing their Article 99 powers in communications with the Council. And attempts to regularize early warning briefings have failed. The frequency and effect of informal meetings formats typically reflects the interests and creativity of individual Council Members and their capacity to persuade their colleagues to engage in meetings of this type.

History

Conflict early warning systems exist in many international organizations, to provide information and analysis to decision makers in support of early response. For example, the Continental Early Warning System (CEWS) is a key aspect of the African Union's peace and security architecture; and the European Union Conflict Early Warning System (EWS) supports European

conflict prevention and crisis management efforts.

Despite successive landmark UN reports highlighting the need for systematic early warning within the UN, the Organization does not have an early warning system. Analysis capacities exist in various departments and agencies, but are not joined in a system that feeds information into the Council to support decision-making, although efforts have been made throughout the years. In 1987, Secretary-General Javier Pérez de Cuéllar established the Office for Research and the Collection of Information (ORCI) at UN Headquarters. It was mandated to gather information, undertake research, analysis and forecasting, and bring to the attention of the Secretary-General any potential situations of concern. It was supposed to coordinate information-gathering and analysis among UN agencies and be the centre of a UN early warning system. However, this initiative, like most that followed, was beset by political and bureaucratic challenges and eventually disbanded (Willmot, 2017).

The Secretary-General's use of Article 99

There are very few examples of Secretaries-General formally invoking Article 99, although Dag Hammarskjöld did so over the Congo in 1960. In the post-Cold War era, Secretaries-General have tended to rely on "implicit" Article 99 authority, raising concerns in meetings with Council Members such as monthly lunches. It is also possible for Secretaries-General to use the media to put pressure on the Council. In 2017, Secretary-General Guterres publicly warned of ethnic cleansing of the Rohingya in Myanmar and wrote a letter to the President of the Council (S/2017/753) in an effort to stimulate action.

Daily situational update

During periods in the 1990s, the Secretariat provided a daily situational update to Security Council Members. These were informal, high-level and comprehensive briefings provided to Council ambassadors at early morning meetings in the UN Secretariat. The practice ceased with broader changes in Council working methods, particularly informal consultations, resulting in Council Members being less informed about current developments.

Horizon scanning and situational awareness briefings

The United Kingdom initiated the practice of horizon scanning meetings in 2010, and these were held monthly during 2010–2012, but became increasingly rare thereafter. New Zealand initiated the first situational awareness briefings in September 2016, and these were initially popular among Council Members but also lost momentum after less than a year. As at 2022, there was discussion among interested Council Members to revitalize one of these formats.

In substantive terms, horizon scanning sessions covered a wide range of issues of concern. However, challenges were faced getting agreement to include them on the monthly Programme of Work and there was controversy over which issues would be covered. By contrast, situational awareness briefings initially focused more narrowly on cases that were already on the Council agenda. Being informal in nature, agreement of all Council Members was not required for the briefings to be held.

Arria-formula and other informal meetings

The Council has engaged extensively with civil society in the post-Cold War decades. Diego Arria, the ambassador of Venezuela, initiated the informal meetings that bear his name in 1992 to provide a platform for the Council to hear from a civil society representative – a Croat priest – on the situation in Bosnia and Herzegovina. There have since been over 340 meetings of this type, although they have grown increasingly controversial in recent years as some Council Members have convened competing sessions offering opposing views of specific crises (Russia and Estonia, for example, hosted duelling Arria-formula sessions on the situation in Crimea in 2020–2021).

NGOs such as Human Rights Watch, the International Crisis Group, and the Global Center for the Responsibility to Protect also began to lobby the Council more systematically in the 1990s, and have advocacy offices in New York that work closely with like-minded Council Members on events. While the COVID-19 pandemic complicated this engagement in recent years, the International Crisis Group, for example, organizes three to four briefings for Council experts in any given month, usually either at the mission of a Council Member or at least with their support.

In 2021, the Permanent Representatives of the elected 10 members of the Council (E10) held an early warning briefing session with an NGO representative as a trial run for more regular conversations, but this has not yet been repeated.

Other formats for early warning

A number of other Council meetings offer more occasional opportunities for the communication of early warning information to the Council both from UN sources and non-UN sources. These include, for example, reviews of regional offices (see Tool 10 “Regional offices and regional envoys”), Informal Interactive Dialogues and Arria Meetings (see Tool 3 “External information”).

Conditions for success

The fact that UN early warning efforts have met with little success, that successive Secretaries-General have been loath to formally use their Article 99 powers, and that both horizon scanning and situational awareness sessions lost momentum indicates that there are obstacles to

early warning in the UN context. These include:

- **Member State sensitivities:** UN Member States that are not on the Council's agenda usually respond very badly to any suggestion that the Council will address their affairs. Member States that are aware that they may be up for discussion frequently lobby for Council Members and UN officials involved in a briefing to block a discussion, or at least tone down their warnings.

- **Differing views in the Council on the scope of early warning:** A number of Council Members, including China and Russia but also members of the E10, question whether the body should engage in early warning. This is especially true where briefers could emphasize signs of conflict such as human rights abuses that these Council Members do not believe fall within the body's purview. Some Council Members also object to informal briefings at which the countries under discussion are not represented.

- **Doubts about the quality of briefings:** Some Council Members have questioned the value of briefings from the UN on country situations where they themselves have superior national diplomatic networks and intelligence, and when the UN briefings are politically sanitized.

- **Secretariat reluctance:** Significant Secretariat capacity, systems and processes are needed to provide high-quality, high-level and regular early warning briefings. It is difficult for planning purposes if it is unknown whether briefings will be required from one month to the next. In addition, Secretariat officials are reluctant to offend Member States, both Council Members and potential subjects of briefings.

Given these potential objections, early warning discussions are most likely to succeed with the following conditions:

- **Informality:** To alleviate the concerns of Member States about a certain situation being added to the Council's agenda, it is beneficial if early warning briefings remain informal. No official record is necessary when the purpose is simply to inform Council Members about evolving situations. The decision about what situations are included in the briefing should lie with the Secretary-General and be a factual as opposed to political decision.

- **Quality briefings:** Briefings need to be high quality with information that will capture the attention of Council Members. Situational awareness meetings in 2016 were generally best received when the briefers emphasized information – such as insights into UN

humanitarian activities in Iraq – that other sources could not replicate. NGO briefings and Arria-formula sessions tend to be most successful when they involve civil society briefers who have visited regions – or met contacts – that most national diplomats cannot access.

- **Regular briefings with clear parameters:** Having a regular and predictable briefing schedule would enable the Secretariat to put in place the necessary capacity and processes to produce high-quality briefings. In addition, the Secretariat needs clear guidance on the parameters of the briefings being sought, and the selection and scope of situations to be briefed. They need to be assured that their robust, frank and fearless analysis is being sought, and that they will be supported in their situation selection.

Risks/ benefits

Benefits:

- Early warning briefings, of whatever type, help the Security Council to identify potential conflict situations early, so that they may take early action, preventing a crisis from occurring, de-escalating a conflict, or planning an early intervention, if necessary. As the conflict progresses so too does the toll on civilians and the cost of international intervention.

- Early warning briefings are especially advantageous for those E10 members who do not have the global diplomatic and intelligence reach of the P5, and might otherwise be ill-informed about a potential crisis. They create a more even knowledge base across the Council, facilitating more inclusive engagement on potential response options.

- The Council's display of interest in a situation can also stimulate the UN Secretariat to give more attention to a potential crisis (similarly, a Secretary-General's use of Article 99 can instigate greater interest among both Member States and UN officials). In some cases, a display of Security Council concern may also stimulate other UN bodies – such as the Human Rights Council – to pay additional attention to a developing crisis.

- While Member States are liable to object to being discussed by Council Members, the mere fact that these discussions take place can send a signal that their behaviour is under scrutiny. This level of transparency may be a deterrent to violence or political malfeasance in some cases. There is evidence of States making some concessions – such as easing humanitarian access to conflict zones – to avoid Council criticism.

Risks:

- The most common risk in any early warning discussion is that briefers will misidentify or overstate risks, consuming Council time unnecessarily. If Council Members receive incorrect or alarmist

warnings too frequently, there is a broader risk that they will ignore future warnings or (as we have seen was the case in the past) simply stop holding such sessions.

- Some Member States, aware that they are coming under Security Council scrutiny, may become more negative towards the UN. There is a risk that governments will view UN humanitarian officials or development experts as "spies" of an organization intent on interfering in their affairs. In those cases where UN officials are engaged in quiet preventive work independent of the Council, holding an early warning discussion may make their work harder. Meanwhile, an early warning session can backfire if some members indicate that they will oppose future Council engagement on the case in hand, or create confusion by casting doubt on information provided by briefers. In this scenario, an early warning discussion may actually reduce the chances of successful future Council engagement.

- If the Secretary-General invokes Article 99 (implicitly or explicitly) about a country facing crisis, he/she may create problems for existing UN operations on the ground and potentially invite tensions with P5 members and regional powers.

Legal considerations

The Secretary-General's authority under Article 99 is framed as a discretion, not an obligation. However, for serious violations of international humanitarian or human rights law, of which the Security Council is not apprised but the UN Secretariat is through its field operations, there is a question whether the Secretary-General may have a duty to raise the issue with the Security Council, including due to Article 55(c) and any obligations under customary international law on the Organization.

UNSC procedure

- In the case of horizon scanning briefings, the President of the Security Council can propose to include these in the Programme of Work, which requires Security Council consensus.
- Situational awareness briefings are informal discussions, but the President of the Security Council can request these.
- Any Council Member can organize an Arria-formula meeting or other meeting at their own discretion.
- The Secretary-General can formally invoke Article 99 in a letter to the Council requesting a meeting.
- The Secretary-General can use implicit Article 99 authority by raising a crisis with Council Members privately or publicly.

Further reading

Simon Chesterman, "Relations with the UN Secretary-General", in Sebastian von Einsiedel, David M. Malone and Bruno Stagno Ugarte, *The UN Security Council in the 21st Century* (Boulder, United States,

Lynne Rienner Publishers, 2015).
Haidi Willmot, *Improving UN Situational Awareness: Enhancing the UN's ability to prevent and respond to mass human suffering and to ensure the safety and security of its personnel* (Washington DC, Stimson Center, 2017).
Security Council Report (SCR), *Can the Security Council Prevent Conflict?* (SCR, 2017).
SCR, *In Hindsight: Article 99 and Providing the Security Council With Early Warning* (SCR, 2019).

DIPLOMATIC TOOLS

2. FACT-FINDING

Summary

Security Council Members can collectively undertake fact-finding missions to better understand the realities of a situation. These can occur during an emerging crisis or during active conflict.

Fact-finding missions allow Council Members to see first-hand what is happening on the ground, to gather information directly from the conflicting parties, to assess the credibility of different accounts of the situation, and to formulate potential responses. If it is too dangerous or impractical to travel to the conflict affected area, the Council can also hold special fact-finding sessions in New York.

Fact-finding missions are distinct from Council visiting missions, which typically have a political or diplomatic purpose, and commissions of inquiry, which are led by independent experts and typically seek to gather evidence for possible future legal proceedings.

Examples: Greece (1946); the Corfu Channel (1946); Burundi (1994).

Legal basis

Fact-finding missions are based on Chapter VI, Article 34 of the UN Charter's authorization for the Council to investigate disputes and potential disputes threatening international peace and security.

Description

There is no one format for Security Council fact-finding. It is one of the most versatile of the Council's tools. The key distinguishing feature is that it is a group of Council Members acting collectively to understand a situation through direct inquiry. It can take place at any stage of an actual or emerging situation. It could occur when the Council is already seized of a situation. But there are also special and innovative powers in Article 34 which allow fact-finding at a much earlier stage, that is, when there is only the possibility of "friction". The actual substance of what the Council may do is similar in either case, but the procedural issues may differ.

Security Council fact-finding is distinct from individual Council Members' information-gathering efforts, and from the ordinary consideration and discussions of items by Security Council Members. Fact-finding missions are also distinct from Security Council visiting missions, which have a diplomatic/political purpose (see Tool 6 "Visiting missions"), and commissions of inquiry, which are typically authorized by the Council to gather evidence with a view to potential international legal proceedings (see Tool 14 "Commissions of inquiry"). They are also distinct from fact-

finding missions established by the Human Rights Council with a focus on investigating human rights abuses, which are led by independent experts rather than by Member State representatives. The Secretary-General also has a general power to authorize fact-finding initiatives.

Security Council fact-finding allows members to take on inquiries themselves, rather than deferring to UN officials or outside experts. They can do this in many ways, including by deciding that the full Council should comprise a mission, authorizing a sub-group of members to undertake investigations, or setting up a fact-finding body staffed by diplomats serving in the Security Council and/or other representatives of Council Members.

The Council may request the Secretary-General to provide both support staff and subject expertise. In principle, the Council could decide also to involve representatives of other States or regional organizations or recognized international experts in an appropriate capacity.

The length of fact-finding efforts may vary from a short visit to the country concerned to a months-long field mission (in which case it is likely to require dedicated personnel, rather than New York-based diplomats).

In some cases, it is impractical to send Council representatives to a country in crisis (for security reasons or because the host government is resistant). In such instances, the Council can instead hold special fact-finding sessions elsewhere including in neighbouring or regional countries or perhaps Geneva or New York. These are distinct from the ordinary consideration and discussion of items by the Council.

Participants in a fact-finding initiative – whether in the field or in New York – can engage with the host government, political actors, civil society, UN officials and other actors to develop their understanding of a situation, ascertain facts, assess the credibility of different accounts of the situation, with a view to formulating potential responses. This could include calling for reports, speaking to witnesses, and in situ physical assessment.

Fact-finding could take place in various customized ways. These could be informal, such as a small, swift visit by a couple of Council Members, or formal, such as the establishment of a new Council subsidiary body. Missions can be given names appropriate for the situation and purpose, for example, “commission”, “committee”, or “investigative body”. There are even cases where a fact-finding mission had no specific title – being just called a “mission”, as in the one established to Bosnia in 1993 (S/RES/819 (1993)).

A fact-finding mission will typically deliver a report or reports to the Security Council as a whole, summarizing its findings and making recommendations on policy. In some cases, parts of the findings may be kept confidential, for example, to protect sources. The Security Council may use the report as the basis for a resolution or other decisions.

History

Security Council Members made notable use of fact-finding initiatives in the body's earliest years. In 1946, the Council established a commission made up of representatives of all of its members to assess claims that Greece's neighbours were assisting Communist rebels and fuelling a civil war. This commission took some months concluding that Albania, Yugoslavia and Bulgaria were indeed assisting Greek rebels. However, the USSR and Poland rejected the commission's findings.

While this effort involved considerable on-the-ground research, other early UN fact-finding efforts took place largely or wholly in New York. Also in 1946, the Council set up a sub-committee of three members (Colombia, Australia and Poland) to hear directly from Great Britain and Albania regarding their dispute over the Corfu Channel. This met solely in New York.

While the Council authorized further commissions involving sub-groups of members to address crises in cases such as Korea and Laos in the 1940s and 1950s, these grew less common during the Cold War, in part because permanent members were to veto those that challenged their interests. As a pragmatic alternative, small groups of Council Members undertook visiting missions to study the facts involved in some crises, while the Council also increasingly relied on the Secretary-General, UN officials and peacekeeping operations for information.

In the post-Cold War era, the Council has authorized few formal fact-finding missions involving its own members.

In 1993, the Council in resolution 819 (1993) decided to send a mission comprising six of its members to Bosnia "to ascertain the situation and report thereon to the Security Council". The report of the mission had a significant effect on the future role of the UN in the former Yugoslavia.

In 1994, a group of three Council diplomats (representing the Czech Republic, Russia and the United States) participating in a visit to Mozambique subsequently undertook a separate two-day fact-finding mission to Burundi to assess the situation after the genocide in neighbouring Rwanda. This small initiative was approved by Council Members on the basis of informal consultations.

While other Council mechanisms – including visiting missions, informal interactive dialogues, Arria-formula meetings and private meetings – allow Council Members to receive information on a situation from both UN and external sources, they are not as directed at impartial information-gathering, and may not be as systematic and/or sustained as a fact-finding mechanism, and most cannot be initiated unless a situation is already on the Council's agenda.

Conditions for success

While formal Council fact-finding initiatives have been rare, a number of conditions for success are likely to be necessary in any such initiative:

- A general agreement among Council Members on the need for fact-finding: If the Council (and especially the P5) are divided over the need for direct fact-finding, the initiative may lack credibility, and the Council is unlikely to act on its findings.

- A clear focus on facts: A fact-finding initiative should have a clear focus on establishing facts, rather than a political, diplomatic or legal purpose, such as delivering a political message to the host government or other parties to a conflict. It is also helpful if it has a discrete focus on a clear political/security challenge (for example, as ascertaining the truth around a boundary incident or upsurge of violence) rather than the overall conditions in a country or region.

- Non-politicized process: The fact-finding needs to operate in a non-politicized manner, to the fullest extent possible, focused on objective assessment of the situation. This is particularly important if the mechanism is being used in the sensitive case of an emerging crisis which is not yet on the Council's agenda. This objective will be aided if the fact-finding is not conducted or led by Council Members with a direct political interest or stake in the situation.

- Access and/or reliable sources of information: Optimally, a fact-finding mission should be able to visit a country or region and meet with all parties that its members deem necessary to meet. If a fact-finding mission is denied such access, its conclusions may lack credibility. If it is impossible to access a country, Council Members should be sure that they have adequate access to information – from diplomatic and intelligence sources, civil society, the media and other sources – before attempting to assess a situation. At a practical level, this may mean close liaison by the Council with the UN Secretariat on the security issues and logistics, especially when there are already UN forces or officials on the ground.

- Time and resources: While some fact-finding missions, especially those focusing on emergency situations, may be brief, it is preferable for those

involved to have sufficient time to make well-informed judgments. In some cases, this will require Council Members to dedicate staff to an inquiry, either from their missions in New York or from elsewhere in their diplomatic and other services.

Risks/ benefits

Benefits:

- Fact-finding on the ground, focused and involving direct participation by Council Members, can build a real understanding of the situation, the underlying causes of friction, and the risks associated with deterioration.
- Undertaking fact-finding early in the evolution of a situation could lead to the effective use of conflict prevention tools. It could also help delay a "determination" in a particularly sensitive or controversial situation.
- The act of undertaking fact-finding could signal to the parties and the general public that the Security Council is watching a situation and could, in and of itself, have a "cooling" effect.
- A focus on fact-finding only, in contrast with a visit or mechanism that addresses a political or diplomatic purpose (for example, messaging on implementation of a Council decision), may be less controversial for Council Members to agree upon.

Risks:

- Some Council Members may treat a fact-finding mission as biased from its inception, and/or reject its eventual findings, or seek to try to influence the outcome to support their political objectives.
- Even if Council Members are generally united in support of a fact-finding initiative, it may face scepticism from political actors and sections of the public in the country or region it investigates.
- There is a danger that Council Members will face misinformation and disinformation about their activities and findings, not least on social media. This is especially likely as Council Members are by definition political actors and cannot claim the impartiality associated (at least in theory) with UN officials.
- Where a fact-finding initiative is hampered by insufficient access or false information, its findings may ultimately be tentative or incomplete.
- Questions could also arise over the relationship between a Council fact-finding effort and other UN activities (including human rights fact-finding and the work of UN officials in the field). Council Members should take the risks associated with compromising the work of other UN actors seriously.

Legal considerations	A fact-finding mission that travels to the conflict affected area should be conducted on the basis of the consent, express or implied, of the UN Member State(s) concerned. If the Security Council were to impose a fact-finding mission despite the opposition of a State, it may need to demonstrate an express authority deriving from a binding decision under a Chapter VII resolution. A further important consideration would be the privileges and immunities of the UN Security Council delegation members during the visit, as they are not necessarily protected by general UN privileges and immunities.
UNSC procedure	• Where the Council wishes to set up a formal fact-finding commission or sub-committee, this could be a procedural decision and under Article 27(2) such a process could be set up by a vote of nine members. This will typically identify which Council Members are authorized to participate. An informal fact-finding initiative could also be agreed among Council Members in informal consultations. • In the case of early engagement on a situation "which might lead to international friction", the Council could act informally. But if it wanted to act formally, it would need to meet to decide on a mechanism, which would require the issue to be given an agenda item, but would not require that issue to be included on the seizure list, nor the Council to make a "determination" on the situation being a threat to or breach of the peace. • Fact-finding initiatives are generally required to report their findings to the Security Council as part of their mandate. • If the fact-finding mission or mechanism makes policy recommendations, the Council *may* choose to translate these into a resolution or decision.
Further reading	John Quigley, "Security Council Fact-finding: A Prerequisite to the Prevention of War", *Florida Journal of International Law* (1992).

DIPLOMATIC TOOLS

3. EXTERNAL INFORMATION

Summary

Information exchange with external actors is one of the simplest diplomatic tools at the Security Council's disposal. It can improve the Council's common understanding of country situations; increase transparency around crises and conflicts; and offer an opportunity to explore common responses to threats.

In addition to formal open meetings, Council Members have a number of meeting formats to enable information exchange:

- **Private meetings:** Closed, formal meetings, but records not published. Offers the opportunity for the Council to exchange information with UN and non-UN actors. Useful when the Council wants to hear from non-UN officials confidentially.

- **Informal closed consultations:** Closed, informal meetings with no formal records kept. Offers the opportunity for the Council to exchange information with UN officials. Allows for discussion of any country situation, including those not on the Council's agenda, under Any Other Business (AOB). Allows Council Members to address emerging crises in confidence at short notice.

- **Informal Interactive Dialogues (IIDs):** Closed, informal meetings with no formal records kept. Offers the opportunity for the Council to exchange information with a range of actors including representatives of States facing a crisis, regional organizations, NGOs and UN officials. Flexible tool for engaging on a crisis when Council Members want to avoid publicizing their positions or there is insufficient political support for a meeting or consultations.

- **Arria-formula meetings:** Informal meetings which are not Council events, but convened at the initiative of one or more Council Members. No records are kept. In current practice, the vast majority are public and often broadcast via the Internet, but on occasion they are closed. Offers the opportunity for the Council to engage with a wide range of UN and non-UN briefers, including civil society in a public forum. Can raise the public profile and transparency of an issue, but runs the risk of being heavily politicized.

Examples: In 2019, (the last year of regular meetings before COVID-19), the Security Council held 243 public meetings, 15 private meetings and

135 closed consultations. The latter included 43 sessions under AOB at the close of Council consultations. The number of Arria-formula meetings has increased in recent years (including during COVID-19), with 32 held in 2021.

Legal basis

Article 28 of the UN Charter provides that the Council "shall be so organized as to be able to function continuously". The Charter does not lay down more details about the body's routine meeting formats. Council Members have frequently experimented with new meeting formats over the years. Many, though not all, of the relevant meeting formats for information exchange with external actors are detailed in Note S/2017/507, issued by the President of the Council, which contains extensive guidance on the Council's working methods (although formats not addressed in the note include informal informals, sofa talks and informal briefings). The Note represents agreement of the Council Members, but is not binding per se.

Description

Council Members can initiate different forms of information exchange to address a specific crisis. IIDs and private meetings allow non-Council Member States and UN and/or non-UN representatives to share views on a conflict or crisis informally, avoiding publicity (although leaks are common and diplomats note that many members remain cautious and formal even in private settings). Closed consultations share some of these attributes, but cannot be attended by non-Council Member States or non-UN representatives. By contrast, Arria-formula meetings, when held openly, are designed to give maximum publicity to the views of Council Members and briefers, potentially increasing transparency around the situation under discussion.

The AOB format is an especially useful tool for Council Members to raise topics that are urgent or outside the Council's agenda.

Private meetings

Private meetings are formal Council meetings included in the Programme of Work. The Council can invite any person to brief these sessions. The Secretariat keeps a verbatim record of these meetings, but under Rule 55, only a communiqué is issued after they are held.

Informal consultations

Informal consultations "of the whole" are closed discussions that are included in the Council's monthly Programme of Work and the UN Journal. These often follow open meetings. Council Members and, when invited, UN briefers, repair to the Consultation Room beside the main chamber for these discussions. (The phrase "informal consultations" is sometimes also used to refer to other ad hoc discussions among Council Members, for which there are no set protocols.)

Any Council Member can add a topic of concern to the AOB agenda item, which is covered at the end of closed consultations. UN officials can brief at these sessions. Discussing issues under AOB has become increasingly common. While consensus is not required for raising an issue under AOB, with more sensitive issues there is often an effort to get agreement.

Informal Interactive Dialogues

Informal Interactive Dialogues (IIDs) are closed, informal meetings of the Council, presided over by the President. They are opportunities for Council Members to engage privately with a variety of actors (usually high-level officials) including: (i) representatives of States facing a crisis and their neighbours; (ii) UN envoys and other officials; and (iii) representatives of regional organizations and non-governmental organizations. They offer opportunities for the Council to gather information and views from outside actors confidentially, and to pass messages to these interlocutors. The Council also regularly holds IIDs with members of the PBC to share views on cases on both bodies' agendas.

The Council President chairs IIDs. The meetings are held away from the Council Chamber. No notes are kept. Council Members can brief the press after IIDs, although public statements may undermine the private nature of the meetings.

Arria-formula meetings

Arria-formula meetings are informal meetings arranged by a Council Member or group of Council Members (sometimes in cooperation with Member States outside the Council). They are held away from the Council Chamber. The vast majority are public and often broadcast via the Internet, but on occasion they are closed.

Some Council Members organize an Arria-formula meeting during their presidency of the Council, but more often members arrange such sessions outside of their presidencies.

The organizers can invite any briefers they wish, including UN officials, but in recent years Council Members have used these meetings as a platform for civil society briefers. While all Council Members are invited to participate in Arria-formula meetings (and other Member States may also join), they are not obliged to do so.

History

In the post-Cold War era, the Council has expanded the variety of meeting formats it uses to facilitate information exchange with external actors, with a growing emphasis on Arria-formula meetings, IIDS and AOB.

Private meetings, informal consultations and Any Other Business

While the Provisional Rules of Procedure envisage both public and private Council meetings, for many years much of the Council's work has been conducted privately, including through informal consultations. Addressing an issue through Any Other Business - AOB - is also a long-standing practice of the Council which dates back several decades (formerly under the title of "Other Business"). However, the more politicized use of this mechanism in recent years is a symptom of growing tensions in the Council, as members can request inclusion of a topic under AOB, which if proposed for discussion in other informal formats, might be blocked owing to consensus requirements, or fail as the result of a procedural vote in the case of a formal meeting.

Informal Interactive Dialogues

Informal Interactive Dialogues (IIDs) are a relatively recent innovation in Council practice, dating back to 1996. The Council has often used IIDs to discuss emerging and ongoing conflicts. The first was a meeting with a joint delegation from the African Union (AU) and the League of Arab States, to have a preliminary exchange of views on the possible decision by the International Criminal Court against the then President of the Sudan, Omar al-Bashir. An IID was also used to discuss the situation in Sri Lanka, demonstrating that the Council may use the IID format to discuss a country situation not formally on its agenda. In that instance, the Council invited both the Sri Lankan Permanent Representative and UN officials to brief on the situation. Although these meetings had little effect on the crisis, the Council recognized their value as opportunities to exchange views with UN members on situations that concern them directly. Over time, Council Members have used IIDs as a chance to meet not only with representatives of countries facing crises, but also their neighbours.

Council Members have also convened IIDs to hold off-the-record discussions on specific conflicts with UN and regional envoys, members of UN commissions of inquiry, and representatives of regional organizations. In some cases – such as discussions with representatives of the EU on migrant flows in the Mediterranean – this has allowed the Council to address regional challenges and non-traditional threats outside its formal agenda. The Council has also used the format to address a number of topics where members want to hear expert advice on subjects such as Ebola and COVID-19, and to engage with the PBC on thematic and country specific issues.

The resolution that renewed the authorization of the Syria cross-border mechanism encourages the Security Council to convene an IID every two months "with participation of donors, interested regional parties and representatives of the international humanitarian agencies operating in Syria".

The Council can issue a press statement on the basis of an IID, although there are only two recorded examples of this having occurred. However, some presidents of the Council have given potted summaries of IIDs in their assessments of their months in office, and UN reports sometimes allude to their contents (for example, noting where Council Members express support for an initiative in an IID). The confidentiality of these discussions is, therefore, not guaranteed.

Arria-formula meetings

The Security Council held its first Arria-formula meeting in 1992 on events in the former Yugoslavia, at the behest of the Venezuelan Permanent Representative, Diego Arria. Council Members have since convened over 430 meetings of this type, involving briefers ranging from Heads of State to NGO representatives. Early Arria-formula meetings provided Council Members opportunities for informal, and quite private, exchanges with such interlocutors. These meetings were closed and not webcast. However, in recent years the Council has tended to use IIDs and private meetings to enable such quiet discussions and Arria-formula meetings have instead become high-publicity events. An Arria-formula meeting was webcast for the first time in 2006, and this is now common practice. During the COVID-19 pandemic, Member States held many Arria-formula meetings online. The relative ease of doing so – with briefers able to join remotely rather than having to travel to New York – added to their popularity.

Conditions for success

Inviting external actors to brief and discuss issues with the Council is valuable for Council Members to gain and share information in an informal and confidential setting, which encourages more frank and honest exchanges.

While their effect on an evolving crisis is unlikely to be decisive, inviting external actors to IIDs and private meetings can be useful when:

- **National representatives wish to engage substantively with the Council:** Closed meetings allow representatives of nations facing crises or conflicts to engage frankly with Council Members and lay out their positions in greater detail than may be possible in a public meeting. These meetings offer Council Members chances to acquire a fuller grasp of the dimensions of a crisis and, if necessary, give national representatives clear messages in private.

- **Regional envoys and UN officials need to pass private messages to the Council (or vice versa):** Closed meetings create spaces where the Council can engage in detail with regional officials or UN envoys on the details of mediation efforts, humanitarian operations or other forms of crisis response. The confidential nature of the meetings allows officials to be more open with their concerns, and Council

Members to raise questions that could be difficult to address in public. Optimally, these are opportunities for more genuine conversations about crisis response and resolution than the Council can engage in through other, more formal, meetings.

- **The PBC has a prominent role in addressing a country or crisis:** The Council's practice of inviting PBC members to IIDs mean that these are especially useful in those cases (such as Burundi) where PBC members have special access or insights (see Tool 13 "Peacebuilding Commission").

Arria-formula meetings, by contrast, offer the virtue of publicity:

- **Council Members can hear from – and give a platform to – a diverse range of briefers:** Arria-formula meetings allow Council Members to hear from civil society briefers and political actors who would not be invited to participate in formal meetings. This allows Council Members to signal their interest and support for these actors, and gives the Council a chance to hear advice that goes beyond formal UN briefings and national statements.

- **Media outreach**: While open meetings of the Council are broadcast on UNTV, Member States can use social media and other outreach tools to gain maximum publicity for Arria-formula events. One Arria-formula meeting on Myanmar in 2021 received half a million views online.

Risks/ benefits

Benefits:

- Closed meetings offer an adaptable and low-key route for Council Members to discuss and gather information on sensitive situations. They are good opportunities for Council Members to engage on substantive issues with counterparts from regional organizations, national diplomats and even UN officials who may not be able to speak freely in other meeting formats. As such, they allow the Council Members to investigate situations in depth, have frank discussions of peacemaking efforts, and send quiet messages to political actors away from the public eye. As IIDs can focus on countries that are not on the Council agenda, and are not recorded, they offer openings for the members to discuss situations without creating undue sensitivities.

- Arria-formula meetings are flexible, if informal, opportunities for Council Members to hear from diverse briefers and send clear public signals about their positions on conflicts and crises via the media.

Risks:

- There are few significant practical risks associated with closed meetings. The meetings may be less productive where national or regional

actors do not want to engage in detail with the Council, and in some recent cases (such as Association of Southeast Asian Nations (ASEAN) engagement with the Council on Myanmar) regional actors have been wary of holding IIDs altogether. As the Council's engagement on the situation in Sri Lanka only through IIDs demonstrated, governments and other conflict parties can simply ignore the Council's private messages.

- Arria-formula meetings can backfire if some Council Members object to the discussions. There have been recent cases where Council Members have boycotted Arria-formula meetings or organized alternative meetings of their own to offer contradictory viewpoints. Russia and European Union–United Kingdom–United States members arranged a series of contentious Arria-formula meetings on the situation in Ukraine in 2020 and 2021, with the goal of discrediting each other.

Legal considerations

None of the relevant meeting formats for information exchange with external actors, except for private meetings, are governed by the Provisional Rules of Procedure of the Council as they are not formal meetings. This means that no records are kept of the discussions, and there can be no voting or other procedural motions on the conduct of the meetings.

UNSC procedure

Private meetings

- Private meetings are formal Council sessions, arranged in a similar fashion to open meetings, without webcasts, the presence of journalists or a published verbatim record. It is at the discretion of the Council whether or not non-Council Member States are allowed to attend pursuant to Rule 37. The Secretariat keeps a unique copy of the verbatim records, which can only be viewed by Council Members and participants, however, under Rule 55 a communiqué is issued after the meeting is held.

Informal consultations

- "Consultations of the Whole" are announced in the UN Journal and have an agreed agenda. These are typically held in the Council consultations room, and interpretation is provided.
- Council Members can request an item to be raised under the AOB agenda item of previously announced consultations.

Informal Interactive Dialogues

- The Council President chairs IIDs.
- IIDs take place in a conference room other than the Council Chamber and consultations room. Only Council Members, UN officials and other invited participants can attend.
- No formal records are kept of the meeting, although Council Members

can brief the press or (very rarely) issue a press statement on the basis of an IID.

Arria-formula meetings

- A Council Member or members may convene an Arria-formula meeting at their own initiative, and invite non-members to co-sponsor this. These are informal meetings and are not considered Council events.
- In some cases, organizers have asked the Council President to circulate information on Arria-formula meetings as the facilitator.
- The meeting cannot take place in the Council Chamber, but can be held in other rooms in the UN Headquarters.
- The meetings can be held virtually, and open Arria-formula meetings are generally webcast.
- Council Members are not required to attend these meetings.

Further reading

This section closely follows Security Council Report (SCR), *UN Security Council Working Methods: Informal Interactive Dialogue* (SCR, 2020) and the accompanying table *Informal Interactive Dialogues* 2009–2022 (SCR, 2022).

See also:

Richard Gowan, *The Security Council and Conflict Prevention: Entry Points for Diplomatic Action* (United Nations University, 2021).

Security Council Report (SCR), *The UN Security Council Handbook: A User's Guide to Practice and Procedure* (SCR, 2019).

Loraine Sievers and Sam Daws, *The Procedure of the UN Security Council* (Oxford, Oxford University Press, 2014) and update website: www.scprocedure.org.

DIPLOMATIC TOOLS

4. PRESIDENTIAL STATEMENTS

Summary

Presidential Statements (PRSTs) are formal acts of the Council, second only to resolutions and letters by the Council President, which set out operative decisions. They are a high-profile tool for sending public messages to conflict parties, and can lay the groundwork for further engagement on a situation in the future. Although not often the case, the wording of certain provisions in PRSTs may give them the legal force of a binding decision. As they must be agreed by consensus, they can require difficult negotiations.

Presidential Statements became more common following the Cold War. Since the early 1990s, the Council has used PRSTs for multiple purposes, including on thematic issues and country situations. However, in recent years it has agreed fewer PRSTs and made more use of press statements and press elements. Nonetheless, the Council does still use PRSTs to respond to emerging and ongoing crises.

Examples: The Council has generally agreed fewer than 30 PRSTs annually in recent years, and sometimes fewer than 20. In 2021, it agreed 24, including statements on the situations in Myanmar, Libya and Cyprus.

Legal basis

PRSTs are formal outcome documents of the Security Council which require consensus. However, it is possible for a Council Member, while agreeing to the issuance of a PRST, to politically dissociate itself from it completely or in part. A PRST can be viewed as a "decision" under Article 25 of the UN Charter, to the extent that the wording of its provisions can be interpreted as giving it binding effect. Beyond this, the specific content and wording of the decision contained in the PRST will determine the relevant empowering provisions of the UN Charter.

Description

A PRST is an official Council document (prior to 1994, these were issued with a regular Council document symbol, since 1994 they have had a document classification S/PRST/[year]/[number], for example "S/PRST/2022/1"). PRSTs comprise text that the Council can use to publicize its consensus view on a wide range of issues. Since the end of the Cold War, the Council has issued PRSTs on many topics, ranging from condemnations of terrorist attacks to statements on thematic issues such as climate security. The Council has also used PRSTs to respond to specific crises.

The Council can issue PRSTs condemning threats to peace and security, calling on parties to take steps to de-escalate crises, and reaffirming

positions on country situations it has previously stated in resolutions. It does not, however, use PRSTs to authorize peace operations or sanctions regimes.

PRSTs are part of the body of Council products on a given conflict or crisis, and the Council will continue to refer to them in future decisions on a situation. PRSTs are thus tools for: (i) Council Members to send public messages to parties in a crisis or conflict; and (ii) the Council to lay the groundwork for further engagement on a situation in the future.

Despite their name, PRSTs represent the views of the Council as a whole rather than the Council President. Although these are consensus documents, Council Members on rare occasion dissociate themselves from a text after it has been promulgated, or can qualify their support for a text orally during the meeting where it is agreed, or in a national statement thereafter.

In recent years, the Council has frequently used PRSTs to outline positions on thematic issues – including relations with regional organizations – as well as to comment on more specific threats to peace and security. While the Council has come to use press statements as a mechanism for rapid responses to emerging crises, press statements are not legally considered "decisions" of the Council whereas PRSTs are. As such, PRSTs carry greater weight as expressions of the Council's collective views.

PRSTs concerning specific crisis situations can serve purposes including:

- **Condemning breaches of peace and security:** The Council can use a PRST to condemn specific threats.

- **Affirming the continuing relevance of past Council decisions:** Where political actors act in defiance of past Council decisions, a PRST can underline that those past decisions stand.

- **Calling for specific steps to address ongoing crises:** A PRST can call for parties to take specific steps to ease evolving crises (for example, by permitting humanitarian access, enabling elections or avoiding violence).

- **Underlining support for UN and/or regional diplomatic initiatives:** The Council can declare its support for UN missions or envoys, or for the work of regional counterparts through PRSTs, in addition to more concrete statements of concern or calls for action.

- **Welcoming progress in peace processes:** The Council can also issue PRSTs to acknowledge positive developments in situations on its agenda.

In formal terms, PRSTs are flexible tools that Council Members can use to publicize a wide range of positions. However, diplomats note that in recent years divisions in the Council have made it harder to agree strong language in many PRSTs, meaning that many texts only make quite soft or oblique political statements on how to resolve crises.

History

The use of PRSTs by the Council has fluctuated considerably over time. Council presidents issued fewer than 150 such statements during the Cold War, but began to use them with much greater frequency from the early 1990s (reflecting this shift, the Council decided that as of 1994, PRSTs would no longer be issued as regular Council documents but rather be given a distinct document symbol). In 1995, the Council issued 63 PRSTs. However, the Council's use of the tool has decreased since then. Over the last decade, it has typically issued fewer than 20 PRSTs each year.

This decline reflects some changes in Council practice, in particular, the increased use of media statements to respond swiftly to situations. For example, in the 1990s, the Council regularly agreed PRSTs to condemn major terrorist attacks but it has since shifted to issuing press statements on such incidents. The decline also reflects the growing difficulty in finding Council consensus on many recent crises.

Examples of PRSTs concerning specific crisis situations include:

- **Condemning breaches of peace and security:** In 2021, the Council issued a PRST that expressed "deep concern" over the military takeover in Myanmar and also "strongly condemn[ed]" violence against civilians (S/PRST/2021/5).

- **Affirming the continuing relevance of past Council decisions:** Also in 2021, after Turkish Cypriots entered areas in the town of Varosha that the Council had previously declared should not be settled by people other than its inhabitants, it issued a PRST reaffirming the validity of resolutions from 1984 and 1992 on the status of Varosha (S/PRST/2021/13).

- **Calling for specific steps to address ongoing crises:** In the wake of the assassination of the then Haitian president, Jovenel Moïse, in 2021, the Council released a PRST calling for the country to stick to its electoral timetable, and urging the authorities to crack down on violent crime (S/PRST/2021/17).

- **Underlining support for UN and/or regional diplomatic initiatives:** The Council frequently uses PRSTs to endorse the work of UN regional offices. It has also used them to back regional conflict prevention efforts in areas such as the Great Lakes (see S/PRST/2019/19).

- **Welcoming progress in peace processes:** In February 2021, the Council issued a PRST to welcome an "important milestone in the Libyan political process" after Libya's competing political factions formed an interim unity government further to a 2020 ceasefire.

- **Winding up UN diplomatic efforts:** In some cases, as in S/PRST/2020/12 on Burundi, the Council has also used PRSTs to mark the transition of the Council's consideration of a situation from being country specific to being included in the Council's wider consideration of relevant regional issues.

- **To periodically update the Aide Memoire on Protection of Civilians:** In 2001, the Council suggested that an Aide Memoire, listing relevant issues, be drafted by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in cooperation with the Council in order to facilitate its consideration of protection of civilians concerns in a given context. Each time this Aide Memoire is periodically updated, it is annexed to a PRST which sets out the Council's primary concerns relating to protection of civilians.

Conditions for success

There is little evidence that PRSTs or other Council statements can have a decisive impact on a crisis or conflict in isolation. Conflict parties often ignore statements of this type, as they do not contain concrete threats of sanctions or penalties for non-compliance. Given these limitations, PRSTs are best used as elements of broader efforts by the Council to address an emerging or ongoing crises.

Conditions for success in this context include:

- **A clear message:** While thematic PRSTs can be four to six pages in length, those addressing specific crises are usually shorter: one to two pages. These texts are likely to have most effect as political signals if they: (i) clearly condemn breaches of peace and security; and (ii) make clear calls for specific steps to address these. If a PRST is too vague on these points, it is likely to be ignored, and can convey a sense that the Council does not have a clear sense of direction regarding a crisis or for political reasons could only agree a vague or watered-down message.

- **Sufficient Council unity on messaging:** The Council is most likely to produce a clear text to conflict parties when members broadly agree on the political messages involved. Where the Council is deeply divided over how to respond to a crisis, it will either be impossible to negotiate a PRST, or the result will be very weak.

- **Timeliness:** Political divisions over the content of a PRST can also slow down negotiations on a text, meaning that the eventual statement comes

too late to have much impact. Council Members now generally agree press statements faster than PRSTs.

- **A solid basis in past Council products:** As PRSTs carry limited weight in their own right, they are likely to carry most weight when Council Members link them to specific demands, sanctions and other mechanisms in past Council resolutions on the situation under consideration. Basing a PRST on previous, stronger, Council products is likely to increase its political credibility and influence.

- **Clear linkages to UN and regional diplomatic initiatives and actors:** Mediators, political missions and peace operations can use PRSTs to help justify their engagement in a crisis – the statements at least show that the Council is watching what these actors do on the ground. Council Members should, therefore, coordinate with UN and regional actors to ensure that their messages line up with their immediate political, operational and diplomatic priorities.

- **An eye to future Council products:** While a PRST may have a limited short-term impact, it can also pave the way for further and stronger Council products. Council Members can use PRSTs to signal that they will consider future resolutions on a crisis if their concerns are not addressed. At a more detailed level, Council Members can insert specific language in PRSTs that they can reuse in future Council products, guiding future UN diplomacy.

Risks/ benefits

Benefits:

- Despite their limitations, PRSTs represent the best available tool for the Council to articulate clear political messages regarding a crisis, barring a resolution. Their status as formal Council acts means they have greater weight than press statements or press elements. They offer opportunities for the Council to outline key concerns over a crisis and the outcomes it wishes to see. In some (but not all) cases they may be easier and quicker to agree than a resolution.

- The fact that PRSTs require consensus means that, at least in theory, negotiating these texts requires Council Members to adopt a *collective* position on a crisis. Even in situations where Council Members have significant differences, a PRST gives them an opportunity to communicate common concerns (for example, minimizing violence). It also establishes these points of agreement as points of reference for future Council debates and products, including resolutions. As a result, negotiating a PRST is one way to get all Council Members "on the same page", both in terms of signalling to the political actors involved in a crisis, and in orienting future Council decision-making. It can also be a way to reinforce the validity of past Council decisions, ensuring the consistency of the Council's positions over a crisis.

Risks:

- The fact that PRSTs are adopted by consensus means that they can be difficult to negotiate. In contrast to resolutions, *all* Council Members hold a de facto veto over these products. This can draw out the process of agreeing them and reduce their timeliness. There is as an associated risk that, to gain agreement, Council Members will water down a text to a damaging degree. Diplomats admit that at times a PRST can become an "end in itself", as Council Members focus on agreeing a text but do not put any energy into following it up.

- Despite the fact that PRSTs are official Council acts and can, depending on their wording, have binding status, the fact that they are widely conceived of as having a lesser standing than resolutions can lead political actors to ignore them with a sense of impunity, unless the Council signals a credible threat that it will follow through with stronger measures in response. Council Members can also undermine the credibility of PRSTs by following bilateral policies that are incompatible with the statements they sign on to. After agreeing S/PRST/2021/5 on Myanmar, for example, some Council Members strengthened ties with the country's post-coup military junta, contrary to the PRST's expression of support for democracy. In such circumstances, the Council is unlikely to follow up substantively on a PRST.

Legal considerations

While a PRST is considered a formal outcome document of the Security Council, as is a resolution and certain letters by the President, as a matter of practice PRSTs are only occasionally used for binding decisions made in accordance with Article 25. Except for some early decisions relating to sanctions, in present practice they do not institute measures under Chapter VII of the UN Charter.

UNSC procedure

- A Council Member(s), normally the penholder(s), tables a draft PRST for consultations.
- Council Members hold informal consultations on the text.
- If consensus is possible, the Council President reads out the PRST in a formal Council meeting, or the Council agrees to issue the text further to a meeting and the text is then simply read into the record at a formal meeting.
- The PRST is included among the record of Council documents (including posting on the Council website).

Further reading

Loraine Sievers and Sam Daws, *The Procedure of the UN Security Council*, 4th ed. (Oxford, Oxford University Press, 2014) and update website: www.scprocedure.org.

Security Council Report (SCR), *The UN Security Council Handbook: A User's Guide to Practice and Procedure* (SCR, 2019).

Stefan Talmon, "The Statements by the President of the Security Council", *Chinese Journal of International Law* 419 (2003).

DIPLOMATIC TOOLS

5. PRESS STATEMENTS AND PRESS ELEMENTS

Summary

Security Council press statements are informal products, agreed by consensus, released to the press and published not as official Council documents, but as UN press releases. They are not considered to be "decisions" of the Council and thus are not legally binding. Although also presented by the Council President, they lack the status of Presidential Statements. Press elements or "remarks to the press" are a briefer product, approved by consensus, and read to the press but not published by the UN.

The Security Council frequently uses press statements to respond to challenges to peace and security (ranging from terrorist attacks to coups) and to state its collective views on political problems. In the last decade, the Council has increasingly used press statements as its standard form of response to fast-moving crises. They have also helpfully been employed to address situations which are not on the Council's agenda. The most common use of press elements has been to say something about a closed Council meeting.

Examples: The Security Council issued 50 press statements in 2021. In addressing some recent conflicts such as the conflict in Ethiopia/Tigray the Council has only used press statements, rather than formal Council documents and decisions (see SC/14501 and SC/14691).

Legal basis

Press statements and elements are not "decisions of the Security Council" under Article 25 of the UN Charter. They are distinct from the "recommendations" to parties covered by Articles 36 and 38 and, as such, cannot institute measures under Chapter VII. Council press statements and press elements frequently contain language which mirrors Article 33(2) according to which the Council may "call upon" parties to adopt pacific means of settling disputes.

Description

Security Council press statements are informal products, agreed by consensus, released to the press and published. They are not formally attributable to "the Council" as such. Marking their difference from Council decisions, positions presented in press statements are by the "members of the Security Council" rather than "the Security Council". The President of the Council generally reads the statements to the media outside the Council Chamber. These are archived as UN press releases (with an SC/XXXX numbering), rather than official documents of the Security Council, and are available on the UN website.

Press elements or "remarks to the press" are briefer products, approved by consensus. The President reads out the elements, but they are not published. However, they have been exceptionally posted on a delegation's own mission website. They hold a lower status than press statements.

The Council has resorted to releasing press statements with increasing frequency over the last decade. It does so as a matter of routine in response to certain types of events – like terrorist attacks – but has also used these tools to communicate positions on complex political crises, such as coups and emerging conflicts, both on and off the Council's agenda. There are two main explanations for this. One is that it is generally faster to agree press products than formal Council products such as PRSTs. The other is that divisions in the Council mean that press products are often the only response on which all members can agree.

Press statements and elements are flexible tools, and the Council can use them to update the media on its work or share views on thematic questions. In recent years, the Council has mainly issued statements of two types noted by Security Council Report in 2012:

- "Statements related to a specific event, such as a terrorist act, violence against UN personnel, a natural disaster, the death of a head of state or other prominent personality."
- "Statements with political messages, issued when time is of the essence, or on the occasion of a briefing, an election (forthcoming or successfully held) or an international conference on an issue on the agenda of the Council."

Press elements/remarks can cover both types of issues. In general the Council uses these tools to: (i) comment on matters of concern that it does not deem sufficiently important to merit a PRST; (ii) lay out views relatively quickly on crises where negotiating a PRST or resolution would take too much time; and (iii) send political messages in cases where there is insufficient Council consensus for a stronger product. The Council can also release statements/elements on issues that are not on its agenda, signalling that the body is watching.

History

While the Council has communicated with the media since its foundation, it began to use press statements to share its views more systematically in the 1990s. The number of such statements has fluctuated over time, but averaged just under 50 in the first decade of this century. They became more popular again the 2010s, with more than 100 released in some years in the last decade. There is no definitive tally of the number of press elements, as they are not archived. While originally intended specifically for the media, the Council now frequently uses the format of press

statements for the wider purpose of directly reaching the parties, UN Member States, regional organizations and civil society.

The rise of Council press statements derives from a number of factors. One is that they have frequently been used to condemn terrorist attacks and attacks against peace operations (the Council released 24 statements of this type in 2021). But there has also been a trend towards the Council using press statements and elements to respond to challenges to peace and security such as coups and emerging wars.

In 2021, for example, the Council only released press statements on coups in Mali and Sudan, and released press statements and a PRST on the coup in Myanmar. (However, it made no statements at all on coups in Guinea and Chad.) The Council also agreed two press statements on Ethiopia/Tigray, on which it could not agree any other product.

The Council also uses press statements as standard responses to specific examples of threats that it has already addressed in resolutions. In 2017, for example, the Council issued eight press statements on ballistic missile testing by the Democratic People's Republic of Korea (DPRK), while Council Members negotiated a series of further sanctions resolutions in parallel. In such cases, press statements give the Council a simple way to restate its concerns.

In recent cases where the Council has opted to use press statements as its primary response tool to a crisis or conflict, it has tended to emphasize certain recurrent themes:

- The importance of de-escalating violence.
- The need for humanitarian assistance and access to conflicted affected regions (for example SC/14501 on Ethiopia).
- The need for countries experiencing coups and other political crises to pursue inclusive, peaceful politics (for example SC/14532 on Mali and SC/14678 on Sudan).
- Political support to regional organizations and other actors attempting to resolve such crises.
- Support to UN envoys and missions addressing these crises.

While it is harder to see patterns in press elements, as they are not formally recorded, these can be useful tools for the Council to express its views on crises that are not on its agenda. Dealing with a Thai–Cambodian border dispute in 2011, for example, the Council President delivered press elements supporting Association of Southeast Asian Nations (ASEAN) mediation efforts that nudged both sides towards an agreement, without the Council formally speaking out on the problem.

In recent years, groups of Council Members – including European Union

members, the E3 (France, Germany and the United Kingdom) and the A3 (the African members of the Council) – have all made joint statements outside the Council Chamber. These are *not* official Council statements. The Council President can also make statements in their national capacity, but must make clear that they are not speaking as Council President on behalf of the members.

Conditions for success

Press statements or press elements from the Security Council are unlikely to have a decisive impact on the evolution of a crisis. They are primarily opportunities for the Council to make rapid, consensus-based but relatively low-key interventions in developing situations. In this context, a number of factors are likely to improve their impact:

- **Speed:** The most obvious advantage of press statements/elements over PRSTs is that they should be easier to agree quickly, given their lower status. In some cases (as in Myanmar in 2021) Council Members were able to agree certain key points in press statements that they later repeated in PRSTs. A press statement should therefore be an opening for the Council to set out its views of a crisis early. But in some cases the Council does not move quickly: in 2021, the Council took some months to agree a very basic statement on Ethiopia (SC/14501), which effectively demonstrated the body's lack of unity on the conflict there.

- **Brevity and clarity:** Press statements are usually short (less than a page) and lack the tedious apparatus of legal language and reference to multitudes of past Council decisions that can weigh down PRSTs and resolutions. As such, they offer a chance for the Council to make two to three clear points to the parties to a conflict, although if negotiations weaken the text, this may get lost.

- **Receptive partners:** As noted, press statements and elements often endorse efforts by regional actors to deal with emerging crises in addition to offering support to UN actors. But regional partners may not respond positively or effectively to these words of encouragement. The Council should be wary of making public statements supporting other actors that may respond negatively.

Although in present practice press statements and elements are no longer primarily intended for the media, a final factor in their success or failure is whether the press care about them. The role of the media in communicating Council political messages is complicated.

The UN press corps (which has shrunk considerably in the last two decades) will report on press statements on newsworthy crises. They offer especially useful content to wire services that send out short updates on UN business. A well-crafted press statement with clear messages may get

a broader audience than a formally more important but densely drafted PRST or resolution.

Nonetheless, there are some risks involved in press statements and elements including: (i) the media and social media overstating or misinterpreting the importance or weight of these products (a particular problem in cases such as Myanmar where partisan social media accounts shape popular news consumption); and/or (ii) journalists focusing on the difficulties of agreeing these texts, rather than the eventual products.

Risks/ benefits

Benefits:

- In many cases, press statements and press elements provide comparatively straightforward tools for the Council to state its views about emerging crises quickly and simply. The fact that these are not formal Council decisions means that they are generally easier to negotiate, but their key messages should still be widely noted, if Council Members publicize them properly. As such these are good "first response" tools for the Council in a crisis. They also offer a useful way for the Council to engage on issues that are not on its agenda.

- While Council Members may disagree on the content of press statements, the potential political damage associated with such differences is low. Council Members who are wary of approving PRSTs or resolutions on a particular crisis may view press statements as a lower-risk alternative, and support them for the sake of maintaining Council unity.

Risks:

- In some cases Council Members have dragged out discussions of press statements and elements, slowing the potential for a swift and light Council response in the face of an escalating crisis.

- There is a risk that, once agreed, press statements and elements will get lost – or be quickly forgotten – among other statements and events. This is particularly true of press elements, given their lack of any formal record. Conversely, media and social media may overstate the importance of press statements, implying that the Council is more united and focused on a crisis than is in fact the case, creating false expectations about its actions.

- The parties to a conflict may view the product – a non-binding press release – as irrelevant. Indeed, the Council's failure to adopt a stronger product may be read as a sign that it is unable or unwilling to engage substantively on a certain crisis.

- There is a danger that the media, rather than amplifying the Council's views, will also paint UN statements of concern about a crisis as

	symptoms of weakness in the face of a crisis.
Legal considerations	Given that press statements and elements are not formal "decisions" of the Council, they should not attempt to make determinations, address recommendations or decisions which need to be set out in a formal product, for example, a resolution or PRST.
UNSC procedure	• Council Members either agree the text of a press statement or approve the delivery of press elements. • There are two options for presenting press statements. Either the Council President reads the text to the media outside the Council Chamber, or the text is circulated to the media. In either case, it will thereafter be issued by the UN as a press release. • Press elements are always delivered by the President in person to the media at the press stakeout but not distributed by the UN in written form. • When press statements are read out by the President, and in the case of press elements, these presentations will be webcast and archived on the UN website.
Further reading	Security Council Report (SCR), *In Hindsight: Press Statements* (SCR, 2012). SCR, *The UN Security Council Handbook: A User's Guide to Practice and Procedure* (SCR, 2019).

DIPLOMATIC TOOLS

6. VISITING MISSIONS

Summary

Visiting missions are visits by high-level representatives of all 15 Council Members, or an agreed subset of them, to a country or countries in their Security Council capacity. The purpose of the visits is for the Council representatives to assess political conditions, consult with local political actors and UN officials, and flag the Council's views to these interlocutors. In general, this gives Council Members a unique chance to understand the realities of UN engagement on the ground. In rare cases, Council missions have been involved directly in efforts to resolve escalating conflicts. More often, missions have given messages and warnings to national leaders regarding the UN's concerns about medium-term political trends, although in some cases missions lack a clear political purpose.

Examples: In 1999, a Council visiting mission helped mediate a political resolution to the crisis following East Timor's vote for independence from Indonesia. In 2014, the Council undertook a visiting mission to South Sudan, which it framed as an "emergency call", appealing to political leaders to halt the violence and form a government of national unity, witnessing the plight of civilians being protected in UN camps, and demonstrating support for the UN peacekeeping mission.

Legal basis

The legal basis for Council visiting missions is Chapter VI, Article 34 of the UN Charter, which authorizes the Council to investigate disputes and potential disputes threatening international peace and security. Alternatively, such missions, particularly where they do not have a fact-finding component, may be considered an ad hoc subsidiary organ under Article 29. These missions also provide opportunities for Council Members to take other steps towards the pacific settlement of disputes under the Charter. When missions cover countries where the UN has peace operations authorized in whole or in part under Chapter VII of the Charter, they may be considered part of the Council's fulfilment of its task to "maintain and restore international peace and security". In exceptional circumstances, where host State consent is not provided, in theory a visiting mission could be mandated by a Council decision under Chapter VII of the Charter.

Description

Council visiting missions come in different shapes and sizes but in recent years have generally involved representatives of all members of the Council, usually at the levels of Permanent Representative (PR), Deputy Permanent Representative (DPR) and Political Coordinator. These groups visit one or more countries to assess conditions and meet important actors,

normally for three to four days although potentially for longer periods. In most cases, missions visit countries already on the Council agenda, although this is not always the case. In 2017, a Council mission visited Nigeria and other countries in the Lake Chad Basin. The Council often uses the opportunity of its biannual trip to Addis Ababa to meet with the African Union Peace and Security Council as an opportunity for visits to other parts of Africa. Prior to the COVID-19 pandemic, Council Members were undertaking three to five visiting missions per year.

In most cases, the lead delegation or delegations dealing with a specific case on the Council initiate and lead a visiting mission. In recent practice, it is common for countries to nominate a co-lead or co-leads including a Council Member from the region, so as to give balance to the direction of the mission (if, for example, a mission is visiting both Anglophone and Francophone African countries in a single tour, different Council Members can lead different parts of the mission depending on their sub-regional affiliations). Elected members sometimes include a visit to their capitals as part of these tours, for prestige as well as substantive reasons.

Council Members must agree on terms of reference for the mission in advance, which will be published as an official Council document. They typically hold a briefing on the mission as an open meeting after their return, as provided for in S/2017/507, paragraph 124. They can also agree a visit report by consensus, although this is not obligatory.

The fact that Council Members undertake these missions in their own right sets them apart from commissions of inquiry and investigations mandated by the Council, which involve groups of experts rather than diplomats (see Tool 14 “Commissions of inquiry”).

Although visiting missions involving all Council Members are now the norm, the Council can direct a smaller group of Members to travel on its behalf. In 2005, the Council sent a single ambassador – Kenzo Oshima of Japan – to Ethiopia and Eritrea to consult on the status of the UN peacekeeping operation (UNMEE) observing their ceasefire.

The Council can use visiting missions for a variety of purposes, including:

- Gathering first-hand insights on issues on its agenda
- Signalling its political backing of peace processes
- Expressing its interest ahead of elections or other major events
- Indicating interest in conflict risks outside its pre-existing ambit
- In very rare cases, engaging in direct conflict resolution efforts

In the last two decades, these missions have most often focused on countries where the UN already has operations supporting peace processes. In some especially fragile cases, the Council has made a point of

annual or near-annual visits.

The organization of visiting missions is coordinated by the UN Security Council Affairs Division (SCAD), and often more than one member of the Secretariat accompanies the mission. The organization of meetings and supporting the visit in the field largely falls to the relevant UN operations and offices, which need to allocate scarce time and resources to the effort. Local authorities may also support elements of the visits.

Council visiting missions have no independent budget. UN field missions in the countries the Security Council visits often have to find funds to cover the costs, which are typically around $500,000. In some cases the UN Comptroller has been able to find alternative resources. Council Members wishing to make special arrangements in the context of a mission – such as additional travel or meetings – individually bear those supplemental costs.

History

The nature of Council visiting missions has changed over time. The first mission was to Cambodia and Viet Nam in 1964 (although see Tool 8 "Good offices" for earlier modes of Council engagement on the ground). During the Cold War, visiting missions were rare, and typically involved a small number (usually three) elected Members. In this period, they were often focused on fact-finding work.

After the Cold War, visiting missions became far more common, and over 70 have taken place in the last three decades. In the 1990s, missions still tended to involve a sub-group of Council Members, but from the early 2000s, all 15 started to travel together. This was the default mode from 2001 onward, although there have been occasional exceptions. Council Members are not obligated to participate in these exercises, but absenteeism is rare. Also in this period, P5 countries started to lead missions, breaking with previous practice.

From 2006 on, the Council started to visit Addis Ababa for the Annual Joint Consultative Meeting between members of the UN Security Council and the African Union Peace and Security Council. These have alternated between Addis Ababa and New York each year, with the Council using the opportunity of the meetings in Addis Ababa to also visit other parts of Africa.

Some Council visits have involved direct crisis management. These have had mixed results. In 1993, a Council mission visited Bosnia and Herzegovina and proposed the creation of "safe areas" in the country – an idea which was tragically undermined by the Srebrenica massacre. In 1999, a group of six Permanent Representatives, led by Martin Andjaba of Namibia, visited Timor-Leste and Jakarta during the crisis following the Timorese vote for independence from Indonesia. This, alongside many

other international efforts to resolve the crisis, contributed to Indonesia's eventual withdrawal. Conversely, a visit by Council Members to Ethiopia and Eritrea on the verge of the two countries going to war in 2000 failed to influence their decisions, and some diplomats complained it had complicated other efforts at peace diplomacy.

Samantha Power, the United States Permanent Representative to the UN from 2016 to 2021, co-led a series of visiting missions with a focus on crises in Burundi and South Sudan in an effort to pressure those Governments to avoid conflict. However, many missions are more routine rather than decisive political interventions, intended for Council Members to remind actors that the Council is seized of particular situations of persistent concern. In some cases, diplomats complain that Council presidents schedule visits to add lustre to their presidency rather than with a clear political purpose. Nonetheless some Council visits – like the 2017 visit to the Lake Chad Basin noted above, which was jointly led by France, Senegal and the United Kingdom – have helped Council Members expand their understanding of new areas of insecurity.

One recurrent dilemma for Council Members has been whether to invite any partners on these visits. In 2019, the Council visited Mali and Burkina Faso with the Chair of the EU Political and Security Committee. There have been recurrent AU–UN discussions about the Council and the African Union Peace and Security Council conducting joint visits, but to date, it has been impossible to agree modalities that satisfy the Members of both bodies.

Separately, with some frequency, chairs of subsidiary organs, sometimes accompanied by one or more other Members, have undertaken missions to the field. Such missions are encouraged by S/2017/507, paragraph 107. The Working Group on Children and Armed Conflict undertook its first visit, to Nepal, in 2010. The Informal Experts Group on Women, Peace and Security undertook its first visiting mission, to Lebanon, in 2022.

Some individual Council Members have also undertaken trips in their national capacities, while taking advantage of the status associated with Council Membership.

Conditions for success

Some Council Members hold that the norm that all 15 should participate in visiting missions is cumbersome, and that it would be good to revert to deploying smaller missions to represent the Council in many instances. This would reduce the logistical and financial complexities involved, facilitate more substantive and less ceremonial meetings, and also allow those Council Members best placed to address a specific situation to focus on it. But other Council Members have argued that so-called "mini-missions" (the last having occurred in 2012 when only six Council

Members visited Timor-Leste) should not be undertaken because it is important politically that the full Council be represented when missions travel to relevant countries or regions. In addition, few Council Members would want to forgo a mission and thereby be viewed as disinterested in a country or region. For these and other reasons, efforts to establish criteria for smaller missions have failed to secure consensus.

Leaving the question of mission size aside, five success factors stand out:

- Clear agreement on the purpose of a visiting mission: Given the need to get consensus on the mandate for a visiting mission, it is important to ensure that the Terms of Reference set clear political goals for the visit and are not so vague it loses direction.

- Close coordination with UN actors on the ground: It is crucial that Council Members leading the visit coordinate closely with senior UN officials in country, such as SRSGs and heads of UN Country Teams, on political priorities and messaging in advance of a trip.

- A practicable itinerary: Where visiting missions have to cover large areas in multiple countries, it is important that the travel plans make sense and do not force ambassadors simply rush through meetings.

- Avoiding Council divisions during and after the mission: In some contentious cases, Council Members have given contradictory messages to local political interlocutors during visiting missions, highlighting their disunity. This may encourage local actors to ignore Council positions, or choose the position that suits their purposes. In other cases, Council Members present a common front while on tour, but then adopt clashing positions once back in New York. This both complicates drafting a consensus report on the mission and again highlights a lack of Council unity. A mission leader or co-leaders should take all steps possible to avoid such counterproductive splits during or after a visit, including as it undermines one of the key benefits of such missions, bringing to bear significant political pressure on a situation by showing a united front.

- A solid follow-up plan: It is best to tie a visiting mission to a clear follow-on product, such as a Council resolution, that can: (i) provide a focus for the mission and allow participants to translate their on-the-ground insights into action; and (ii) demonstrate to local interlocutors that their engagement with the Council has had substantial results.

Risks/ benefits

Benefits

- Visiting missions provide the Council with unique opportunities to deepen their understanding of a particular conflict situation and the work of the UN in the field. This may reveal the need for greater UN

engagement. The visit may involve getting a clearer understanding of the operational challenges of a peace operation or political mission. But it can also have a more human aspect. Council Members who visited Myanmar and Bangladesh in 2018 to study the situation of the Rohingya came away deeply affected by the plight of those in refugee camps. Such experiences can motivate Council diplomats to push harder for measures to alleviate the suffering of civilians that they have witnessed.

- In diplomatic terms, visiting missions offer Council Members a chance to engage directly with key actors in the field and test the assessments that they receive against ground truths.

- The Council's decision to visit a country or countries sends a strong message to local political actors that their behaviour is under scrutiny. It allows Council diplomats to convey tough political messages directly to important players, rather than having to send signals through distant resolutions and other Council products. It also provides opportunities for the Council to bolster UN officials in a country where they face political headwinds.

Risks

- A Council mission is a complicated affair to organize and can distract UN officials on the ground from their day-to-day business. It also adds unwelcome costs to their budgets.

- In diplomatic terms, the process of negotiating the Terms of Reference for a mission can be complicated and lower its effectiveness if members settle for lowest-common-denominator language.

- In very practical terms, missions can also take senior Council diplomats away from New York for days at a time, reducing their ability to handle other business. In 2021, for example, ambassadors were in Niger when the Sudanese military seized power in Khartoum, slowing the Council's response to the crisis. Even during such visits, it is important that the Council is able to function and adopt outcomes in New York.

- The main political risk associated with a visiting mission is that local political actors will simply ignore the Council's messaging, or view it with suspicion. This was largely the case during the mission co-led by Samantha Power to Burundi, during which the country's president grew increasingly hostile towards the Council and other international actors, partly due to the Council showing it was divided. The demonstrative effect of a visiting mission can thus backfire. This risk is exacerbated in those cases where Council Members give contradictory messages to local actors, or the mission disrupts quieter, more extended peace efforts by UN officials or other actors.

Legal considerations	By practice, visiting missions are conducted on the basis of the consent, express or implied, of the UN Member State(s) concerned. If the Security Council were to impose a visiting mission despite the opposition of a State, it may need to demonstrate an express authority deriving from a binding decision under a Chapter VII resolution. A typical UN peace operation established wholly or partly under Chapter VII would not have obvious mandate language on which to base an obligation to receive a visiting mission of UN Security Council Member delegations. A further important consideration would be the privileges and immunities of the UN Security Council delegation members during the visit, as they are not necessarily protected by general UN privileges and immunities.
UNSC procedure	• The President of the Council can make space for a visiting mission in the monthly Programme of Work. • A mission is led by one or more co-leads usually agreed by consensus of the Council. The lead delegation or delegations dealing with a specific case on the Council agenda generally initiate and lead a visiting mission, often along with a member from the region. • The mission leader engages SCAD to assist with the organization of the mission. • Council Members must agree the Terms of Reference of the mission by consensus. • Council Members may agree to ask a subset of the membership to undertake a mission on behalf of the whole. • UN field operations typically cover the costs of a mission. • Pursuant to S/2017/507, paragraph 124, by practice the Council holds an open meeting for a briefing on the mission after its return. • Council Members can agree a visit report by consensus, although this is not obligatory.
Further reading	Richard Gowan, *Diplomacy in Action: Expanding the UN Security Council's Role in Crisis and Conflict Prevention* (NYU Center on International Cooperation, 2017). Security Council Report (SCR), *Can the Security Council Prevent Conflict?* (SCR, 2017). SCR, Security Council Visiting Missions (SCR, 2020).

DIPLOMATIC TOOLS

7. RECOMMENDATIONS

Summary

Recommendations are points of guidance given to parties on the process for dispute resolution, or substance of a settlement. Such recommendations are non-binding.

The Council has made sparing use of its authority to issue formal recommendations in this way, and has instead been more inclined to offer principles for settlement. In addition, many Council resolutions and statements endorsing peace processes or agreements have a similar effect in practical terms.

Examples: The Council made frequent use of recommendations in its early years over cases such as Kashmir and the negotiation on Indonesia's independence from the Netherlands. It has not made explicit use of the relevant Articles of the Charter in recent years, but has often endorsed ongoing peace processes (as in Libya) and made proposals about their implementation.

Legal basis

The UN Charter offers several bases for Council recommendations:

- Article 36 states that, "at any stage" the Council can "recommend procedures and methods of adjustment" in disputes and situations threatening international peace and security.
- Under Article 36(3) this may include a referral of legal disputes to the International Court of Justice (ICJ).
- Article 37 states that if parties to a dispute cannot find a solution through mediation or other means, the Security Council may either take action under Article 36 or "recommend such terms of settlement as it considers appropriate".
- Article 38 adds that "if all the parties to any dispute so request"' the Council may make recommendations "with a view to a pacific settlement of a dispute".

Description

Council recommendations to parties for the peaceful settlement of disputes may focus on process and/or substance. The tool is broad and flexible essentially providing an avenue for the Council to recommend a pathway for resolution or a framework for agreement. The recommendations made are non-binding.

Recommendations on process may include advising parties to a dispute to adopt a specific form of arbitration, mediation or other political procedures to resolve their disputes.

In the past this has included proposing a plebiscite on a disputed territory, recommending parties to submit their differences to a specially formed UN Commission, advising parties to work with a UN mediator, and taking a case to the ICJ. Over time, as the UN's own conflict resolution tools have become better developed, the Council's efforts have been more focused on supporting specific UN mediation processes. It has also frequently encouraged parties to work with non-UN mediators. Nonetheless, the option to recommend process for dispute settlement remains open.

The Council has rarely recommended a precise substantive framework for settling a conflict. Instead, it has tended to set out principles for a settlement rather than the exact outcome. The Council's frequent resolutions endorsing the principle of a two-State solution to the Israeli–Palestinian conflict is the best-known example of this "middle alternative" between focusing on the procedures and substance of an agreement.

While the Council does not ***explicitly*** cite Article 36 or 37, it makes use of its underlying authority to make recommendations about disputes and conflicts on an almost constant basis. It frequently comments on the principles that should pertain in potential political settlements, for example, by emphasizing the need for the importance of human rights or the inclusion of women in a process. The Security Council Affairs Division (SCAD) now collates an enormous number of elements from Security Council resolutions – for example, paragraphs urging, encouraging and calling for parties to a conflict to take certain actions – under the general heading of "recommendations".

Article 38 of the UN Charter – requiring a formal request from all the parties to a dispute for Council recommendations – has, however, never been used (noting that the reference to "all the parties" in Article 38 may not have contemplated non-State actors as parties to a dispute).

History

There are many examples of the Council experimenting with recommendations in its early years, when the UN's conflict resolution machinery was still in its infancy. These cases included:

- Proposing a plebiscite in Kashmir.
- Recommending that the Netherlands and Indonesia resolve the question of Indonesian independence through a special UN Commission.
- Urging Israel and the Arab States to resolve their differences through a UN mediator.

However, the appointment of a mediator in the Arab–Israeli case signalled the beginning of a process by which the Council increasingly turned to UN mediators, the good offices of the Secretary-General, and peace

operations as its primary "tools" for dispute resolution. In the post-Cold War era it has also become common for the Council to recommend parties work with mediators representing regional organizations and other non-UN actors.

For these reasons – and other obstacles noted below – the Council does not now issue "recommendations" explicitly based on Articles 36 to 38 of the Charter as stand-alone responses to crises. Instead, it makes specific suggestions to parties as part of broader mandates and statements on UN mediation, UN operations and their non-UN counterparts. Nonetheless, some Council resolutions such as resolution 2254 (2015) – which laid out the parameters of a peace process for Syria – continue to provide frameworks for conflict resolution processes, much as Article 36 envisaged.

Conditions for success

Should the Council make specific formal recommendations on either the process or outcome of a dispute resolution process, it risks certain obstacles. One is that these recommendations may prove restrictive. Once the Council has committed to a specific framework for diplomacy, it limits its own ability to change course, and that of the negotiators. If one or more parties to a dispute reject Council recommendations, or a process backed by the UN proves unsustainable over time, it can also damage the Council's own credibility as an actor in future efforts to address the issue.

This is one reason why it may be preferable for the Council to recommend principles for settlement rather than exact details. Under any circumstances, it is clear that the Council simply recommending a process or settlement is not sufficient to make it work. This demands the consent of the parties and in many cases UN or non-UN facilitation and oversight. Solid implementation mechanisms are therefore needed to make recommendations stick, rather than just recommendations themselves. Moreover, as the Council is a political body and its members have their own bilateral relations with parties in disputes, there is always a risk that it will ultimately offer highly politicized recommendations.

Risks /benefits

Benefits:

- Recommendations can be used as a flexible tool to allow the Council to support a wide range of preventive and peacemaking efforts.
- The Council can use recommendations to help lay down principles and frameworks for political discussions.
- The Council can use recommendations to add diplomatic weight to existing negotiations and peace processes.

	Risks: • Non-binding recommendations without clear implementation structures are likely to have limited impact. • Overly detailed recommendations may prove restrictive, both on the Council and on other actors involved in resolution efforts. • The Council may offer politicized recommendations that could complicate resolution efforts.
Legal considerations	There have been debates over the exact scope of the Council's ability to use Article 36(1), turning on whether it is necessary for the Council to determine the existence of a "dispute" or "of a situation of a like nature", as provided under Article 33 before making any recommendations. However, in practice, the Council's recommendations will at least implicitly indicate the existence of such a dispute.
UNSC procedure	• Using Article 36, the Council may make recommendations on procedures to address a dispute or conflict at any time. • Using Article 37, the Council may outline terms of settlement to the parties to a dispute if they fail to achieve these themselves. • Using Article 38, the Council could respond to a joint request for recommendations from all the parties to a dispute. • Council recommendations are usually made in a letter to the parties. The Council often also inserts recommendations in many of its resolutions.
Further reading	Steven R. Ratner, "Image and Reality in the UN's Peaceful Settlement of Disputes", *European Journal of International Law*, vol. 6 (1995). Bruno Simma, Hermann Mosler, Albrecht Randelzhofer, Christian Tomuscht and Rüdiger Wolfrum, *The Charter of the United Nations: A Commentary*, 2nd ed. (Oxford, Oxford University Press, 2012).

DIPLOMATIC TOOLS

8. GOOD OFFICES

Summary

In the UN context, "good offices" are diplomatic initiatives by the Secretary-General and his/her appointees to resolve international disputes and prevent or stop conflict. They can be high profile or discrete, formally mandated or undertaken informally.

The Security Council can request the Secretary-General to use his/her good offices in a particular crisis, or to choose a representative to do so on his/her behalf. The Secretary-General may also initiate such efforts on his/her own authority.

Good offices offer a flexible means for UN engagement in a conflict, including in situations not on the Council agenda. They may also open the way for other forms of UN engagement, including mediation and the deployment of peace operations.

Examples: The Council requested Secretaries-General to exercise good offices in respect of the 1971 India-Pakistan war, the 1979 Iran hostage crisis, and the 1982 Falklands/Malvinas war. More recently, the Council has included the exercise of good offices in the mandates of UN envoys, political missions and peace operations.

Legal basis

The Charter does not specify the Secretary-General's diplomatic remit in any detail, although Article 98 authorizes the office holder to undertake "functions" entrusted to the office by the Security Council. Nevertheless, the Secretary-General's practice of good offices has been accepted by the UN Security Council and UN membership as necessary for the exercise of the Secretary-General's functions under the UN Charter. The prevailing legal view is that there is an implied power for the Secretary-General to provide good offices, which is supported by the practice.

Description

While there are different definitions of the term "good offices", in the UN context it is generally agreed to refer to *diplomatic* engagement by the Secretary-General and his/her appointees to address conflict. As such, it can also refer, for example, to political work carried out by peacekeepers and UN development officials in conflict areas.

In the context of Security Council discussions, however, it often refers to a narrower range of options including: (i) personal diplomacy by the Secretary-General; (ii) diplomatic efforts by UN officials (such as the Under-Secretary-General for Political and Peacebuilding Affairs); and

(iii) the work of specifically appointed representatives of the Secretary-General to address conflicts. These diplomatic efforts often overlap with – or evolve into – other UN activities such as mediation, peace operations and peacebuilding. Successive Secretaries-General have established and expanded their political role through practice, and the exact scope of "good offices" remains usefully vague and adaptable.

The Secretary-General and his/her representatives can undertake good offices on their own initiative, for example, by opening quiet discussions with Member States about disputes and conflicts, without an explicit Security Council mandate. Indeed, many studies suggest that such initial diplomatic efforts may be most effective ***without*** direct Security Council involvement, as this gives UN officials greater freedom of action and reduces concerns about "big power interference" in a situation.

Security Council Members can nonetheless engage with such efforts informally – for example, by discussing them with the Secretary-General at their monthly lunch meetings – or by endorsing them through resolutions, PRSTs or press statements. Generally speaking, the Council's mandates for good offices work are less detailed than those for other types of UN engagement, such as mediation, giving the Secretary-General and his/her advisers leeway to improvise. They do not necessarily refer explicitly to "good offices", but can invite the Secretary-General to "enter into contact with" conflict parties, or use similar phrases.

The Council can also formally request the Secretary-General to either undertake good offices in person, or to appoint a representative to do so by means of a resolution. It could also prompt the Secretary-General to consider such options through a PRST or even a press statement.

The Secretary-General's diplomatic work is supported by his/her Executive Office (EOSG) and the Department of Political and Peacebuilding Affairs (DPPA). If the Secretary-General appoints a representative to undertake good offices work, it may be necessary to supplement the DPPA's resources with additional staff, although senior officials engaged solely with diplomatic work (as opposed to more formal mediation and other tasks) do not normally need large teams.

It is now rare for the Council to pass resolutions formally requesting the Secretary-General to exercise his/her good offices in a very narrow sense, although the Council mandates for envoys, special political missions and regional offices authorize the UN to engage in complex diplomatic work. Council Members do frequently confer informally and formally with the Secretary-General on his/her diplomatic activities in cases where the UN has no authorized political field presence, and rarely question his/her implicit mandate to undertake such activities.

History

The Security Council has recognized the value of good offices since its earliest years. In 1947, it authorized a "Good Offices Commission" made up of national diplomats to facilitate discussions of Indonesian independence from the Netherlands. It did not repeat this experiment, but instead turned to successive Secretaries-General – beginning with Trygve Lie – to undertake good offices work. Dag Hammarskjöld energetically pursued good offices initiatives in cases where he had no prior Council endorsement, setting a precedent for his successors.

During the Cold War, the Council explicitly requested successive Secretaries-General to exercise good offices in cases including the 1979 Iran hostage crisis and the 1982 Falklands/Malvinas War (see resolution 457 (1979) on Iran and resolutions 502 (1982) and 505 (1982) on the Falklands/Malvinas). On other occasions, such as during the Iran–Iraq War it expressed support for an independent offer of good offices by the Secretary-General. The Council has also asked Secretaries-General to appoint representatives to lend their good offices on a range of matters ranging from the status of Cyprus, to resolving humanitarian issues in the wake of the 1971 India-Pakistan war. In many cases, these initiatives were short-lived but in others – such as Cyprus – they marked the beginning of extensive UN engagement on the situations in question.

Prior to the end of the Cold War, UN officials tended to frame good offices work in terms of small-scale initiatives and "quiet diplomacy". In the post-Cold War era, the scope for good offices work expanded immensely, and UN envoys, political missions and peace operations have all conducted "good offices" on a much larger scale. Indeed, this work became so common and entwined with other UN activities, that the Security Council Affairs Division (SCAD) stopped treating good offices as a distinct tool after 1988 in the *Repertoire of the Practice of the Security Council*.

Council Members often treat the Secretary-General's exercise of good offices as a given in many crises, and do not explicitly call for this through resolutions. However, Council Members note that many of their regular informal discussions with the Secretary-General – such as at monthly "SG lunches" – centre on situations where the UN has little or no institutional presence, but the Secretary-General is personally involved. They thus learn from – and can comment on – his/her work in this field.

This lack of formal Council engagement is overall positive, and indeed necessary, for the Secretary-General to engage creatively and quietly in disputes and conflicts. It does, however, mean that the Secretary-General's political choices on when and how to engage in good offices can be opaque, and powerful States inside and outside the Council can influence them informally.

In the meantime, successive Secretaries-General and the Council have also come to accept that representatives of other organizations (such as the African Union) may be best placed to play a good offices role in many crises, shrinking options for UN diplomatic engagement.

Conditions for success

For good offices diplomacy by the UN to succeed it is necessary for: (i) the parties to a conflict or dispute to be open to third-party assistance in resolving their differences; and (ii) the UN Secretary-General or his/her proxies to have the diplomatic dexterity and networks necessary to engage effectively. The Security Council can increase the chances of success by supporting such efforts in those cases where parties take its warnings seriously. Yet in some cases, overt Council backing may be counterproductive, as parties may see it as biased.

A recent study of good offices (Day, 2019) sets out conditions for successful good offices diplomacy:

- **Knowledge and relationships:** The Secretary-General and/or UN officials need to have access to key actors in a dispute or conflict and other influential players (such as the leaders of neighbouring States) to engage in trust-based diplomacy. A strong grasp of the background and substance of a dispute is also essential.

- **Credibility:** The personal status of a UN representative – based on their character, history and reputation – may help them sway conflict parties facing fluid crises.

- **Timing:** The UN needs to be able to respond quickly to openings for good offices.

- **Leverage:** While the Secretary-General and the UN have little "hard power" in their own right, their diplomacy will have greater impact if conflict parties believe they have the weight of powerful States and institutions behind them. It may be necessary, for example, for Council Members and regional actors to coordinate political messages in support of a UN good offices mission.

The Council is obviously best placed to influence the leverage of a good offices initiative, by explicitly or tacitly requesting or endorsing UN diplomacy. For the Council to make an impact, it is necessary for members to have a reasonably high degree of unity (where the Council is divided over a crisis, the Secretary-General's leverage is reduced). But even a unified Council may only have limited influence, in cases where one or more conflict parties distrust the UN (or individual Council Members).

In some cases – especially in the early stages of disputes – overt Council engagement in a crisis may be counterproductive, as it risks undermining UN officials' reputation for impartiality and/or casting an embarrassing spotlight on difficult issues. In such situations, the Council may be wisest to let the Secretary-General exercise his/her good offices without offering overt backing.

A veteran UN official (Samuel, 2015) also points out that good offices inherently involve taking political risks: the Secretary-General or UN representatives may become entangled in problems that divide Council Members in the course of their diplomacy. Or they may incur reputational damage where, despite their best efforts, diplomacy fails and conflict escalates. It is necessary for both the Secretary-General and the Council to assess and accept the levels of risk when entering into good offices processes.

Risks /benefits

Benefits:

- Good offices initiatives are openings for quiet diplomacy that can avert conflicts and potentially save the Council from having to debate stronger measures.
- If the Secretary-General launches good offices on his/her own initiative, it is an entry point for UN engagement without a situation being formally included on the Council agenda.
- The UN Secretary-General and Secretariat have well-developed political networks in many regions, and the status of the office allows the Secretary-General to offer impartial advice and guidance to conflict parties.
- Where the UN exercises good offices early in a crisis, it may also lay the groundwork for more sustained engagement.
- The UN is more likely to be seen as an honest broker than individual Council Members in many settings, although this is not universally true. Council Members can ask the Secretary-General and UN system to take on difficult political engagements that would be challenging for an individual country's diplomats.
- The Secretary-General, as an independent political figure, can more easily float innovative ideas for solving conflicts than the Council.

Risks:

- The Secretary-General and UN officials, facing multiple challenges, may not be able to focus on individual good offices initiatives to the degree the Council expects.

- The UN's efforts to resolve a crisis may overlap – and potentially clash with – those by regional organizations and other actors.
- In some cases, individual UN officials have become closely associated with long-running good offices efforts, but their knowledge and networks may be lost to the system when they move on.
- One or more parties to a conflict or dispute may reject a UN role, which can result in reputational damage for the Secretary-General and Council if made public.
- If the Council is not genuinely unified over the need for a good offices effort, it can undermine the influence and credibility of the UN officials undertaking the effort. Conversely, the Secretary-General and UN officials may pursue risky (or excessively cautious) political strategies in dealing with crises that may create new divisions within the Council.
- It can be counterproductive for the Council to strongly endorse good offices initiatives that would be better kept private.

Legal considerations

The Secretary-General's good offices are necessarily predicated on the consent of the parties seeking to prevent or resolve conflict including in light of Article 33 of the UN Charter. In this regard, if it becomes clear that any of the relevant parties reject the Secretary-General's good offices, the Secretary-General should not pursue the matter. The Secretary-General may have the option to refer to the matter to the Council under Article 99 as in the opinion of the Secretary-General it may constitute a threat to international peace and security.

UNSC procedure

- The Secretary-General may undertake good offices on his/her own initiative.
- The Council may endorse the Secretary-General's efforts by a resolution, PRST or press statement.
- The Council may adopt a resolution requesting the Secretary-General undertake good offices in a specific case, or appoint a representative to do so, or may encourage the Secretary-General to do so through a PRST or press statement.

Further reading

Adam Day, "Politics in the Driving Seat: Good Offices, UN Peace Operations and Modern Conflict", in Cedric de Coning and Mateja Peter, eds., *United Nations Peace Operations in a Changing Global Order* (Cham, Switzerland, Palgrave Macmillan, 2019).

Adam Day and Alexandra Pichler-Fong, *Diplomacy and Good Offices in the Prevention of Conflict* (United Nations University – Centre for Policy Research, 2017).

Tamrat Samuel, "'Good Offices' Means Taking Risks", *Global Peace Operations Review* (2015).

DIPLOMATIC TOOLS

9. MEDIATORS AND SPECIAL ENVOYS

Summary

UN mediation involves the organization offering third-party facilitation to parties to a conflict to settle their dispute.

The Security Council can request that the Secretary-General appoint a mediator to address a conflict, or the Secretary-General can do so at his own initiative. Special Envoys are impartial, but the Council can shape their options by setting the terms for a peace process through a Council resolution.

The UN has one of the best-developed systems for supporting mediation processes among international institutions, including a Mediation Support Unit in New York.

Examples: The UN currently has Special Envoys dealing with the situations in Myanmar, Syria and Yemen.

Legal basis

Article 33 of the UN Charter directs the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, to seek a solution through a variety of means of their choice including mediation. Article 33(2) authorizes the Council to "call upon the parties to settle their dispute by such means".

Description

In the UN context, a Special Envoy of the Secretary-General (SESG) or Mediator is an international official tasked with either: (i) liaising with the parties to a conflict to facilitate the launch of a peace process; or (ii) guiding such a process once it begins. These officials may also be titled "Personal Representative" or "Special Adviser". The term "Special Envoy" can also be used for UN officials dealing with non-conflict related matters.

Envoys typically operate from outside the country or countries on which they are focused, and do not directly oversee military or civilian personnel serving the UN on the ground. This sets them apart from the Special Representatives of the Secretary-General (SRSGs) who oversee UN peace operations and regional offices. In some cases Secretaries-General have appointed envoys to work in parallel with other UN field presences (as in Western Sahara and Libya).

In addition to Special Envoys focused on specific conflicts, the UN has also appointed Special Envoys with regional mandates. These are covered under Tool 10 "Regional offices and regional envoys".

Special Envoys are generally tasked with overseeing a peace process, although their exact role can vary. It is important to note that many peace processes begin outside UN structures – or at least with no Security Council involvement – and a UN envoy often ends up building on the work of national, regional and local actors to advance or finalize a peace process. In such cases the Council must calibrate its actions carefully to avoid friction with established actors in a process (although in some cases the Council engages in a process precisely because other political actors have lost leverage).

The UN envoy's role may involve acting as a personal mediator in relatively structured meetings between conflict parties, or overseeing a team of mediation specialists who undertake this task. In other cases, it can involve less structured shuttle diplomacy between conflict parties and other concerned States to set the terms for future talks. In the case of Syria, for example, successive UN envoys were involved in discussions in the early years of the war that did not involve direct Syrian participation.

While Special Envoys do not typically have direct authority over humanitarian personnel or other UN staff on the ground, they are frequently expected to speak to the public and Security Council on humanitarian matters and other issues relating to the conflict.

The Security Council can directly mandate a UN mediator, or request the Secretary-General to appoint a Special Envoy. The General Assembly can also request the appointment of a Special Envoy, and the Secretary-General can appoint an envoy on his initiative, including to act on his behalf as a mediator in cases where the Council has asked him to engage in a conflict or peace process. When an initiative is mandated by the Security Council, the Secretary-General appoints an envoy or adviser in consultation with the Council. However, where an initiative is not mandated by the Council or other UN body, the Secretary-General may appoint a Personal Representative without consultation.

The Council can endorse, through a resolution or PRST, an envoy appointed at the request of the General Assembly (as occurred with respect to Syria in 2012) or independently by the Secretary-General. The parties to a conflict also need to endorse an envoy, as someone who does not enjoy their trust (however conditional) cannot act as an impartial mediator.

Special Envoys are impartial, but the Council can shape their work by setting the terms for a peace process or the envoy's terms of reference through its resolutions. The Special Envoy in Yemen, for example, has a Council mandate to build on previous political processes in the country between 2011 and 2014. These directions can be restrictive, however, and

make it harder for envoys to adopt creative approaches to resolving the problems that they face. It is common for envoys dealing with sensitive situations to brief the Council monthly or bimonthly on their progress.

The Council can also direct UN envoys to work alongside partners from regional organizations, and in a few cases the UN has appointed a single envoy to represent both itself and a regional partner (as again in Syria, where Kofi Annan was tasked with representing both the UN and Arab League). However, experience has shown that such "double-hatting" is unwieldy.

The UN has one of the best-developed systems for supporting mediation processes among international institutions. In addition to the UN Mediation Support Unit and the Standby Mediation Team (described further below), envoys typically have dedicated support offices established outside their countries of focus (as currently in Amman, Jordan, for Yemen; and Geneva, Switzerland, for Syria). These offices often involve a staff of experts supporting the peace process. UN Special Envoys and their offices are funded through assessed contributions via the regular budget.

While the Security Council can put its weight behind mediation efforts, UN Member States "Groups of Friends", also support these initiatives, including through providing diplomatic support to a mediator. Friends groups generally include a mix of Council Members and other UN Members with leverage and access in a conflict. In some cases, these groups can be more actively involved in day-to-day diplomatic backup to an envoy than the Council. Country specific Groups of Friends have, however, become less common in recent years.

History

The first UN mediator was Count Folke Bernadotte of Sweden, who received a mandate in 1948 from the General Assembly to assist with peacemaking in the Middle East. The Council encouraged Israel and the Arab States to work with him. He was assassinated in the course of his official duties, only four months into his tenure.

The Security Council first explicitly mandated a "UN Mediator" to address a conflict in 1964, when it requested the appointment of an official to mediate in Cyprus. During the Cold War, the Council authorized the Secretary-General to appoint a number of representatives to engage in shuttle diplomacy in cases including the aftermath of the 1967 war between Israel and its neighbours, and during the Iran–Iraq War. Nonetheless, the UN could claim few mediation successes prior to the end of the Cold War, which saw a rapid increase in the number of UN-led political processes. These included notable successes (Central America) and failures (the Balkans). In many of the more successful cases,

the Security Council was not initially involved in endorsing mediation. Entrepreneurial UN officials often initiated these efforts of their own accord, and the Council later endorsed them.

During the first 15 years of this century, the UN Secretariat and Member States took steps to systematize the Organization's approach to mediation, including:

- **Mediation Support Unit (MSU):** The Mediation Support Unit is an office inside the Secretariat that supports mediators in the field, working on both UN and non-UN-led mediation efforts.

- **Standby Mediation Team:** The Standby Mediation Team is a group of individuals with expertise on specific topics, such as constitution drafting, who are kept on call by the UN to support peace processes.

- **Mediation Guidance:** The Department of Political Affairs published its first set of public guidelines on mediation in 2012, "UN Guidance for Effective Mediation".

Finland and Turkey launched an intergovernmental "Group of Friends of Mediation" in 2010, which currently comprises 52 UN Member States, eight regional organizations, and other international organizations. On taking office in 2017, Secretary-General Guterres launched a High-Level Advisory Board on Mediation involving current and former global figures to advise him on peace processes.

UN envoys have played a significant role in some successful processes overseen by the Security Council – such as the separation of Sudan and South Sudan – but in other cases mediated solutions proved impossible. The Security Council, for example, appointed an envoy to mediate in the Libyan war without success in 2011, and in 2012 it endorsed Secretary-General Ban Ki-moon's pick of Kofi Annan as the first international envoy for Syria, kicking off a series of mediation processes that continue today. Despite the UN's prominent role in these cases, there has since been a trend towards regional organizations (or coalitions of individual States) leading mediation processes. In the meantime, the UN has not been willing to appoint envoys to mediate in conflicts involving jihadist groups, due to a general aversion to "talking to terrorists".

Special Envoys of the Secretary-General dealing with conflicts on the basis of Security Council mandates are rare in comparison to the number of peace operations the Council oversees. There are currently only two fully fledged envoys with Council mandates (for Syria and Yemen) in addition to a Special Envoy for Myanmar, who has a General Assembly mandate. However, a number of other UN officials play mediating roles – such

as the Special Adviser for Cyprus and Personal Envoy of the Secretary-General for Western Sahara – alongside other UN field presences. The leaders of UN peace operations are also frequently involved in mediation processes (one of the most successful recent UN mediations was led by members of the UN peace operation in Libya, for example). The MSU and the Standby Team are in high demand advising both UN and non-UN peace processes. Mediation remains an important tool for the UN, in many different formats.

Conditions for success

Francesco Mancini and Jose Vericat, experts on UN mediation, define five key determinants of success by Special Envoys and other mediators, all of which are relevant to Security Council decision-making:

1. **Mandate:** Special Envoys require a clear set of goals, defined through their mandate, but that allow space for them to manoeuvre and reshape their missions in response to events. It is also important that the Council sends clear signals of support, to add to the envoy's political credibility.

2. **Impartiality and inclusivity:** UN envoys are expected to be impartial and their credibility is connected to their ability to avoid bias (this contrasts to envoys from powerful individual States, who may actually gain influence because their governments have political commitments to one side or another). The Security Council should avoid giving envoys mandates that appear to show bias to one side or another in a conflict. It is also important that envoys are inclusive – engaging all parties to a dispute and also involving women, minorities and other potentially excluded groups. The Council should encourage inclusivity in its mandates.

3. **Access and consent:** UN envoys need access to conflict parties and their consent to engage in a political process. The Council should, therefore, calibrate its support for the deployment of envoys according to the likely response of the parties, and use their diplomatic resources to create incentives for all sides to engage.

4. **Strategy:** Envoys' political engagement – whether aiming to initiate a peace process or carry it through to a positive outcome – requires a clear sense of strategy. This means identifying why and how certain conflict actors will engage constructively, and how to sequence discussions on sensitive issues. Envoys are most likely to develop such strategies if they have personal networks, expertise and language skills in the country or countries on which they work – or have staff members who can offer this. The Security Council is unlikely to develop a good strategy of its own for a peace process – given the limits of working at a distance from a conflict – but can engage with a Special Envoy on his/her thinking, most fruitfully through closed consultations to allow a free

exchange of ideas.

5. **Leverage:** Special Envoys need to have some leverage over conflict parties if they are to persuade them to tackle difficult decisions. As the UN typically lacks real clout, it is necessary to "borrow leverage" from other actors. An envoy may be able to do this by coordinating with a regional organization or other regional actors who can put pressure on conflict parties. Alternatively, the Security Council can try to reinforce an envoy by, for example, linking sanctions to parties' willingness or refusal to engage in a mediated process. But such efforts by the Council to "lend leverage" to an envoy may backfire if conflict parties see these threats and incentives as undermining UN impartiality. In many cases, one of the UN's main assets in a conflict will be humanitarian aid – food supplies for example – but as a rule Special Envoys should avoid instrumentalizing these, as it can put UN agencies at risk.

UN mediators can benefit from the support of Groups of Friends consisting of both Council Members and other UN Member States. Friends may be able to offer additional leverage and strategic thought to UN-led processes, potentially using networks and sources of influence – such as proximity to the country involved – that Council Members do not enjoy.

Risks/ benefits

Benefits

- The UN has significant mediation support capacities, and a Special Envoy can bring these to bear with Security Council backing where appropriate.
- The UN's reputation for impartiality is an important tool that allows envoys to play a mediating role in geopolitically sensitive conflicts that other international or regional actors may find difficult to mediate.
- The Security Council can appoint a Special Envoy to look for compromises in a conflict where Council Members themselves have significant disagreements, but still see some need for the UN to engage.
- While Special Envoys require significant expert support to manage complex mediation processes, their teams are relatively "light" compared to peace operations. This allows them to engage in conflicts quickly, flexibly and without major resource requirements.
- Although regional organizations increasingly take the lead in many peace processes, UN Special Envoys and other UN officials may be able to offer unique capacities in support.
- An envoy may be able to convene – or use the leverage of – a Group of Friends concerned with a conflict or country situation.

Risks:

- The Council can set up a Special Envoy to fail (as it repeatedly did from 2012 onward over Syria) if its members mandate or endorse a peace process without giving it real support, and/or actively undermine the UN's work through their other diplomatic or military actions.
- Even where the Council is united, a Special Envoy may encounter: (i) resistance or rejection by conflict parties that distrust the UN; or (ii) regional powers and organizations opposed to a major UN role.
- Actions by the Security Council – for example, renewing or expanding sanctions – can undermine a Special Envoy's reputation for impartiality or credibility with the parties to a conflict.
- There is a risk that the Council and Secretary-General may endorse a Special Envoy who, despite being diplomatically acceptable, lacks the expertise, knowledge or temperament to deal with a specific conflict. Even if an envoy has an excellent record in one context, they may be ill suited to another situation.
- Most importantly, peace processes are hard: facilitating complicated deals, ensuring that the parties implement the details (such as military withdrawals) properly, and dealing with unforeseen events are all complicated even in diplomatically permissive environments. A strong Special Envoy with a good strategy can still falter due to such problems.

Legal considerations

The effectiveness of mediation is necessarily predicated on the consent of the parties seeking to prevent or resolve conflict including in light of Article 33 of the UN Charter. In this regard, any of the relevant parties may reject a Council recommendation for mediation. The Council cannot easily compel the parties to a form of dispute resolution such as mediation.

UNSC procedure

- The Security Council can directly mandate a UN mediator, or request the Secretary-General to appoint a Special Envoy to facilitate a peace process or initiate a mediation. The Council can also endorse an envoy appointed at the request of the General Assembly or by the Secretary-General on his/her own initiative.
- UN mediators and Special Envoys usually brief the Council on a regular basis.
- In a best-case scenario the political/mediation process will lead to a political agreement, which the UN may need to support through other tools.

Further reading

Francesco Mancini and Jose Vericat, *Lost in Transition: UN Mediation in Libya, Syria and Yemen* (New York, IPI, 2016).

United Nations, United Nations Guidance for Effective Mediation, annex to UN Document A/66/811 (June 2012).
Teresa Whitfield, *Working with Groups of Friends* (US Institute of Peace, 2010).

DIPLOMATIC TOOLS

10. REGIONAL OFFICES AND REGIONAL ENVOYS

Summary

UN regional offices and envoys are field-based diplomatic presences that act as "forward platforms" for the UN's conflict prevention and other diplomatic activity. They give the Security Council greater capacity to monitor and respond to crises in sensitive regions, including in countries not on the Council's agenda.

There are currently three UN regional offices focusing on conflict prevention, covering Central Africa, Central Asia, and West Africa. The UN also has regionally focused envoys covering the Great Lakes Region and the Horn of Africa, with a focus on political dialogue between States.

The regional offices and envoys also liaise closely with relevant regional organizations and other elements of the UN system, allowing for a holistic approach to conflict prevention and resolution.

Examples: The UN Regional Office for Central Africa (UNOCA); the UN Regional Centre for Preventive Diplomacy for Central Asia (UNRRCA); the UN Office for West Africa and the Sahel (UNOWAS); the Special Envoy for the Great Lakes Region; and the Special Envoy for the Horn of Africa.

Legal basis

The UN's regional offices are commonly established by the Secretary-General to undertake, on his/her behalf, good offices and contribute to the peaceful settlement of disputes in line with Chapter VII of the Charter and his/her implied powers. UN regional offices are also typically tasked with liaising with regional security actors (consistent with Chapter VIII of the UN Charter) and informing the Secretary-General of security and political developments in their areas of responsibility (consistent with Article 99 of the Charter).

Although not required under the Charter, the Secretary-General obtains the endorsement or acknowledgement of the Security Council through an exchange of letters when setting up a regional office or altering its mandate, and when appointing special representatives or envoys. As with country specific envoys, regional envoys could be established either by the Council or independently by the Secretary-General.

Description

UN regional offices and envoys allow the Security Council greater capacity to monitor and respond to crises in sensitive regions, including in countries not on the Council's agenda.

The three current UN regional offices – UNOCA, UNRCCA and UNOWAS – are "forward platforms" for the UN's preventive diplomacy in their respective areas of operation. Each is headed by a Special Representative of the Secretary-General (SRSG). UNOCA and UNOWAS have roughly 45 national and international staff at any given time, while UNRCCA has 30. Military specialists have sometimes been attached to the two offices in Africa, and UNOWAS has its own aircraft allowing for regional shuttle diplomacy.

The offices' duties are divided between: (i) early warning; (ii) immediate preventive diplomacy; (iii) addressing broader conflict drivers in their areas of operation; and (iv) supporting regional organizations and other partners through capacity-building. Each office develops three-year programmes of activities. Then follows an exchange of letters in which the Secretary-General recommends renewal and/or revision of the office's mandate and functions and the Security Council approves or acknowledges the renewal. The current UNOWAS mandate ends in 2023; UNOCA in 2024; and UNRCCA in 2025. The SRSGs of each office typically brief the Council twice a year, and the Council can also adopt PRSTs encouraging aspects of their work. But the Council's approach is quite light touch.

These offices have a number of advantages. In contrast to UN officials based in New York, regionally based officials can engage quickly and closely with local counterparts in moments of crisis. UNOWAS in particular has especially close ties to the West African sub-regional organization, the Economic Community of West African States (ECOWAS). As each office has a regional mandate it can also engage with countries that are not on the Security Council agenda: UNOWAS has, for example, frequently been involved in crisis diplomacy in Guinea, while UNOCA has engaged in efforts to resolve recent violence in Cameroon. Regionally based UN officials also build up expertise on topics that receive little attention in New York: UNRCCA has a strong reputation for promoting water cooperation among the Central Asian States. In addressing such issues, the regional offices work closely with UN development and humanitarian actors based in the region.

The offices can also keep watch on specific problems in their regions. For example, UNOWAS has responsibility for facilitating contacts between Nigeria and Cameroon on border matters, and UNRCCA's tasks include maintaining close contact with the UN Assistance Mission in Afghanistan (UNAMA) to ensure a comprehensive and integrated analysis of the situation.

The UN's Special Envoys with regional mandates manage similar tasks. The envoy for the Great Lakes has a staff of 27. While the post was

originally launched in 2013 to help cement local security arrangements after cross-border violence, it also now deals with development affairs and local economic integration. The Special Envoy for the Horn of Africa has a smaller staff of nine and is mainly focused on improving regional dialogues.

There is not a clear distinction between regional offices and Special Envoys with a regional mandate. The offices of regional envoys are also based in the region, both report to the Security Council, both are funded out of the UN regular budget, and both are managed in the same way by the Department of Political and Peacebuilding Affairs (DPPA). Regional offices tend to be longer term, but are not permanent, they also tend to have a larger staff, but not always. The main distinction is that the mandates of envoys tend to be more focused on specific political processes.

History

The UN has deployed envoys with regional mandates in the past (for example, in the Middle East in the 1960s), but the current iteration of regional preventive diplomacy offices came into being in the first decade of this century. The UN Office in West Africa (UNOWA, the precursor of UNOWAS) was launched in 2000, UNRCCA in 2007 and UNOCA in 2009. The offices were intended to expand the UN's early warning and preventive diplomacy capacities. In 2008, the UN Department of Political Affairs proposed setting up four additional offices covering the Horn of Africa, the Balkans, South-East Asia, and Latin America and the Caribbean. In 2015, the High-Level Independent Panel on Peace Operations ("HIPPO Report") also suggested creating such an office for the Middle East.

Most of these proposals failed, however, because States and organizations in those regions were suspicious of an increased UN presence or simply resented the suggestion they were prone to instability. Even those offices that were established took time. It took almost seven years to turn the idea for UNOCA into reality. Although UNOWAS was the first office to be established it was not easy to gain traction with regional political actors (in part because it was initially overshadowed by large peacekeeping missions in West Africa).

These offices eventually gained credibility by engaging in crises in their areas of operation. In 2009 and 2010, the then SRSG for UNOWA, Saïd Djinnit, worked closely with officials from ECOWAS and other regional actors to avoid violence in Guinea escalating into civil war. In the same year, UNRCCA helped coordinate the international response to ethnic violence that claimed hundreds of lives in Kyrgyzstan, working alongside the European Union and the Organization for Security and Co-operation in Europe (OSCE). These incidents raised the credibility of regional offices

with Security Council Members, but the Council has generally continued to take a relatively hands-off approach to their affairs. It holds all of its meetings on UNRCCA as closed consultations, for example, to avoid creating tensions with Central Asian governments that are sensitive of criticism. UNOWAS remains the best known of these offices, especially since its mandate was expanded to cover the Sahel in 2016. In this capacity, it is also responsible for supporting an integrated UN strategy for assisting peacebuilding in the region and liaising with regional counter-terrorist forces.

While diplomats generally agree that the three UN regional offices are useful assets for the UN, the obstacles to establishing additional offices elsewhere remain. At a minimum, Council Members who would like to propose establishing further offices of this type should recognize this is a long-term project. It appears that establishing regionally focused Special Envoys may be more straightforward, although the clout of these envoys varies. The Special Envoy for the Horn of Africa, for example, was not able to play a prominent diplomatic role during the war in Ethiopia's Tigray region due to objections from Addis Ababa. He was, however, able to provide some diplomatic backup to the African Union.

Conditions for success

The basic precondition for a regional office or envoy to succeed is the willingness of regional political actors to accept the UN presence. The UN has been unable to convince States in a number of regions to accept such presences at all. Where they are possible, these offices and envoys benefit from:

- **Partnership with effective regional organizations:** UNOWAS in particular has based its diplomatic strategy on working closely with ECOWAS, an organization that has a strong track record of intervening in crises within its region. UN officials are frank that they often "borrow legitimacy" from ECOWAS, while the UN has technical expertise on issues like mediation that can reinforce its partner. That said, a regional office can also have value in an area like Central Asia where regional security institutions are relatively underdeveloped. So this sort of partnership is beneficial but not absolutely essential.

- **Specialized knowledge of regional security issues:** Regional offices and envoys can build credibility with local partners if they can build particular expertise on potential sources of friction. UNRCCA has been able to act as an honest broker in discussions of terrorism and narcotics regionally. Its role in dealing with transboundary water issues in Central Asia is noted and praised among regional environmental specialists.

- **Good working relations with other UN entities:** While a regional office may have some specialized knowledge, it will also need to draw on UN Country Teams for expertise. And where an office or envoy is responsible for integrating UN efforts, it is essential that the Organization's funds and agencies put their resources behind this effort. In the past, there has been a lack of real coherence in UN development and political work in regions like the Sahel, to the detriment of both parts of the UN family.

- **Rapid response capacity:** The SRSGs leading regional offices, and regionally focused Special Envoys should be able to move more quickly than New York-based UN officials to identify and respond to crises. This is not only a matter of geography, but also political access and entry points for preventive diplomacy. A regionally based UN official should have their "finger on the pulse" of local conflict dynamics in ways that more remote officials cannot. But rapid diplomatic action can also boil down to logistics. Former SRSG Djinnit noted that he undertook dozens of flights to deal with the 2009–2010 crisis in Guinea and could not have done so without a UN aircraft.

- **A light-touch Security Council:** The main strength of UN regional offices and envoys is precisely that they can build political relationships in their areas of responsibility, without having to report constantly to New York. Council Members need to respect this independence.

Risks/ benefits

Benefits

- In endorsing a regional office or Special Envoy, the Security Council gives the UN greater capacity to monitor and respond to crises in sensitive regions, including in countries not on the Council's agenda.

- Regionally based UN officials can build diplomatic networks – with regional organizations, national officials and civil society – that their counterparts in New York would struggle to establish and maintain.

- With the right expertise, regional offices can also gain in-depth knowledge of economic, social and environmental factors affecting conflict risks that would also be difficult for more remote staff.

- In a moment of acute crisis, regionally based officials should be able to react more quickly than those in New York.

- Preventive offices can also give direct advice and support to regional organizations, both in terms of capacity-building and crisis response.

Risks:

- A regional office or envoy may struggle to win local acceptance – or lose local credibility over time – if it does not meet regional actors' expectations. There is a risk that powerful regional actors will deliberately sideline UN officials in moments of crisis as a result.
- There is danger of overloading a regional office with ambitious tasks. In its early years, UNOWAS was tasked with "harmonizing" the work of much larger "blue-helmet" peace operations in West Africa. Some UN officials warn that such thematic priorities distract from more immediate early warning and preventive diplomacy tasks.
- If UN funds and agencies oppose efforts to integrate their activities behind a single political strategy, a regional office or envoy may lack the resources and leverage necessary for diplomatic work.
- If Security Council Members start to interfere directly or indirectly in the work of a regional office or envoy, their credibility and ability to act independently and creatively may be inhibited.

Legal considerations

The Secretary-General commonly takes the lead in developing the mandate of the regional offices, and in doing so needs to secure and maintain the consent of both the Council and the relevant States and/or regional organizations. The exercise of the Secretary-General's powers in this way needs to be consistent with the decisions of the UNSC.

UNSC procedure

- The terms for deploying a UN regional office or Special Envoy require significant pre-negotiation in the region involved.
- Once the case for an office or envoy is clear – and Security Council Members are supportive – it is usual for the Secretary-General and the Council President to undertake an exchange of letters on the office's mandate and functions.
- Alternatively, the Secretary-General may announce an envoy on his/her own initiative, and the Council can endorse this through a resolution, PRST or other statement.
- The leaders of these offices typically brief the Security Council at least twice a year. The Council may adopt a PRST or release a press statement on their activities, but this is not a requirement.
- The Secretary-General and Security Council typically undertake an exchange of letters every three years to renew and/or revise an office's mandate and functions.

Further reading

James Cockayne and Camino Kavanagh, "Flying Blind?: Political Mission Responses to Transnational Threats", *Review of Political Missions 2011* (NYU Center on International Cooperation, 2011).

Richard Gowan, "Less Bound to the Desk: Ban Ki-moon, the UN, and Preventive Diplomacy", *Global Governance*, vol. 18 (2012), 387–404.
Richard Gowan, *Multilateral Political Missions and Preventive Diplomacy* (United States Institute of Peace, 2011).

DIPLOMATIC TOOLS

11. REGIONAL ORGANIZATIONS

Summary

Regional organizations such as the African Union (AU) often take the lead in conflict prevention and peacemaking efforts. The Security Council can support these initiatives both diplomatically and practically. Options include signalling support by inviting regional representatives to meet with the Council to discuss their strategies; oral support provided through statements welcoming and endorsing regional initiatives; and substantive support provided through instructing UN actors to provide direct assistance to regional initiatives.

While there have been successful examples of these types of cooperation, the Council and regional actors can differ over how to approach crises, creating inter-institutional friction and potentially sidelining the Council.

Examples: The Council has regularly offered rhetorical and practical support to diplomatic efforts by organizations including the African Union (AU), the Economic Community of West African States (ECOWAS) and the Association of Southeast Asian Nations (ASEAN) in their respective areas of responsibility.

Legal basis

Chapter VIII of the UN Charter endorses the role of "regional arrangements or agencies" in the maintenance of international peace and security. In this regard, Article 52 specifies that the Security Council "shall encourage the development of pacific settlements of local disputes" by these regional actors, provided that they act consistently with the purposes and principles of the Charter. However, it also notes that this provision "in no way impairs" the Council's role in investigating and considering disputes as provided in Articles 34 and 35 of the Charter. The members of such regional arrangements are required under Article 54 of the Charter to keep the Council informed of their activities or contemplated activities concerning matters of international peace and security.

Description

There is no single mechanism for the Council to support regional diplomatic initiatives. Options include:

- **Signalling support:** The Council can signal support for regional initiatives through Council meetings. For example, the Council may hold parallel meetings and briefings to track progress, or may hold meetings with relevant regional officials, such as through Informal Interactive Dialogues (see Tool 3 "External information").

- **Statements of support:** The Council can declare support for a regional envoy or mediation initiative through a resolution, Presidential Statement (PRST) or press statement. Such statements endorsing regional actions can be made either in advance or after they have delivered results.

- **Substantive support:** The Council can provide technical assistance, agreeing a resolution that instructs UN actors to provide direct support to regional diplomatic efforts.

The Council may also provide operational support to regional operational initiatives (see Tools 42 "Hybrid operations" and 44 "Support to regional peace operations") and authorize peacekeeping and enforcement actions by regional bodies (see Tools 45 "National, coalition or regional peace operations", 46 "Military enforcement for humanitarian or human rights purposes" and 47 "Military enforcement to repel aggression").

Occasionally the Council has assented to the appointment of "double-hatted" envoys representing both the UN and a regional organization (such as Kofi Annan as UN/Arab League envoy in Syria in 2011). However, experience suggests that the competing political demands of the Council and regional organizations make such arrangements unwieldy, and they are best avoided (see Tool 10 "Regional offices and regional envoys").

The Council's approach to supporting regional diplomatic initiatives varies, although it has most frequently offered its backing to African regional initiatives. The Council offers diplomatic support to regional initiatives more frequently than it offers substantive assistance. In specific crises, the Council can request the Secretary-General or specific UN field missions to back up regional initiatives. Regardless, UN officials often provide advice and support to their regional counterparts without explicit Council authorization.

The Council's intervention is not required to mobilize UN support for regional diplomacy. In the aftermath of the 2019 coup in Sudan, for example, the Secretary-General on his own initiative appointed a Special Adviser (Nicholas Haysom) with an explicit mandate to support African Union (AU) efforts to agree a transition to civilian rule.

In some cases, members of the Security Council present the positions of regional organizations in Council discussions. The three elected African States on the Council (known as the A3) are committed to representing AU positions, for example, although the extent to which they do so fluctuates over time. A similar dynamic is at play with the European Members of the Council, presenting European Union (EU) positions. Where Council

Members are invested in a regional approach, however, the A3 or another regional grouping can take the lead in advancing statements and other products supporting it.

The UN has developed a dense network of relationships with regional organizations. The UN Secretariat has liaison offices to regional organizations including the AU and the EU in their respective headquarters cities. It also has liaison officers to other bodies such as the OSCE. Regional bodies including the AU, EU and NATO have offices of their own in New York. The Council also holds annual consultations with the AU Peace and Security Council and the EU Political and Security Committee, and invites representatives of organizations such as the League of Arab States to regular meetings.

History

The UN Charter recognizes the importance of regional arrangements, and the Security Council has taken steps to strengthen political cooperation with these entities over the last two decades. Examples include (but are not limited to): (i) OSCE Chairmen-in-Office have briefed the Council since 2004; (ii) the Council has systematized annual consultations with the AU Peace and Security Council since 2007; (iii) the Council agreed a PRST with the Arab League in 2011; and (iv) the Council has held annual informal meetings with the EU Political and Security Committee since 2013. Such regular consultations offer opportunities to discuss individual crises, but the Council also makes case-specific efforts to support regional initiatives.

The history of UN cooperation with regional actors has often been difficult. Joint mediation efforts with the European Community (later EU) in the former Yugoslavia, the African Union in Sudan (Darfur), and the Arab League in Syria were all tense and unsuccessful processes. Nonetheless, over the years, the Council has continued to offer a variety of types of backing to regional initiatives, including:

- **Signalling support:** In some cases, the Council can show support for regional diplomacy through the mere act of holding a public meeting or consultations. During a border crisis between Cambodia and Thailand in 2011, for example, the Council held a series of closed meetings to demonstrate concern, while publicly supporting ASEAN mediation. The goal of these meetings was, in part, to signal to the parties that the Council would not take an alternative approach to ASEAN, nudging them towards accepting a regionally led solution. In recent years, the Council has used Informal Interactive Dialogues as opportunities for similar consultations (see Tool 3 "External information").

- **Statements of support:** The Council frequently uses press statements – and sometimes PRSTs – to offer support to regional actions. For example, S/PRST/2021/5 on Myanmar noted "strong support for regional organizations" addressing the country's coup. In November 2021, the Council released a press statement welcoming the AU's decision to appoint Olusegun Obasanjo of Nigeria as High Representative for the Horn of Africa, covering the Ethiopian conflict, and "strongly urged for cooperation and support to" him (SC/14691).

- **Substantive support:** More rarely, the Council can instruct the UN Secretary-General and Secretariat to offer concrete backing to regional initiatives. In 2017, during a crisis following disputed elections in The Gambia, the Council directed the Secretary-General "to provide technical assistance to the ECOWAS mediation where required" (S/RES/2337). In other cases, the Council has made less direct references to inter-institutional cooperation. In 2018, for example, it underlined "the importance of the synergy" between the AU and UN in the Central African Republic (S/PRST/2018/14).

Conditions for success

Regional crisis diplomacy initiatives ultimately fail or succeed on their own merits, rather than the Council's supporting actions. Basic questions for Council Members when considering offering support to any regional initiative are: (i) whether the regional organization involved has the diplomatic capacity to fulfil its ambitions; (ii) if it has a credible strategy for resolving the crisis; and (iii) whether the actors in the crisis will respond positively or negatively to a regional approach.

If the Council offers support for regional initiatives in cases where the chances of success are low, it risks validating ineffectual diplomacy, damaging both its own credibility and that of the regional organization. The Council can use mechanisms such as Informal Interactive Dialogues to communicate with regional partners, to assess their progress and suggest how to proceed.

Other potential success factors include:

- **Regional actors' desire for UN support:** In some cases, regional organizations do not want to be too closely associated with the UN during a diplomatic initiative. They may worry that the Council's support will complicate their own approach to a crisis (for example, by creating the impression that it is not truly "regional" but instead a proxy for Council interference). In such situations, it would be best for the Council to (at most) keep its signals of support limited and avoid strong public statements.

- **A solid inter-institutional relationship:** The Security Council is most likely to forge a good working relationship with a regional partner

in a crisis where it has strong pre-existing ties. As noted, the Council has long-standing ties with bodies like the AU, but tensions do occur between these bodies, and Council Members need to continue to build trust with them.

- **A unified Council approach to regional diplomacy:** If Council Members are divided over the value of regional diplomacy, they are unlikely to signal credible political support to an initiative. For example, divisions among Council Members on the conflict in Ethiopia's Tigray region meant that it was only able to offer very muted support for AU efforts to address the war (which were already quite weak at the time). It is especially important that the Council Members from the relevant region, such as the A3 for Africa, are supportive of the Council's approach.

- **The UN's support capacities**: Security Council support to a regional initiative will carry greater weight if the UN is able to offer concrete forms of support that will enhance regional capacities. The UN Secretariat has useful tools, such as its Mediation Support Unit, that can bring expertise to many partners. In many cases, the UN can offer this expertise behind the scenes, empowering regional actors without taking credit for any results.

Risks/ benefits

Benefits:

- Regional organizations and regional diplomats are often best placed to address emerging and ongoing crises. They have local networks and relationships that outside actors – including UN officials – lack. They also often enjoy a greater degree of local legitimacy than the Council. By encouraging regional diplomacy, the Council can facilitate conflict prevention and peacemaking in countries where the UN's presence is limited, or the UN enjoys limited local trust.

- In recent years, some regional organizations have become increasingly confident in their preventive and peacemaking roles, and may view the UN as a competitor rather than a collaborator. The AU in particular has asserted its political role. While Council Members often resent such challenges to their primacy in international peace and security, ignoring regional sensitivities is likely to backfire as: (i) a lack of UN-regional coordination can obstruct effective crisis response; and (ii) it risks doing longer-term damage to inter-institutional relations. Although inter-institutional cooperation can be challenging, the Council is likely to maintain greater trust and credibility if it invests in supporting regional diplomacy.

Risks:

- Despite the strengths of regional diplomacy, many regional organizations still lack the capacity to conduct complex mediation processes. Regional mediators, especially in Africa, often have a very small office and budget. Other regional organizations, such as ASEAN, still only have relatively limited conflict management experience and tend to move slowly. There is a danger that, where the Security Council cedes the lead in preventive diplomacy or peacemaking to such organizations, they will be unable to sustain extended diplomatic engagements. This underlines the potential importance of UN technical assistance to regional diplomacy.

- There is a danger that regional diplomatic efforts will fail or move very slowly, creating dilemmas for the Council. Once the Council has endorsed a regional peace initiative it is politically difficult, though not impossible, for it to withdraw its support even if things go awry. Over the last decade, Council Members have been frustrated by the slow pace of regional political efforts in cases such as South Sudan and Myanmar. In such instances, the Council either has to maintain support for an initiative despite its doubts, or attempt to reinforce it with additional political or technical support. There is also a risk that a regional organization or regional mediators will ultimately endorse solutions to a conflict that some or all Council Members believe to be misguided, but may struggle to challenge if they have previously offered their backing.

Legal considerations

At times, regional organizations and/or their members have asserted, perhaps more politically than legally, that Chapter VIII of the UN Charter requires the Council to defer to regional initiatives. However, there is no basis for this argument in the Charter's text or the Council's practice.

The UN Security Council may at times face a challenge when it is requested to endorse a regionally led initiative, such as a peace agreement, which may not be consistent with international law and the UN core values and principles. For example, an agreement or process that could provide amnesties for serious violations of international human rights and humanitarian law.

UNSC procedure

There is no single procedure for the Council to offer support to regional initiatives. The procedures for offering support through different tools can be found as follows: Informal Interactive Dialogues (Tool 3); PRSTs (Tool 4); press statements (Tool 5); mediation support (Tool 9); support to regional operations (Tools 42–47).

Further reading

Daniel Forti and Priyal Singh, *Toward a More Effective UN–AU Partnership on Conflict Prevention and Crisis Management* (International Peace Institute, 2019).

International Crisis Group (ICG), A *Tale of Two Councils: Strengthening AU–UN Cooperation* (ICG, 2019).

Bruno Stagno Ugarte, "Collaborating with Regional Organizations", in Sebastian von Einsiedel, David M. Malone and Bruno Stagno Ugarte, *The UN Security Council in the 21st Century* (Boulder, United States, Lynne Rienner Publishers, 2015).

UN doc S/PRST/2021/9 (19 April 2021): The most recent PRST on cooperation between regional and subregional organizations in general.

UN doc S/PRST/2021/21 (28 October 2021): The most recent PRST on the AU–UN relationship.

DIPLOMATIC TOOLS

12. CONFIDENCE-BUILDING MEASURES

Summary

Confidence-building measures (CBMs) are mechanisms that permit States or other political actors to: (i) increase mutual trust or (ii) reassure one party that another will not break military or political commitments. They give parties time and space to work towards conflict resolution. Originally applied to military affairs and arms control, the term has expanded to cover a wide range of political, social, humanitarian and economic mechanisms. It can also refer to multilateral agreements on issues such as non-proliferation and transparency around military manoeuvres.

The Security Council generally does not mandate CBMs as stand-alone responses to disputes and conflicts, but it has endorsed CBMs as part of specific peace processes, and encouraged the Secretary-General to explore regional confidence-building in the Gulf region.

Examples: The Security Council endorsed confidence-building measures as part of a ceasefire in Libya in 2020. The Council's mandate for the Secretary-General to pursue confidence-building in the Gulf dates back to 1987 (S/RES/598 (1987)).

Legal basis

The Council can promote CBMs as part of its recommendations for "appropriate procedures or methods of adjustment" to the parties for a dispute under Article 36(1) of Chapter VI of the UN Charter. It may also include CBMs as part of a binding decision for measures not involving the use of force under Article 41 of Chapter VII.

Description

Simon Mason and Matthias Siegfried define CBMs as "a series of actions that are negotiated, agreed and implemented by the conflict parties in order to build confidence, without specifically focusing on the root causes of the conflict". The idea of CBMs developed in Cold War and post-Cold War Europe as the Western and Soviet blocs tentatively moved towards agreements on military transparency mechanisms.

The concept has since evolved further, especially in the context of peacemaking and post-conflict peacebuilding in intra-State wars. Mason and Siegfried highlight a number of types of CBMs:

- **Political agreements:** For example, to avoid defamatory statements towards one another.
- **Security sector agreements:** For example, setting up hotlines to communicate over dangerous military incidents.

- **Economic agreements:** For example, on opening trade routes across borders or battle lines.
- **Social, humanitarian or cultural agreements:** For example, joint sporting events between rival groups (Mason and Siegfried, 2013).

While the Council has encouraged parties to conflicts to fulfil their commitments to undertake CBMs in ceasefire and peace agreements, with the notable exception of one instance during the Iran–Iraq War, the Council itself has not mandated high-level strategic CBMs. Nor has it tended to propose CBMs in isolation from other tools, but instead incorporated lower-level CBMs in the work of its mediators and peace operations.

UN mediators and missions frequently use lower-level CBMs on the ground as part of peacemaking or peacebuilding processes. These can include: (i) creating opportunities for social engagement between former combatants; (ii) joint military responsibility for operationalizing and agreement; and (iii) collaboration in the discharge of the military mandate of respective forces (Haysom and Hottinger, 2010).

In UN peace operations, military contingents and civil affairs officers often promote "social" CBMs such as small-scale economic projects, youth engagement events and similar activities to help build trust in conflict-affected societies. UN peace operations have budgets for "Quick Impact Projects" that enable this sort of work. While the Security Council monitors the impact of such initiatives, it does not generally offer very specific directions of its own about what types of CBM specific missions should undertake, although it sometimes does indicate priority areas for confidence-building. For example, in its most recent mandate for the UN Peacekeeping Force in Cyprus (UNFICYP), it urged the parties to work on "military confidence-building" specifically. Generally, the Council's practice is to allow UN officials in the field to work out what CBMs are appropriate on the ground case by case, rather than list them itself.

History

Although the idea of CBMs emerged during the Cold War, it gained traction with the end of the East–West confrontation as the Western and Soviet blocs signed a series of agreements (including the Conventional Forces in Europe Treaty and the Open Skies Agreement) that increased transparency over their military activities. These agreements did not involve the UN.

In 1987, the Council mandated the Secretary-General to look at options for CBMs in the Middle East. In a resolution on the Iran–Iraq War, it requested Secretary-General Waldheim to consult with Gulf States on "measures to enhance the safety and security of the region". This mandate is still in force and Russia organized a Security Council session on regional security in the Gulf in 2020 that touched on these issues. UN staff and outside

experts have worked up ideas for a range of non-military CBMs (such as environmental cooperation among Gulf countries) that could lay the groundwork for security CBMs in future. The Council has not yet offered any more detailed support for such ideas (Crisis Group, 2020).

Following this, the Council did not mandate further classic State-to-State CBMs such as military transparency agreements. (The UN Office of Disarmament Affairs does facilitate some global CBMs, such as collecting data on military expenditures, but does so on the basis of General Assembly resolutions.) Instead, Council efforts focused on incorporating lower-level CBMs in the work of its mediators and peace operations.

The Council has encouraged peace operations to use CBMs. For example, in the Democratic Republic of the Congo, the Council recognized "the importance of confidence-building" as a tool for the UN peacekeeping operation (MONUSCO) and advised the mission "to explore how it can use these techniques" to fulfil its broader mandate (S/RES/2556 (2020)). Other UN peace operations, such as UNFICYP in Cyprus, have a long history of facilitating CBMs between divided communities – in that case cross-Green Line electricity and water projects – as part of peacemaking efforts.

In support of its mediators, the Council has also encouraged parties to conflicts to fulfil their commitments to undertake CBMs in ceasefire and peace agreements. For example, it called on the parties in Libya to implement CBMs envisioned in their 2020 ceasefire agreement (S/RES/2510 (2020)).

Conditions for success

As the concept of CBMs covers a wide range of large-scale and small-scale initiatives, the conditions for success are highly contextual. History suggests that as CBMs focus on dealing with symptoms of disputes and conflicts (such as military postures) rather than root causes, even a successful package of CBMs can lose credibility if political conditions change. The CBMs established in Europe at the end of the Cold War, for example, gradually lost functionality in the context of resurgent Russia–NATO tensions. At a lower level, UN mediators and peacekeepers agree that local CBMs and Quick Impact Projects must be part of a broader political strategy in order to succeed.

Mason and Siegfried's study of CBMs in peace processes suggests that there are a number of situations in which pursuing CBMs is ***not*** advisable:

- Where CBMs are too vague to be implemented in a verifiable fashion.
- Where negotiating CBMs becomes a distraction from the higher peacemaking priorities (a situation that the authors believe has at times been the case during the protracted division of Cyprus).

- Where one or more parties commits to CBMs in bad faith, with the deliberate goal of breaking their promises (Mason and Siegfried, 2013).

In many cases, the Security Council is not well placed to judge the chances of specific CBMs (at whatever level) succeeding or failing, and this is best left to UN mediators and other actors on the ground. However, conflict parties' attitudes to the implementation of CBMs may provide the Council with useful indicators about their overall stance towards a peace process.

Risks/ benefits

Benefits:

- CBMs can help parties to disputes build trust – or limit their mistrust – as part of broader peace processes.
- If conflicting parties are not ready to be forced into a peace process, CBMs can buy time and space to allow the situation and the parties to calm down.
- High-level strategic CBMs can create the conditions for easing inter-State tensions, reducing military frictions and enabling arms control.
- Lower-level CBMs are useful tools for mediators and peacekeepers to improve relations between conflict parties and offer reassurance to civilians.

Risks:

- Conflict parties may commit to CBMs in bad faith, or give up implementing them over time as political circumstances alter.
- CBMs may act as distraction from efforts to resolve the root causes of conflicts, especially in protracted cases.
- CBMs may be too vague to make a substantive contribution to trust between former enemies.

Legal considerations

CBMs may be part of a peace agreement that has been endorsed by the Council, or may be demanded of the parties in the context of a peacekeeping operation under Chapter VII. In this regard, a failure to implement CBMs may become an issue of non-compliance by the parties with the Council's decisions.

UNSC procedure

- The Security Council may refer to CBMs in its mandates for mediation efforts, peace operations and other political initiatives.
- As in the case of resolution 598 (1987), the Council may request the Secretary-General to explore ideas for regional CBMs.

Further reading

This section follows closely Simon J.A. Mason and Matthias Siegfried, "Confidence Building Measures (CBMs) in Peace Processes" in *Managing Peace Processes: Process Related Questions. A Handbook for AU Practitioners* (AU and Center for Humanitarian Dialogue, 2013).

See also:

Crisis Group, *The Middle East Between Collective Security and Collective Breakdown* (International Crisis Group, 2020).

Nicholas Haysom and Julian Hottinger, "Do's and Don'ts of Sustainable Ceasefire Agreements" (2010) available at www.peacemaker.un.org.

Details and examples of QIPs in UN peace operations at: https://peacekeeping.un.org/en/quick-impact-projects-communities.

DIPLOMATIC TOOLS

13. PEACEBUILDING COMMISSION

Summary

The Peacebuilding Commission (PBC) has a unique convening role and the potential to leverage information and funding and coordinate operational activities in support of the fulfilment of the Council's peacebuilding objectives and transition of a country off the Council's agenda.

The Security Council can engage with the PBC in a number of concrete ways:

- Request information and advice
- Request implementation support
- Transition a situation off the Council's agenda

Examples: The Council has requested advice from the PBC both on countries still in conflict, such as the Central African Republic, but also countries marked by recurring political instability, including Guinea-Bissau. In 2017, the Council asked the PBC to support the UN Office for West Africa and the Sahel (UNOWAS) to implement the UN Integrated Strategy for the Sahel. Sierra Leone transitioned off the Council's agenda, with the last Council meeting held in 2014, while it remained on the agenda of the PBC until 2020.

Legal basis

There is no explicit or specific provision in the UN Charter empowering the Council to engage on peacebuilding. However, such activity is considered to fall within the general scope of Chapter VI and the implied powers of the Council necessary to carry out its core function of maintaining international peace and security.

The legal basis for the PBC, which is a subsidiary body of the Council (and also of the General Assembly), is found in Articles 22 and 29 of the UN Charter. The PBC was established jointly by the General Assembly and the Security Council through resolutions A/RES/60/180 and S/RES/1645 (2005).

Description

The PBC is an intergovernmental advisory body based in New York. Established in 2005, it was mandated with the following functions:

- **Sustain attention:** Extending and focusing international attention on post-conflict reconstruction and recovery.
- **Convene:** Bringing together peacebuilding actors.
- **Fundraise:** Marshalling resources and ensuring predictable financing.
- **Advise:** Advising on and proposing integrated peacebuilding strategies.

- **Coordinate:** Coordinating UN and external peacebuilding actors.
- **Policy:** Developing best practices.

Many of the countries that are or have been on the agenda of the PBC were referred by the Council, including Burundi, the Central African Republic, Guinea-Bissau, Liberia and Sierra Leone.

The PBC comprises 31 Member States – 21 elected by the General Assembly, the Security Council, the Economic and Social Council, as well as the five top UN financial contributors and the five top troop contributing countries. Usually there are a number of UN Members serving on both the Security Council and the PBC.

Initially, the PBC operated through Country Specific Configurations, in which a subset of the Commission would focus on a certain country, but now all new situations are discussed by the 31-member Organizational Committee, which is the main body of the PBC.

The PBC has the mandate and capacity to focus on wider dimensions of a conflict situation beyond security. There are a number of concrete ways the Security Council can engage with the PBC in pursuit of the fulfilment of its conflict management responsibilities, including:

- Request information and advice
- Request implementation support
- Transition a situation off the Council's agenda

Initially the Security Council instigated engagement by deciding, in informal consultations, to engage the PBC on a specific country situation. This was often formalized through a letter from the Council President to the Chair of the PBC, a resolution or Presidential Statement. More recently, the PBC has also increased its engagement on a number of country issues with the consent of the country concerned, and has started providing advice to the Council on situations and thematic issues without the UNSC's formal request.

The PBC is funded through the UN regular budget and supported by the Peacebuilding Support Office (PBSO) in the UN Secretariat Department of Political and Peacebuilding Affairs. While the UN's Peacebuilding Fund (PBF) is not institutionally linked to the PBC, the PBF has over the years allocated a large percentage of its funds to countries on the PBC agenda.

Information and advice

The PBC's unique convening power has been recognized by the Security Council. It has the mandate, capacity and working methods to bring together a wide spectrum of UN and non-UN actors, drawing from both the headquarters and field levels. This can include:

- UN actors across the security, human rights and development pillars.
- National actors at the national and local levels, including government officials and civil society.
- International financial institutions and major donors.
- Regional organizations.
- Key security actors, including countries contributing troops and police to a peace operation.

This is particularly important on peacebuilding issues given the multitude of actors and broad range of activities encompassed.

The PBC has access to a broader spectrum of information and insight than the Council does, and could use that information to provide to the Council integrated information, analysis and assessment that goes beyond what the Secretariat or Council Members' national sources are able to produce. Unfortunately, this has not always been the case and the PBC has been criticized for not offering any further insight than what the Secretariat can provide. However, recently, the PBC has made efforts to improve the quality and focus of its advice.

Beyond the provision of information, the PBC is also mandated to provide advice and recommendations to the Security Council. To be of use to the Council, the advice and recommendations need to be specific, concrete, actionable and timely – provided at an early enough stage for Council Members to take into account during their deliberations on an issue or situation. This is not always easy, including because the PBC's advice and recommendations are often filtered by Council Members serving on the PBC who may not wish certain recommendations to be made.

In resolution 2282 (2016), the Security Council expressed its intention to "regularly request, deliberate and draw upon the specific, strategic and targeted advice of the Peacebuilding Commission …" including to understand the peacebuilding perspective when forming, reviewing or drawing down a peace operation.

Information and advice from the PBC can be useful both for specific situations and thematic debates. It has been shared with the Council through the following:

- Formally, through reports and letters with information and advice sent to the Council, including ahead of mandate renewals.
- Formally, through briefings by PBC members during Council meetings on country specific or thematic issues.
- Informally, through participation in the Council's Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.
- Informally, through Informal Interactive Dialogues between the Council and the PBC.

- Informally, through interactions between the Council penholder and PBC representative on situations on both bodies' agendas.

In addition, the PBC may provide direct support to the Council by acting as the bridge to international actors or the UN Country Team.

Implementation support

The PBC is not an operational body and does not undertake peacebuilding activities itself. However, it can provide support to the Security Council's mandated operational activities.

The PBC is mandated to support the development and implementation of integrated peacebuilding strategies; raise funds and marshal resources; and coordinate and build bridges among peacebuilding actors. These are all important in implementing peacebuilding operational activities authorized by the Council.

In January 2017, the Security Council asked the PBC to support UNOWAS to implement the UN Integrated Strategy for the Sahel. This led to the PBC engaging with the various stakeholders to address the region's structural conflict drivers and subsequently advising the UNSC on different occasions such as for the mandate renewal of UNOWAS and UNSC meetings on the G5 Sahel. The PBC may also be called upon to support UN peace operations to develop and implement peacebuilding strategies.

Despite its fundraising mandate, the PBC has struggled to generate and marshal resources. This is due to a number of factors including the fragmented nature of funding streams. However, the PBC can identify and raise awareness of countries' funding needs, it can hold pledging conferences, and it can promote coherence among actors. In this context, the PBC can play a particularly important role contributing to a smoother transition when a UN peace operation departs and there is an accompanying and significant drop-off in financial support for peacebuilding activities in the host country.

The PBC may also use its convening mandate and the legitimacy of the UN to offer a platform for operational coordination. It can host initiatives in which the multitude of actors can come together to learn about the activities of others, with the ultimate goal of coordinated, or at least complementary, action.

Transition

An important strategic objective for the Security Council is managing a conflict situation to the point that it can be moved off the active Council agenda. Having the possibility of transferring a situation from the Council to the PBC is a valuable stepping stone or exit strategy for the Council.

Being on the PBC agenda allows follow-up and support, especially within the context of a wider transition of UN involvement from the peace and security architecture to the UN's reconstruction and development machinery. Moreover, it offers the opportunity to sustain international political attention and accompanying resources after a UN peace operation departs or key milestones are met and a situation moves off the Council agenda. This also helps to promote and sustain peace in former conflict agenda countries and regions.

There is not a discrete act or moment of transfer from the agenda of the Security Council to that of the PBC. It is a process of transition – a gradual increase in responsibilities of the PBC. Countries are likely to be referred by the Security Council to the PBC well before they exit the Council's agenda. For some time they will simultaneously be on the agendas of both bodies. As the situation in a country stabilizes and peace is consolidated the peacebuilding needs of the country will eventually start to outweigh the security needs, and correspondingly, ideally the PBC will take on a greater role supporting the country. The Security Council will need to retain the country on its agenda while a peace operation with a military component is deployed, but once such a mission withdraws and the country is sufficiently stable, the Council need no longer meet to consider that situation. For example, the Council's final meeting on Sierra Leone was in 2014, but it remained on the agenda of the PBC until 2020. The Council's final meeting on Liberia was in 2018 but it remains on the agenda of the PBC today.

History

The PBC was established in 2005 to support peace efforts in countries emerging from conflict. The intention was for the body to propose integrated strategies for post-conflict peacebuilding and recovery, bring together all the relevant actors, and marshal resources.

Initially relations between the Council and the PBC were fraught, partly due to concerns the PBC would be used as an instrument to encroach upon the peace and security prerogatives of the Council. The PBC could not gain traction and was seen as providing little value. UN internal reviews of the peacebuilding architecture (comprising the PBC, PBSO and PBF) conducted in 2010 and 2015 found that it had not fulfilled its mandate and had fallen short of expectations. Relations between the two bodies and the work of the PBC have evolved over time.

A significant step was taken in 2010, when the Council requested the PBC's advice on Liberia on an ad hoc basis. In 2012, the practice of the Council holding Informal Interactive Dialogues annually with the PBC was initiated. These were held in conjunction with the presentation to the Council of the PBC's annual report, although this has not occurred in recent years. The UNSC has, however, held several Informal Interactive

Dialogues with the PBC on specific issues, at the prompting of different Council Members, for example, ahead of a UNSC visiting mission to the Sahel, and in advance of the UNOWAS mandate renewal.

In order to better institutionalize exchanges between the Council and the PBC, in June 2013, a former chair of the PBC then serving on the Council began organizing "stocktaking" sessions. During these meetings, which are held every six months, the Council's informal coordinator with the PBC meets with key PBC members, including those serving on both the Council and the PBC, to review progress and identify opportunities to boost the advisory role of the PBC. These have resulted in steps being taken to expand cooperation through informal means. For example, Country Specific Configuration chairs for Liberia, Sierra Leone and Burundi have organized briefings with Council experts ahead of Council meetings and negotiations of UN mission mandate renewals.

As part of the 2015 UN Peacebuilding Architecture Review (PBAR), the Advisory Group of Experts (AGE) report recommended that the Council draw on the PBC's advice on the peacebuilding aspects of peace operations' mandates. It also urged the Council, which it saw as overstretched, to transfer situations in which peace had not been consolidated to the PBC. In response, in 2017, the Council called for the PBC to support UNOWAS in implementing the UN Integrated Strategy for the Sahel. Also in 2017, the Council requested the PBC to support implementation of the comprehensive peacebuilding strategy it had requested for Liberia.

In April 2018, the PBC convened a high-level meeting on the situation in the Central African Republic, with the participation of the country's President, in the margins of the high-level meeting of the General Assembly on peacebuilding and sustaining peace. Following the meeting, the Commission sent "observations" to the Security Council with a view to informing the mandate renewal process for MINUSCA. In recent years, the Council has begun regularly requesting the PBC's advice in connection with the formation, review and drawdown of peacekeeping operations and special political missions. The Council has requested the PBC's advice on countries still in conflict, such as the Central African Republic, but also countries marked by recurring political instability, including Guinea-Bissau.

Council engagement with the PBC remains dependent on active championing by individual members. For instance, Egypt and Sweden have taken on this role, drawing attention to the PBC and identifying opportunities for the Council to engage with it. It was Egypt that prompted the decision to request the PBC's involvement on the Sahel strategy, and Sweden who pressed for the Council to follow up on the

PBC's engagement with the Liberia peacebuilding plan. In both instances, these initiatives led to substantial engagement by the Council with the PBC through meetings and advice.

In 2019, the UN Secretariat Department of Political and Peacebuilding Affairs (DPPA) was established, combining the strategic, political and operational responsibilities of the DPA and the peacebuilding responsibilities of the Peacebuilding Support Office (PBSO), in effect creating another bridge for relations between the Council and the PBC.

Conditions for success

- **Active champion:** Successful engagement of the PBC has in the past depended on individual Council Members actively championing PBC involvement.
- **Alignment of work:** The PBC has been able to best support the work of the Council when it has aligned its work with that of the Council to ensure the holding of meetings with peacebuilding actors and timing field visits to take place shortly in advance of key Council sessions.
- **Specific, strategic and targeted advice:** Advice from the PBC has been best received when it has included concrete proposals and operational recommendations. The framing has been important with certain Council Members more inclined towards recommendations that are suggestive rather than proscriptive. Council Members have also been more accepting of advice that focused on a country's longer-term socioeconomic needs rather than trying to influence the core security focus of the Council.
- **Marshalling resources:** The PBC can make a very real contribution to Security Council mandated peacebuilding activities by marshalling resources for their implementation.
- **Division of labour:** When both the Security Council and the PBC are engaged in supporting the peacebuilding efforts of a country, it is helpful to have a clear division of labour, and for that to be understood by key stakeholders including government officials and regional organizations.
- **Ongoing resources:** Transition of a country off the Council's agenda is more likely to be successful if the situation is sufficiently stabilized and there is commitment from the donor community to continue supporting peacebuilding initiatives.
- **Past involvement:** The transition of a country off the Security Council's agenda so that it just remains on that of the PBC is likely to be smoother if the PBC has been engaged in supporting the country's

	peacebuilding needs for some time, and the PBC's role has grown and solidified during that period.
Risks /benefits	**Benefits:** • The PBC's unique convening role should enable it to provide the Council with information, advice and recommendations that are uniquely informed by all the key actors. • The PBC's flexible working methods enable it to play a valuable bridge-building role between the Council and the range of international actors as well as the UN Country Team. • The Council can rely on the PBC's extensive outreach to support coordination on the ground of comprehensive peacebuilding strategies among both UN and non-UN actors. • The Council can draw on the PBC's ability to provide follow-up and sustained attention to certain situations, which the heavily burdened Council is seldom able to offer. • Handing off a country to the PBC may allow the Council an earlier exit. **Risks:** • Advice and information provided to the Security Council by the PBC may be sanitized by Council Members serving on the PBC. In this way the PBC can end up telling the Council what it ***wants*** to hear, rather than what it ***needs*** to hear. • There may be difficulty ensuring that the Council's engagement with the PBC is substantive and effective. This can be partly due to procedural issues that can create barriers to dynamic engagement – such as PBC chairs not being allowed to participate in informal consultations of the Security Council. • There is a risk that the Council could hand off a situation to the PBC prematurely, before peace is properly consolidated. There is often budget driven pressure from some Council Members to exit early.
Legal considerations	Council engagement in peacebuilding activities may give rise to a need to coordinate and cooperate with other UN bodies and agencies, and consider criminal accountability and transitional justice issues, including reparations and reconciliation.
UNSC procedure	• The Council may formally request information and advice or implementation support directly from the PBC. This is done by way of a letter, PRST or resolution. It may also be done indirectly by requesting

the Secretary-General to harness the UN system's peacebuilding capacity and resources.

- A country exits the Council's agenda by being removed from the seizure list three years after the last formal Council meeting. And UN peace operations can be removed by a Presidential Statement. The Council may wish to explicitly signal the exit of a country from its agenda and the uptake of responsibility by the PBC in a resolution.

Further reading

This section closely follows Security Council Report (SCR), *Research Report: The Peacebuilding Commission and the Security Council: From Cynicism to Synergy?* (SCR, 2017).

See also:

SCR, *In Hindsight: The Evolving Security Council–PBC Relationship* (SCR, 2020).

SCR, *What's In Blue: Peacebuilding and Sustaining Peace: Presentation of the Peacebuilding Commission's Annual Report* (SCR, 2022).

Alex Bellamy, "The Institutionalization of peacebuilding: what role for the UN Peacebuilding Commission?", in *Palgrave Advances in Peacebuilding* (New York, Palgrave Macmillan, 2010).

LEGAL TOOLS

LEGAL TOOLS

The UN Security Council has a range of legal tools available to support its conflict management efforts, including:

- Judicial (and quasi-judicial) mechanisms
- Accountability mechanisms
- Compensation mechanisms
- Sanctions mechanisms

The Council may establish commissions of inquiry to inform its deliberations and decision-making on a situation. It can authorize such commissions to investigate and make recommendations, in particular in respect of significant violations of international humanitarian, human rights or criminal law.

If it would assist the resolution of a dispute or conflict to have a determination on the legality of a certain issue or situation, the Council may call upon the parties to refer the matter for arbitration or judicial settlement including through the International Court of Justice (ICJ). The Council can itself request an advisory opinion from the Court.

To pursue international criminal accountability, the Council may refer a situation to the International Criminal Court (ICC); establish an ad hoc international criminal tribunal; or support the establishment of hybrid tribunals.

The Council may also establish a compensation commission to enforce legal responsibility for an act of aggression or other serious violation of international law. The objective of such a commission is both to provide compensation or reparation to victims of a conflict, and to ensure that the violating party is required to pay for the suffering and damage caused by their illegal acts.

Targeted sanctions, including assets freezes and travel bans, are generally used as enforcement measures aimed at preventing the escalation of threats. In addition, they are intended to respond to and resolve conflict in a number of ways:

- Condemn actions on behalf of the international community.
- Constrain further violations.
- Ensure compliance with international law and earlier Security Council resolutions.
- Contain a general threat to international peace and security.
- Prevent or deter activities or behaviour that fuel a particular conflict.
- Pressure individuals and entities that might influence the course of a conflict.

Sanctions tools are most effective when employed as part of a broader conflict management strategy that also includes diplomatic and possibly operational tools. They can and have been used at all stages of a conflict – prevention, response and recovery – as well as in combination with other diplomatic and operational tools of peace enforcement, peacekeeping and peacebuilding.

In respect of all these tools, success depends on the willingness and ability of Member States to cooperate and to implement Council decisions. It also depends on the willingness and ability of the Council to impose additional measures to enforce its resolutions including its sanctions regimes.

LEGAL TOOLS: JUDICIAL MECHANISMS

14. COMMISSIONS OF INQUIRY

Summary

Commissions of inquiry are quasi-judicial mechanisms. They are fact-finding and legal initiatives intended to produce impartial evidence to inform the Security Council's deliberations and decision-making on a situation. Many have become a preliminary step to formal international criminal investigations, such as referral to the International Criminal Court (Darfur) or the establishment of an international tribunal (former Yugoslavia, Lebanon).

Commission mandates have included fact-finding and assessment relating to significant violations of international humanitarian, human rights or criminal law, including the assassinations of government leaders.

Examples: Commission of Experts on violations of international law in the former Yugoslavia (S/RES/780 (1992)); Commission of Experts on Rwanda (S/RES/935 (1994)); International Commission of Inquiry for Darfur (S/RES/1564 (2004)); International Independent Investigation Commission for the assassination of former Prime Minister of Lebanon, Rafic Harari (S/RES/1595 (2005)); Commission of Inquiry into the facts and circumstances of the assassination of former Pakistani Prime Minister Benazir Bhutto (launched 2009, exchange of letters); the international Commission of Inquiry to investigate international human rights and humanitarian laws violations and abuses in the Central African Republic (S/RES/2127 (2013)); and the Investigative Team to Promote Accountability for Crimes Committed by ISIL (Da'esh) (S/RES/2379 (2017)).

Legal basis

Similar to Council visiting missions, commissions of inquiry are based on Chapter VI, Article 34 of the UN Charter, which empowers the Council to investigate disputes and potential disputes threatening international peace and security. They also support the principles and purposes of the UN through promoting human rights and maintaining respect for justice and international law. The Council could also establish or make decisions on a commission of inquiry under Chapter VII, for example, if there was a need to include binding obligations of cooperation or access on the parties.

Description

A primary objective of commissions of inquiry is to produce impartial information and evidence to inform the Council's deliberations and decision-making. They also have inherent value through signalling to conflict parties that the Council is watching and any serious violations of international law will be "on the UN record". Many commissions have

become a preliminary step to formal international legal proceedings, and by setting the stage for international, hybrid or domestic criminal investigations, they may act as a deterrent to violence in conflict, or offer accountability afterwards.

There is no set format for these initiatives. Commissions usually comprise experts appointed by the Secretary-General at the request of the Council (they are distinct from the "Panels of Experts" associated with sanctions regimes). Commissions are mandated to establish and report to the Council the facts and legal assessment of a certain situation or incident, whether on a one-off or ongoing basis. They have been given a range of titles including "commissions of inquiry", "committees of experts", and "investigative commissions".

The Council sets the commission of inquiry's mandate and reporting deadline(s). The mission then deploys to the field, or undertakes a number of visits, and reports back to the Council, usually through the Secretary-General. The Council can engage with the findings of such missions in a variety of ways, including: (i) formally receiving the reports via the Secretary-General; and (ii) informally engaging with the commission members and experts, for example, through Informal Interactive Dialogues or Arria-formula meetings.

Such initiatives are funded through the UN regular budget. The UN Secretariat, including the Department of Political and Peacebuilding Affairs (DPPA) and the Office of the High Commissioner for Human Rights (OHCHR), can provide administrative and staff support.

Other UN organs – including the General Assembly and the Human Rights Council – can launch fact-finding missions without reference to the Council. The Secretary-General can also create such devices on his/her own initiative (such as the Secretary-General's Panel of Experts for Accountability in Sri Lanka), and may inform the Council of this decision through an exchange of letters. Council Members also have access to the findings of these commissions, which can be transmitted formally. For example, having launched an inquiry into political protests in Guinea in 2009, then Secretary-General Ban Ki-moon forwarded the report to the Council. In 2018, the Human Rights Council established the Independent Investigative Mechanism for Myanmar, the Chair of which briefed at an open Council meeting in October of that year. In other cases, Council Members invite representatives of non-Council-mandated mechanisms to provide informal briefings. The General Assembly, for example, appointed in 2016 an International, Impartial and Independent Mechanism concerning the "Most Serious Crimes under International Law" for Syria, senior representatives of which have spoken at Arria-formula meetings.

Finally, the Council can also encourage UN Member States to provide support to the work of international investigations, as occurred in the case of resolution 2166 (2014) on the downing of Malaysian Airlines Flight MH17 over Ukraine.

History

While the Council launched commissions of inquiry during the Cold War (for example, authorizing a "Special Mission" to investigate a coup in Benin in 1977 (S/RES/404)), the current generation of commission of inquiry dates back to the Council's mandating a commission of experts to investigate breaches of the Geneva Conventions and international humanitarian law in the former Yugoslavia in 1992. The "Bassiouni Commission", named after the lead expert in the group, gathered information for two years, making 35 field visits and amassing a huge body of evidence. Although the Council had not originally intended this to be a precursor to international criminal trials, the commission set the stage for the International Criminal Tribunal for the former Yugoslavia (ICTY). Subsequent commissions investigated the situations in Rwanda (1994) and Darfur (2004–2007). The latter generated evidence that played a significant part in the Council's decision to refer the situation in Sudan to the International Criminal Court (ICC). During the last two decades, the Council has infrequently used fact-finding missions in this way. The last case of its appointing a commission of inquiry with a broad justice and accountability related mandate concerned the Central African Republic in 2013, which contributed to the establishment of the Special Criminal Court in Banjul.

The Council has also appointed fact-finding missions into high-profile political assassinations. After the murder of Lebanese Prime Minister Rafic Hariri in 2005, the Council launched an International Independent Investigative Commission to conduct an initial review of the case. The inquiry not only published evidence of an "extensive" plot involving Syrian agents, but also flagged questions about the Lebanese judiciary's capacity to handle the case. This paved the way for the formation of a hybrid UN–Lebanese tribunal to pursue the case. Upon the request of the Government of Pakistan, the Secretary-General, in consultation with the Security Council, established a similar commission to investigate the murder of Pakistani Prime Minister Benazir Bhutto in 2007. This group reported to the Secretary-General and handed over its findings to national law agencies.

Conditions for success

To succeed, commissions of inquiry require sufficient expertise, resources, time and political support to undertake their work. It is also important that Council Members are willing to take their findings seriously and act on them, especially if their focus is on serious violations of international humanitarian, human rights and criminal law. This may be difficult during a period in which Council Members are often divided

over international justice and accountability and the value of international criminal prosecutions.
A commission may face competing pressures to: (i) gather facts quickly; and (ii) gather detailed (and potentially legally actionable) material on a situation. Studies of past commissions of inquiry have highlighted their varying quality. As noted, the Bassiouni Commission on the former Yugoslavia was able to undertake in-depth work over two years, gathering 500 witness statements. By contrast, the commission set up to investigate events in Rwanda in 1994 had less than a year to do its work and spent little time on the ground. And the commission concerning the Central African Republic lacked political support from the Council for its recommendations.

Optimally, the Council should give a commission of inquiry a mandate that allows for thorough research and in-country work on a situation. This should include a realistic timeline for reporting, and also requires coordination with the Secretary-General to ensure that he/she is able to select suitable experts on a country (although the Council should be wary of appearing to influence the choice of experts in ways that undermine a commission's impartiality). As the Fifth Committee will decide the budget of a commission of inquiry, it is also important that Council Members lobby to ensure that these mechanisms have the staffing and resources necessary. To have credibility, commissions of inquiry should be led by groups of highly regarded jurists, who must be able to claim genuine independence from the Council. In some cases – as in UNITAD's work on ISIL (Da'esh) crimes in Iraq – it is also necessary to establish field offices competent in criminal investigations, evidence management and witness protection.

In some cases, Council Members may be able to reinforce the work of a commission of inquiry by offering access to factual (including sensitive) information and evidence that they may have, and by requesting other UN Member States to offer assistance. In cases where commissions of inquiry are meant to study situations of ongoing conflict, it is also important that the Council directs relevant UN peace operations and other security actors to facilitate their work. This includes both in respect of sharing information and evidence, and facilitating the commission's in-country activities.

If a commission of inquiry is to enjoy access and support for its activities, it is important that Council Members offer political support for its investigation and findings. As noted, past commissions have laid the groundwork – and submitted evidence to – international criminal proceedings. It is important that Council Members signal their willingness to support such proceedings where recommended and necessary.

Council Members can use formal and informal contacts with non-Council-mandated inquiry mechanisms, particularly of the UN Human Rights Council, to bring new evidence into Council debates and offer those involved in these mechanisms extra political visibility. Such steps, however, may be met with political resistance from some Council Members, relating to the specific issue or more generally to the precedent.

Risks/ benefits

Benefits

- A commission of inquiry can provide the Council with hard evidence on the origins, evolution or ongoing basis of a dispute or crisis. As such, mechanisms usually comprise independent experts, they are impartial and can offer expertise (including legal and investigative expertise) that individual Council Members may lack.

- The decision to authorize a commission of inquiry into a controversial situation – where facts and responsibility are disputed or powerful Council Members have competing interests – may be a way to bring some impartial assessment and evidence into the Council's deliberations.

- Given the history of such commissions acting as precursors to international criminal procedures, they can be an important step towards individual accountability and their authorization may act as a deterrent against further violence and atrocity crimes during a conflict.

- The initial decision to establish a commission of inquiry can send a political signal of concern to conflict parties, but does not necessarily bind the Council to take further actions. It is therefore a potential tool for the Council to both investigate a situation but also postpone hard decisions until the facts and legal assessment are clearer.

- Optimally, commissions of inquiry should provide enhanced factual and legal assessments for Council decisions, although in reality the events of such situations can outpace the inquiry process.

Risks

- As occurred in the case of Rwanda, the Council may authorize an inquiry that lacks the time, resources or political support to investigate appalling crimes in a meaningful fashion. Overall, past experience suggests that commissions of inquiry need significant amounts of time and resources to conduct their work properly. This may not be compatible with the Council's need for rapid, politically actionable information on a crisis.

- The fact that a number of commissions of inquiry launched by the Council have provided the foundations for international criminal proceedings – while proving their worth – may make launching similar

exercises harder in future, especially when the direct interests of powerful Council Members are at stake. Given the Council's unresolved differences over the ICC – and the general increase in geopolitical rifts in the Council – there are strong incentives for Council Members to block or limit the use of these tools that might affect their political allies or general agenda on criminal accountability.

- The Department of Political and Peacebuilding Affairs (DPPA), in its role as the UN Secretariat department supporting the Council, does not have access to similar expertise to the OHCHR relating to investigations of violations of international humanitarian, human rights and criminal law. In addition, the DPPA may also be more inclined to focus on and prioritize the broader political issues than matters of international justice and accountability.

- Beyond the publication of a commission of inquiry's report, there may be little political appetite from some Council Members to allow briefing by a commission's members to the Council. This may lead to such briefing having to take place in informal formats, such as an Informal Interactive Dialogue or an Arria-formula meeting, which rules out the Council taking any formal action on the findings.

Legal considerations

While the Council has the authority to establish a commission of inquiry under Article 34 of the UN Charter, it is unclear that a mandate under Chapter VI would oblige a Member State to allow the relevant experts to travel to that State to carry out their work.
In principle, commissions of inquiry are mandated to assess facts only, and not to make legal determinations. However, in practice, a number have been mandated to, or decided to, make such legal determinations. The Council's decision to establish the commission may identify the relevant legal standards (for example, international human rights, humanitarian, and/or refugee law) and may also specify the applicable standard for the fact-finding or other determinations (for example, reasonable grounds to believe).

As this process can generate evidence concerning alleged violations of international law and even individual accountability, due process and fairness is also relevant, including whether any opportunity to comment on the draft fact-finding report shall be afforded to the relevant parties.

Given that commissions of inquiry often feed into international legal processes, care should be taken to observe international standards on the gathering and preservation of evidence. This will help to ensure that the evidence may be submitted in any subsequent judicial proceedings, including in respect of individual criminal responsibility.

UNSC procedure	• The Council usually adopts a resolution mandating a commission of inquiry and outlining the broad area for investigation. An exception was the Bhutto investigation, which was based on an exchange of letters between the Secretary-General and President of the Security Council. • In recent practice, the Council requests the Secretary-General to identify and appoint the members of a commission. The Secretary-General will usually set up the commission and provide the administrative and technical support. • In accordance with any timeline in the mandate, the commission reports to the Council via the Secretary-General. Commission members may be invited to brief the Council in a formal or informal meeting. • Alternatively, the Secretary-General can establish a panel of experts and inform the Council of its findings; or Council Members can invite commissions appointed by other UN bodies to brief them, most likely informally.
Further reading	M. Cherif Bassiouni, "Appraising UN Justice-Related Fact-finding Missions", *Washington University Journal of Law & Policy*, vol. 5 (2001). Micaela Frulli, "Fact-Finding or Paving the Road to Criminal Justice? Some Reflections on United Nations Commissions of Inquiry", *Journal of International Criminal Justice*, 10/5 (2012). UN Office of the High Commissioner for Human Rights (OHCHR), *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* (OHCHR, 2015).

LEGAL TOOLS: JUDICIAL MECHANISMS

15. INTERNATIONAL COURT OF JUSTICE - ADVISORY OPINIONS

Summary

The Security Council can request an advisory opinion from the International Court of Justice (ICJ) on any legal question. Unlike an ICJ adjudication, advisory opinions are not binding. However, the pronouncements of the Court carry great legal weight and moral authority and have been cited by the Security Council in its resolutions and Presidential Statements. By stating or clarifying the law, or in some circumstances addressing the merits of a dispute, ICJ advisory opinions can contribute to the peaceful settlement of a dispute and compliance with international law. Because the opinions are not binding, the Council is afforded significant freedom in deciding what effect, if any, to give to these opinions.

While it may take several months for the ICJ to render its advisory opinion, even in an urgent case, it is a swifter process than a full ICJ adjudication. Nevertheless, it is possible that, during that time, the situation on the ground could escalate rendering the opinion of little or limited value to the resolution of the conflict.

The Security Council has only sought an advisory opinion on one occasion.

Example: Advisory opinions have been requested in 27 instances, but only once by the Security Council. In 1970, the Council asked for an ICJ advisory opinion on the question "What are the legal consequences for States of the continued presence of South Africa in Namibia?".

Legal basis

The ICJ is the principal judicial organ of the UN. Article 36(3) of the UN Charter provides that legal disputes should, as a general rule, be referred by the parties to the ICJ.

Article 96 of the Charter provides that the Council may request the ICJ to give an advisory opinion on any legal question.

Similarly, Article 65(1) of the Statute of the ICJ states that the Court may give an advisory opinion on any legal question. Article 65(2) further provides the procedure, including a written request containing an exact statement of the question upon which an opinion is required, and all documents likely to throw light upon the question.

Description

The Security Council can request an advisory opinion from the ICJ as a tool to assist in the peaceful settlement of a dispute. Unlike an ICJ adjudication, which is binding on the parties, an ICJ advisory opinion is not binding and therefore affords the Council greater freedom to decide what effect, if any, to give to the opinion.

The ICJ comprises 15 judges elected by the General Assembly and the Security Council. It is supported by a Registrar, who carries out judicial, diplomatic and administrative functions.

The ICJ's advisory proceedings begin with the filing of a written request for an advisory opinion addressed to the Registrar by the UN Secretary-General. Upon receipt of the request, the Registrar gives notice to all States entitled to appear before it. The advisory opinion process usually consists of two written phases, followed by oral hearings. Whether such hearings take place, and how long they last, is decided by the Court. The judges are entitled to ask States to provide written answers to questions they pose during the oral hearings. All advisory opinions given by the ICJ are read at a public sitting of the Court. Any judge wishing to do so may append a declaration or a separate concurring or dissenting opinion.

The time between a request and the rendering of an opinion varies, as do the time limits set by the Court for the filing of written statements and comments and the length of oral hearings. The relevant timing depends to a large degree on the complexity of the question (or questions) put to the ICJ and the number of States that participate in the proceedings. Pursuant to Article 103 of the ICJ Rules, where the request for an advisory opinion asks for the opinion to be given urgently (or where the ICJ finds that an early answer would be desirable), the Court is required to take all necessary steps to accelerate the procedure.

The expenses of the ICJ, including the salaries of the judges and the Registrar, are borne by the UN as decided by the General Assembly.

History

To date, there has been only one instance in which the Security Council has requested an advisory opinion from the ICJ. In 1970, it requested an advisory opinion on the legal consequences for States of the continued presence of South Africa in Namibia.

In 1967, the UN had tried unsuccessfully to take over the administration of Namibia and two years later, passed a resolution that South Africa should terminate its administration over South West Africa. South Africa ignored this and took the administration of the territory under direct rule in 1969. Although the UN Security Council endorsed the termination of South Africa's mandate with a declaration that South Africa was an illegal occupier of Namibia (resolution 276 (1970)), it was unable to do anything

about it. In that resolution, the Council also established an ad hoc sub-committee to study ways in which the Council's resolutions on the situation in Namibia could be effectively implemented. The sub-committee inter alia recommended requesting an advisory opinion from the ICJ.

In resolution 284 (1970) of 29 July 1970, the Council asked for an ICJ advisory opinion on the question "What are the legal consequences for States of the continued presence of South Africa in Namibia?". The resolution was transmitted by the Secretary-General to the ICJ, along with relevant material.

In its advisory opinion of 21 June 1971, the ICJ concluded, inter alia:

- That the continued presence of South Africa in Namibia was illegal, and South Africa was under an obligation to withdraw and to end its occupation of the territory.
- That UN Member States were under an obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and dealings with the Government of South Africa that would imply recognition of the legality of, or support such presence.

Four months after receiving the ICJ's advisory opinion, in resolution 301 (1971), the Security Council accepted the Court's opinion and:

- Once again requested South Africa to withdraw from the Territory of Namibia.
- Declared that any further refusal of the South African Government to withdraw from Namibia could create conditions detrimental to the maintenance of peace and security in the region.
- Called upon all States, in the discharge of their responsibilities towards the people of Namibia, to abstain from any diplomatic, economic or other dealings with the Government of South Africa purporting to act on behalf of or concerning Namibia.

Although the ICJ advisory opinion was not itself binding, pursuant to Article 25 of the UN Charter, South Africa had an obligation to accept Security Council resolution 301 (1971) and all previous resolutions of the Security Council pertaining to Namibia. In addition, the Council could have acted under Chapter VII either by adopting provisional measures under Article 40, sanctions not involving the use of force under Article 41, or measures involving the use of force under Article 42 of the UN Charter.

Namibia did not gain independence from South Africa until 1990.

There are several possible explanations why the Security Council has not requested an advisory opinion from the ICJ more often. It could be a function of the length of time it takes to receive an opinion, or it could be

that the Security Council is wary of putting security matters in the hands of judicial authorities and potentially having its hands tied by judicial determinations. Given that a number of items on the Security Council's agenda have been there for several years, and given that advisory opinions are neither binding on the parties nor on the Council, having a non-binding advisory opinion on what the rule of law offers by way of peaceful dispute resolution could have a significant benefit that outweighs such concerns.

By way of contrast, the General Assembly has requested several advisory opinions including on highly sensitive matters such as the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (2019); the unilateral declaration of independence by Kosovo (2010); the legal consequences of the construction of a wall in the Occupied Palestinian Territory (2003); the legality of the threat or use of nuclear weapons (1995); and the status of Western Sahara (1975).

Conditions for success

Conditions for success include:

- The specificity and clarity of the legal question(s) submitted to the ICJ and their relevance to the situation on the ground.
- The timeliness of the advisory opinion and its relevance to the evolving situation on the ground.
- The clarity and responsiveness of the ICJ advisory opinion, and the degree to which it is understood as capable of being applied or implemented by the Security Council, UN Member States and/or the parties to the conflict.
- The willingness of the Council to act on an advisory opinion. Something that may change between when the opinion is requested and when it is rendered, given the regularly changing composition of the Council.
- The efficiency of the Council's action upon receipt of the ICJ's advisory opinion as well as the effectiveness of the measures taken by the Council in response.
- The willingness and readiness of the concerned party or parties to adhere to the ICJ advisory opinion and any related measures imposed by the Security Council.

Risk/ benefits

Benefits

- ICJ advisory opinions offer an option for a judicial, and thereby peaceful, settlement of a dispute.
- They serve as an instrument of preventive diplomacy whereby the Council has freedom to decide what, if any, measures to impose in order to keep the peace.
- ICJ opinions contribute to the clarification and development of international law.

- They confirm the ICJ as the principal judicial organ of the UN.

Risks

- If the Council does not accept the conclusions of the advisory opinion, this would undermine the authority of the ICJ, and could also result in the Council effectively, or by omission, allowing an illegal situation or activity to continue, which would be detrimental to the rule of law.

- If the Council does not authorize prompt and effective measures, or does not take action to enforce those measures, this could also be seen as not accepting the advisory opinion and in some instances as allowing illegal activity.

- The timeframe for the hearing and rendering of an advisory opinion can be lengthy, and the conflict situation may evolve in the intervening period. For example, in the *Construction of a Wall* advisory opinion where an urgent opinion was requested, it took the Court seven months to render an opinion. The *Kosovo* opinion took the Court 21 months.

- In a situation in which the Council has requested an advisory opinion to clarify important legal matters, the Council might consider it cannot act decisively until the opinion is provided. This could constrain decision-making in a circumstance where measures by the Council are necessary despite the lack of legal clarity. In addition, delays may be encountered with the Council's deliberations on whether and how to respond to the advisory opinion. It took the Council several months to act on the *Namibia* advisory opinion and nearly a year to decide measures.

Legal considerations

Article 96 of the UN Charter requires that any request the Council makes for an advisory opinion concern a "legal question". The Court will consider whether it has jurisdiction to give the opinion requested (in particular whether the question raised is a "legal question"), and then whether there is any reason why it should decline to answer the request. In practice, the ICJ has never declined a request for an advisory opinion.

Although ICJ advisory opinions are not binding, they carry great legal weight and moral authority, and can be politically influential. They provide an authoritative statement of the law or clarification on a point of law and contribute to the promotion and development of international law.

An ICJ advisory opinion can clarify a legal matter or guide the Council in its deliberations and decision-making. However, it is ultimately up to the Council to decide what, if any, consequent measures to recommend under Chapters VI and/or VII of the UN Charter.

While the Security Council is not legally obliged to act on the advisory opinion of the ICJ, not doing so will have both political and legal

implications, as the Council may be effectively, through omission, allowing what the Court could have authoritatively considered as being an illegal activity to continue without consequence.

As stipulated in Article 24(2) of the UN Charter, in discharging its duties, the Council must act in accordance with the purposes and principles of the UN including promoting respect for the rule of international law. Failing to respect the judgments and advisory opinions of the ICJ undermines the rule of international law.

UNSC procedure

- The Security Council requests an advisory opinion on a specific legal question through a decision.
- The UN Secretary-General then files the written request with the Registrar of the ICJ, along with any documents likely to throw light on the question. The documents are transmitted to the ICJ at the same time as the request or as soon as possible thereafter.
- All advisory opinions given by the ICJ are read at a public sitting of the Court and then conveyed by the Secretary-General to the Security Council.
- The Security Council then decides what measures (if any) to take in furtherance of the Court's opinion.

Further reading

Statute of the International Court of Justice.

Repertoire of the Practice of the Security Council: Chapter VI (Relations with Other UN Organs) available at: https://www.un.org/securitycouncil/content/repertoire.

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Legality of the Threat or Use of Nuclear Weapons, (Advisory Opinion) [8 July 1996] I.C.J. Rep. 226.

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, (Advisory Opinion) [9 July 2002] I.C.J. Rep. 136.

Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, (Advisory Opinion) [25 February 2019] General List No. 169.

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LEGAL TOOLS: JUDICIAL MECHANISMS

16. INTERNATIONAL COURT OF JUSTICE - JUDGMENTS

Summary

The Security Council can recommend or request parties to a dispute to refer the dispute to the International Court of Justice (ICJ). This can be done as a means of peacefully settling a dispute, preventing a conflict or responding to a conflict. However, the Council cannot impose the Court's jurisdiction; the parties must voluntarily submit to its jurisdiction. Once rendered, an ICJ decision is binding on the parties, and the Council is empowered to take measures in respect of non-compliance. It may also take measures such as welcoming the parties' implementation of an ICJ decision, or take steps to support the Secretary-General's assistance to the parties' implementation.

It can take one to two years, and often much longer, for an ICJ case to be adjudicated. During this time, the conflict may escalate or the situation on the ground may evolve rendering the ICJ's decision of little or limited value to the dispute's resolution. However, the Court can order urgent provisional measures in a significantly shorter period of time.

The Security Council has recommended that parties submit their dispute to the ICJ on one occasion.

Example: Corfu Channel Case *(United Kingdom of Great Britain and Northern Ireland v. People's Republic of Albania)* (1947–1949).

Legal basis

Article 33 of the UN Charter provides for the settlement of disputes, the continuance of which is likely to endanger the maintenance of international peace and security, through judicial settlement or other peaceful means. Pursuant to Article 33(2), the Security Council "shall, when it deems necessary, call upon the parties to settle their dispute by such means".

Article 36 of the Charter further provides that the Council may recommend appropriate procedures for the settlement of disputes the continuance of which is likely to endanger the maintenance of international peace and security. Article 36(3) further provides that legal disputes should, as a general rule, be referred by the parties to the ICJ.

Article 36(1) of the of the Statute of the ICJ indicates that the Court will have jurisdiction where the parties to a dispute consent, and for "all matters specially provided for in the Charter of the United Nations or in

treaties or conventions in force". Due to the absence of any express power, the Council is unable to refer in a binding way a dispute between parties to the ICJ, although it can request an advisory opinion. Article 36(6) of the Statute of the ICJ provides that in the event of a dispute as to whether the ICJ has jurisdiction, the matter shall be settled by the decision of the Court.

Article 94(1) of the Charter provides that Member States undertake to comply with ICJ decisions to which they are party. Article 94(2) provides that if a party fails to comply with the judgment, the other party may have recourse to the Council, which can make recommendations or decide on measures to give effect to the judgment.

The Council may take any other supportive measures with the parties' consent and under the auspices of its Chapter VI powers. It can also have recourse to its Chapter VII powers in relation to a case that has been submitted to the Court.

Description

The Security Council may recommend the parties to a conflict refer their dispute to the ICJ. The Council cannot impose the jurisdiction of the Court. At best, it can recommend the parties to take the necessary steps to refer the matter to the Court.

The ICJ is the principal judicial organ of the UN. It comprises 15 judges elected by the General Assembly and the Security Council. It is supported by a Registrar who carries out judicial, diplomatic and administrative functions. The expenses of the ICJ, including the salaries of the judges and the Registrar, are borne by the UN as decided by the General Assembly.

The ICJ is competent to adjudicate a case only if the States concerned have accepted its jurisdiction either by entering into a special agreement to submit the dispute to the Court; by virtue of a jurisdictional clause in a treaty; by the reciprocal effect of declarations by each of them accepting the Court's jurisdiction as compulsory; or on the basis of forum prorogatum (that is, the parties' ad hoc and case-specific consent). Declarations accepting the Court's jurisdiction may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time. Proceedings may be instituted either by notification of a special bilateral agreement between the parties or by means of a unilateral application submitted by an applicant State against a respondent State.

Contentious proceedings include a written phase, in which the parties file and exchange pleadings of the points of fact and of law, and an oral phase consisting of public hearings. After the oral proceedings the Court deliberates and then delivers its judgment at a public sitting. The judgment is final, binding on the parties and without appeal. Any judge

wishing to do so may append a declaration or a separate concurring or dissenting opinion to the judgment. A case may be brought to a conclusion at any stage of the proceedings by a settlement between the parties or by discontinuance.

Every UN Member State undertakes, under Article 94 of the UN Charter, to comply with the decision of the Court in any case to which it is a party. A State which considers that the other party has failed to perform the obligations incumbent upon it under a judgment rendered by the Court may bring the matter before the Security Council, which, under the same Article, is empowered to recommend or decide upon measures to be taken to give effect to the judgment.

History

The Security Council has only used the referral tool once, in the 1947–1949 Corfu Channel Case *(United Kingdom of Great Britain and Northern Ireland v. People's Republic of Albania)*.

In 1946, two British naval ships were damaged by mines in the Corfu Channel, resulting in loss of life and injury. The Security Council, in resolution 19 (1947), initially established a sub-committee to examine the available evidence and to report back to the Council. In resolution 22 (1947), the Council considered the sub-committee's report and the statements of the United Kingdom and Albanian representatives and recommended that the two governments immediately refer the dispute to the ICJ. In light of Article 27(3) of the UN Charter providing that "a party to a dispute shall abstain from voting in decisions under Chapter VI", the United Kingdom, as a party to the dispute, abstained from voting on the resolution.

The case was brought before the court by the United Kingdom, and Albania voluntarily accepted its jurisdiction. In its judgment, the Court found that Albania was responsible under international law for the explosions that had taken place and for the consequent damage and loss of life. It did not accept the Albanian claim that the United Kingdom had violated Albanian sovereignty by sending warships into Albanian territorial waters, but rather that the United Kingdom was exercising the right of innocent passage through international straits. It did, however, find that the United Kingdom's minesweeping activities had violated Albanian sovereignty. The Court ordered Albania to pay £844,000 in reparations.

The reparations Albania owed the United Kingdom remained unpaid for decades. Final settlement did not take place until the 1990s. The United Kingdom and Albania reached an agreement in 1992 which was not implemented until 1996 when Albania paid the United Kingdom $2 million dollars.

The Council has yet to use its powers under Article 94(2) to enforce compliance with an ICJ judgment. One attempt to have the Council exercise that authority was made in 1986, when Nicaragua requested, in a letter to the President of the Council (S/18515 (1986)), an emergency meeting to consider the failure of the United States to execute the ICJ's judgment against it in the *Military and Paramilitary Activities in and against Nicaragua Case*. In that instance, the United States vetoed the draft resolution calling for full and immediate compliance with the ICJ judgment.

The Council has supported the implementation of ICJ judgments, albeit in scenarios that are different to that envisaged in Article 94(2). In 1994, the Council took a decision to allow an exemption to sanctions to permit a reconnaissance team constituted by the Secretary-General to visit Libya for the purposes of supporting implementation of the *Libya–Chad Territorial Dispute* case (S/RES/910 (1994)). The Council also established and mandated the Abuzou Strip Observer Group (UNASOG), a form of peacekeeping operation, to assist the parties with implementing the ICJ's judgment (S/RES/915 (1994)). In 2013, the Council "praised" Cameroon and Nigeria for honouring their obligations to comply with an ICJ decision concerning a territorial dispute (SC/11094-AFR/2680).

Conditions for success

- While the Council may request States to refer their disputes to the ICJ, the jurisdiction of the Court in contentious proceedings requires the consent of the States concerned.

- Only 74 UN Member States have made declarations under Article 36(2) of the ICJ Statute accepting the compulsory jurisdiction of the Court; most of the States that have made such declarations have also lodged reservations limiting the Court's jurisdiction or, in many cases, excluding certain disputes from the scope of their declaration such as those involving their national security. Moreover, States have also modified, revoked or withdrawn their declarations when a dispute was submitted or was about to be submitted to exclude the competence of the Court over the dispute concerned, making it difficult to effect a referral to the ICJ even where the State or States concerned have accepted compulsory jurisdiction.

- To the extent that the ICJ cannot enforce its own decisions, success ultimately depends on the Council's willingness to enforce the ICJ's judgments to ensure compliance in the event that one or more of the parties does not comply. Such enforcement measures, like any others, require the affirmative vote of nine members including the concurring vote of the five permanent members.

Risks/ benefits

Benefits:

- Security Council referral to the ICJ offers an option for a judicial, and thereby peaceful and more cost-effective, settlement of a dispute.

- It upholds the general rule in Article 36(3) of the UN Charter which provides that legal disputes should be referred to the ICJ for resolution.

- Referral to the ICJ promotes the rule of international law in the decision-making of the Security Council.

- It defers to the role of the ICJ as the principal judicial organ of the UN.

Risks:

- The ICJ takes a long time to render a decision from a minimum of one to two years for some cases, to as long as 14 years in the *Guinea v Democratic Republic of the Congo* case and the *Bosnia Herzegovina v Serbia* case, and 16 years in the *Croatia v Serbia* case. Long delays risk escalation of the dispute in the interim, and may render judgments of little or limited value.

- The Security Council may hesitate to use this option for at least two reasons. ICJ adjudication may entail judicial review of Security Council decisions or constrain the Council's options. The Council may be called upon to enforce a judgment with which its members, especially its permanent members, may not agree or accept.

Legal considerations

The Council may recommend under Article 36 of the UN Charter that the parties refer their dispute to the ICJ, but this may give rise to particular complications where one party to the dispute is a P5 member. If the P5 member party to the dispute seeks to veto the resolution, this raises the issue of the application of Article 27(3) of the Charter which provides that a party to a dispute shall abstain from voting in decisions under Chapter VI. Whether an ICJ case results from a recommendation to the parties by the Council, or whether it originates elsewhere, the non-implementation of the Court's judgment may be addressed with the Council. Pursuant to Article 94 of the Charter, Member States undertake to comply with ICJ decisions in any case to which they are a party. If they do not, the other party may have recourse to the Council, which can make recommendations or decide upon measures to be taken to give effect to the judgment. These measures can be binding.

UNSC procedure

- The Security Council adopts a resolution recommending or requesting the parties to a dispute to refer the dispute to the ICJ. The Council can do so directly or on the recommendation of a committee or other subsidiary organ established in an earlier resolution to study the matter. While under Article 25 of the UN Charter, UN Member States are obliged to accept and carry out the decisions of the Security Council, there is no indication that the relevant States are bound to implement a Council request to submit their dispute to the ICJ.

- Once the ICJ renders its judgment, the parties are obliged under Article 94 of the Charter to comply with the judgment. If either party fails to do so, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment. Nothing precludes the Council from acting on its own initiative without a request from either party, provided that its action is based on the UN Charter. It is for the Security Council to decide what measures (if any) to take to enforce the Court's judgment. If it determines that there is a threat to international peace and security, the Council could adopt provisional measures under Article 40 or sanctions under Article 41. While possible, it is not likely that the Security Council would adopt measures involving the use of force under Article 42 to ensure compliance with an ICJ judgment.

Further reading

Statute of the International Court of Justice.
International Court of Justice website: https://www.icj-cij.org/home.
Repertoire of the Practice of the Security Council: Chapter VI (Relations with Other UN Organs) available at: https://www.un.org/securitycouncil/content/repertoire.
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SCR, *Research Report: The Rule of Law: Can the Security Council Make Better Use of the International Court of Justice*? (SCR, 2016).
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LEGAL TOOLS: ACCOUNTABILITY MECHANISMS

17. AD HOC INTERNATIONAL CRIMINAL TRIBUNALS

Summary

The Security Council can establish an ad hoc international criminal tribunal to prosecute the most serious violations of international humanitarian law, international human rights law, and international criminal law in a particular conflict situation. The tribunals work to ensure justice for the victims, and accountability of the perpetrators.

The Security Council has used this tool on two occasions: to address the serious violations committed in the former Yugoslavia; and during the Rwandan Genocide. While the creation of ad hoc tribunals remains an option open to the Council, it is less necessary following the establishment of the International Criminal Court.

The Security Council is also able to support hybrid criminal tribunals that are established by an agreement between the UN and the State concerned.

Examples: The International Criminal Tribunal for the former Yugoslavia (ICTY) (1993–2017), and the International Criminal Tribunal for Rwanda (ICTR) (1994–2015). The Council has also provided support to two hybrid criminal tribunals: the Special Court for Sierra Leone, established in 2002; and the Special Tribunal for Lebanon, established in 2009.

Legal basis

The UN Charter does not expressly contemplate the Security Council establishing an international criminal tribunal. However, such creation can be based on Article 29 of the Charter, which empowers the Council to establish subsidiary organs, and the doctrine of implied powers. The Preamble to the Charter expresses determination to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained. Article 1 of the Charter, which articulates the purposes and principles of the UN, includes bringing about "by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace".

In the case of the ICTY, the legal basis put forward by the Secretary-General (S/25704 (1993)) and approved by the Council (S/RES/827 (1993)) was that the Council was establishing the tribunal as an enforcement measure under Chapter VII, a subsidiary organ, but one of a judicial nature. The ICTY was intended to enforce the Council's earlier decisions

on the situation, including its demand that parties to the conflict cease and desist from all breaches of international humanitarian law (S/RES/771).

While the establishment of the ICTY and ICTR generated some controversy at the time, the Council's decisions to establish the two tribunals have been widely accepted by the UN membership.

Description

The Council can establish an ad hoc international criminal tribunal to address serious violations of international humanitarian, international human rights law, and international criminal law in specific conflict situations. The purpose of these tribunals is to ensure justice for the victims, and accountability of the perpetrators.

The Council has established such tribunals on two occasions:

- International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY).

- International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (ICTR).

Both were established by Council resolution acting under Chapter VII of the UN Charter. In the resolutions, the Council decided that all States must cooperate fully with the international tribunals and their organs, including complying with tribunal requests for assistance. The Council also urged States and intergovernmental and non-governmental organizations to contribute funds, equipment and services as well as expert personnel.

The tribunals each had their own statute setting out their competence and jurisdiction and defining the relevant crimes including genocide, war crimes, and crimes against humanity. The statutes also provided for trial and appeals Chambers, a Registry and a Prosecutor. Both tribunals had Rules of Procedure and Evidence which governed the conduct of their proceedings.

While national courts have concurrent jurisdiction over the relevant crimes, the ICTY and ICTR had primacy and could formally request national courts to defer to their respective competence. Their respective statutes placed binding obligations on States to cooperate with the tribunals in their investigations and prosecutions. Judgment by the tribunals was rendered by a majority of the Judges of the Trial Chamber

and accompanied or followed by a reasoned opinion in writing, to which separate or dissenting opinions could be appended. The statutes did not, however, define a coherent scheme of sentencing, pardon and commutation of sentence – only that the penalty should be limited to imprisonment given the UN's position on the death penalty.

The expenses of both the ICTY and the ICTR were borne by the UN regular budget.

History

The Nuremburg Military Tribunals (1945–1949) and the Tokyo Tribunal (1946–1948) following World War II were the first instances of individual criminal accountability for international law violations. While often critiqued as "victor's justice", the prosecution of the prominent members of the leadership of Nazi Germany and Imperial Japan respectively sought to end impunity and bring to justice the perpetrators of the most serious international crimes.

International Criminal Tribunal for the former Yugoslavia (1993–2017)

The ICTY was established by the Security Council in 1993 as part of a package of measures to end hostilities in the former Yugoslavia. Prior to the establishment of the tribunal, the Council had requested the Secretary-General to establish a Commission of Experts to investigate evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the former Yugoslavia (S/RES/780 (1992)) (see Tool 14 "Commissions of inquiry"). Further to the interim report of that Commission, it decided that an international tribunal would be established, and called upon the Secretary-General to submit a report including proposals and options (S/RES/808 (1993)).

The Tribunal was established by resolution 827 (1993), with the purpose of prosecuting those responsible for mass atrocities then taking place in Croatia and Bosnia and Herzegovina. Its mandate, competence, organization and proceedings were further articulated in the Statute of the ICTY, which was annexed to the Secretary-General's Report (S/25704 (1993)), which was approved by the Council (S/RES/827 (1993)).

The ICTY was the first international criminal tribunal created by the Council, and the first since the Nuremberg and Tokyo tribunals. Its mandate ran from 1993 to 2017. During that time it indicted over 160 people, including Heads of State, Prime Ministers, senior and mid-level political, military and police officials. Ninety-one were found guilty and sentenced; 18 were acquitted; 13 were referred to national jurisdiction; 20 had their indictments withdrawn; and 17 (including former Serbian President and Yugoslav President Slobodan Milošević) died before their trials were concluded. The ICTY closed on 31 December 2017.

The ICTY contributed to building peace in the former Yugoslavia by helping to deter further crimes, setting out the historical record and truth, and providing some accountability for the thousands of people who were killed, wounded, tortured, sexually abused, and expelled from their homes during the conflict.

International Criminal Tribunal for Rwanda (1994–2015)

Similar to the ICTY, the ICTR was part of a package of measures authorized by the Security Council in response to the genocide in Rwanda. In response to the Secretary-General's report on the systematic massacres and killings in Rwanda (S/1994/640 (1994)), the Council requested the Secretary-General to establish a Commission of Experts to investigate grave violations of international humanitarian law, including the evidence of possible acts of genocide (S/RES/935 (1994)) see (Tool 14 "Commissions of inquiry").

On the basis of the preliminary report of the Commission (S/1994/1125) and having received a request from the Government of Rwanda (S/1994/1115) to establish an international tribunal for the purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law, the Security Council established the ICTR.

The Tribunal was established by resolution 955 (1994), with the purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between 1 January 1994 and 31 December 1994 as well as the prosecution of Rwandan citizens responsible for genocide and other such violations of international law committed in the territory of neighbouring States during the same period. The mandate, competence, organization and proceedings were further articulated in the Statute of the ICTR, which was annexed to the establishing resolution.

The ICTR indicted 93 individuals, including high-ranking military and government officials, politicians, businessmen, as well as religious, militia, and media leaders. Of the 93, 62 were found guilty and sentenced; 14 were acquitted; 10 were referred for national prosecution; 2 had their indictments withdrawn; and 2 died before their trials were concluded. The ICTR closed on 31 December 2015.

The impact of the ICTR has been broader than establishing the criminal accountability of certain individuals. It was the first international tribunal to deliver verdicts in relation to genocide, and the first to interpret the definition of genocide set forth in the 1948 Genocide Convention. The ICTR was also the first international tribunal to define rape in international criminal law and to recognize rape as a means of perpetrating genocide. In addition, the ICTR was the first international

tribunal to hold members of the media responsible for broadcasts intended to inflame the public to commit acts of genocide.

International Residual Mechanism for Criminal Tribunals

The Council established the International Residual Mechanism for Criminal Tribunals (IRMCT) in resolution 1966 (2010) as a "small, temporary, efficient structure" to carry out the residual functions of the ICTY and ICTR. These included tracking and prosecuting remaining fugitives; appeals and review proceedings; monitoring cases referred to national jurisdictions; protection of victims and witnesses; supervision of enforcement of sentences; and preservation and management of archives. The IRMCT operated in parallel with the ad hoc tribunals for two to three years until they closed, at which point it continued on as a stand-alone institution. The President of the IRMCT and the prosecutor brief the Council twice a year.

Sierra Leone and Lebanon

The Council was also involved in the establishment of the Special Court for Sierra Leone and the Special Tribunal for Lebanon.

The Special Court for Sierra Leone was established in 2002 following a request by the President of Sierra Leone to the UN Secretary-General for assistance in setting up a court to address serious crimes against civilians and UN peacekeepers committed during the country's civil war (1991–2002). In resolution 1315 (2000), the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court. This resulted in the world's first "hybrid" international criminal tribunal, including judges appointed by the Sierra Leonean Government and the UN, and applying both international and domestic law. The Court was funded by voluntary contributions. It completed its mandate and closed in 2013.

The Special Tribunal for Lebanon was established in 2009 following a request by the Government of Lebanon. It was brought into force by UN Security Council resolution 1757 (2007). The tribunal entered a residual phase in 2022. The Special Tribunal for Lebanon also had a hybrid composition of both Lebanese and international judges. Its primary mandate was to hold trials for the people accused of carrying out the attack of 14 February 2005 which killed 22 people, including the former Prime Minister of Lebanon Rafic Hariri and injured many others. The tribunal applied Lebanese criminal law and was the first international tribunal to deal with terrorism as a discrete crime.

Conditions for success

- The Security Council's commitment to and support for the tribunals it creates are key to their success.
- Because the tribunals have no enforcement mechanism, to a large extent their success depends on Member States fulfilling their obligations including by:
    - Cooperating unconditionally.
    - Complying with requests for assistance and orders of the tribunal.
    - Passing legislation to enable effective cooperation with the tribunal and the enforcement of sentences imposed by the tribunal.

- Being sufficiently resourced is important. The extent to which States, intergovernmental and non-governmental organizations contribute to funds, equipment and services as well as expert personnel is key.

- There was significant demand for the establishment of both ad hoc tribunals. The establishment of the ICTR was requested by the Government of Rwanda and both the ICTR and the ICTY were established following findings of independent commissions.

Risks/ benefits

Benefits

- The establishment of ad hoc international criminal tribunals can advance a number of objectives, including:
    - Acting as a deterrent to serious violations of international humanitarian and international human rights law.
    - Pursuing accountability of those responsible for such violations.
    - Securing justice and dignity for victims.
    - Establishing a record of events.
    - Promoting national reconciliation.
    - Re-establishing the rule of law.
    - Contributing to the restoration of peace.

- Such tribunals can contribute significantly to international criminal legal jurisprudence. Through the work of the ICTY and ICTR, there is greater clarity on questions of rape as a war crime and a crime against humanity, the elements of genocide, the definition of torture, the nature of individual criminal responsibility, the doctrine of command responsibility, and appropriate sentencing.

- In situations where recourse to the International Criminal Court might encounter legal or political problems, the establishment of an ad hoc criminal tribunal offers an alternate course of action.

- Combined with other conflict management tools, international criminal tribunals can enable the simultaneous pursuit of peace and justice.

Risks:

- The establishment of an ad hoc international criminal tribunal creates ongoing matters for the consideration of the Council for potentially decades after the conclusion of the tribunal's work (for example, mechanisms to maintain evidence and records, implement sentences and retry the convicted in instances of exculpatory new facts). Council dynamics and support for the tribunal may change over that time.

- The perception that international prosecution is too lengthy and too costly risks the conclusion that it is not worth pursuing justice for victims and/or accountability of perpetrators. Questions may be raised about the performance and impact of tribunals as was the case with regard to the ICTY and ICTR.

- The Council may be cautious about embarking on ad hoc tribunals that are of similar scale, longevity and cost as the ICTY and ICTR. Future tribunals may need to plan at the outset for completion strategies which transfer lower-level or outstanding cases to national courts.

Legal considerations

A Council decision to establish an ad hoc international criminal tribunal will generally, but not always, be a confirmation of primacy over the national criminal justice process. When such a tribunal approaches the end of its work, it may be necessary to transfer cases back to the national system. In resolution 1503 (2003), for example, the Council called for completion strategies of the ICTY and ICTR to be facilitated by the transfer of lower-level cases to domestic courts.

The obligations and mechanisms of cooperation relating to international or hybrid criminal tribunals are key to their success and will strengthen the tribunals where included as part of any mandate decided by the Council. Establishment of an ad hoc tribunal under Chapter VII of the UN Charter can help encourage such cooperation or compel such cooperation where the decisions of the Council include an expressed or a clear obligation of cooperation.

UNSC procedure

- The Security Council can establish an ad hoc international criminal tribunal by resolution based on Chapter VII of the UN Charter. In the past, these resolutions followed the recommendation of the Secretary-General and a Commission of Experts, and included a statute setting out the mandate, jurisdiction, composition and proceedings of the tribunal. In the case of the ICTR, the Government of Rwanda had also requested the establishment of the tribunal.
- The tribunal will be required to report on its progress regularly to the Council.
- In its oversight role, the Council may need to adopt further resolutions responding to technical requests (for example, appointments of

prosecutors and extension of judges' mandates), directing the completion of the tribunal's work, and establishing a residual mechanism, if needed.

Further reading

UN docs S/RES/827 (1993) and S/RES/955 (1994).
Statute of the International Criminal Tribunal for the Former Yugoslavia.
Statute of the International Tribunal for Rwanda.
Repertoire of the Practice of the Security Council: International Tribunals available at: https://www.un.org/securitycouncil/content/repertoire.
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LEGAL TOOLS: ACCOUNTABILITY MECHANISMS

18. INTERNATIONAL CRIMINAL COURT

Summary

The Security Council may refer a situation to the International Criminal Court (ICC). The ICC is a court of last resort with the capacity to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression when national jurisdictions for any reason are unable or unwilling to do so. The ICC works to ensure justice for the victims, and individual accountability of the perpetrators.

The Security Council has referred situations to the ICC in two instances. It can make a referral whether or not the State concerned is a party to the Rome Statute of the International Criminal Court, and regardless of the rank or position of the alleged perpetrator up to and including a Head of State or Government.

Examples: In 2005, the Security Council referred the situation in Darfur since 1 July 2002 to the ICC. In 2011, the Security Council referred the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the ICC.

Legal basis

The UN Charter does not expressly contemplate the Council referring situations to an international criminal court. However, such referrals can be based on the implied powers of the Security Council under Chapter VII of the Charter. The Preamble to the Charter expresses determination to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained. Article 1 of the Charter, which articulates the objects and purposes of the UN, includes the maintenance or restoration of international peace and security through bringing about peaceful resolution of conflicts "in conformity with the principles of justice and international law" and peaceful settlement of international disputes or situations "which might lead to a breach of the peace".

The Rome Statute, which established the ICC, was adopted on 17 July 1998 and entered into force on 1 July 2002. Pursuant to Articles 13(b) and 15ter of the Statute, and acting under Chapter VII of the UN Charter, the Security Council may adopt a resolution referring a situation to the Court, whether or not the State involved is a party to the Statute.

The Relationship Agreement between the UN and the ICC (2004) governs how the two organizations interact and cooperate on matters including reciprocal representation, privileges and immunities, exchange of

information, provision of evidence and witnesses and, in particular, on cooperation between the Security Council and the Court (see Articles 17 and 18).

Description

The ICC was established by the Rome Statute of the International Criminal Court in 1998. It began sittings on 1 July 2002 after 60 countries had ratified the Statute. To date, 123 countries have ratified the Rome Statute.

The Statute sets out the ICC's jurisdiction over genocide, crimes against humanity and war crimes. In June 2010, the ICC Assembly of States Parties to the Rome Statute adopted a resolution amending the Rome Statute to include the crime of aggression in the ICC's jurisdiction. This was activated on 17 July 2018 for ICC States parties which had ratified the amendments on the crime of aggression.

The ICC is the first permanent international criminal court and works to ensure justice for victims and accountability of perpetrators. This includes situations involving States not party to the Rome Statute and persons of any political rank or legal status, up to and including Heads of State.

The ICC is not a substitute for national criminal courts. States must continue to exercise their jurisdiction for the execution of international crimes. The ICC can only intervene where a State is unable or unwilling to carry out investigations and prosecute perpetrators.

The ICC is governed by the Rome Statute as well as the Assembly of States Parties. It comprises the Presidency, Appeals Division, Trial Division and Pre-Trial Division, the Office of the Prosecutor, and the Registry. It has 18 judges, who are elected by the Assembly of States Parties and serve for a term of nine years.

A case can be brought to the ICC in one of three ways. First, a State party can refer a "situation" to the Prosecutor for investigation. Second, the Security Council can act under Chapter VII of the UN Charter to refer a situation to the Prosecutor for investigation. Third, the Prosecutor may investigate a situation on his/her own (proprio motu) after receiving authorization from a pre-trial chamber of the ICC.

The Office of the Prosecutor determines whether there is sufficient evidence of crimes of sufficient gravity falling within the ICC's jurisdiction, whether there are genuine national proceedings, and whether opening an investigation would serve the interests of justice and of the victims. After gathering evidence and identifying a suspect, the Prosecution requests ICC judges to issue an arrest warrant, relying on States to make arrests and transfer suspects to the ICC. The Prosecution can also request to the ICC judges to issue a summons to appear. If

suspects do not appear voluntarily, an arrest warrant may be issued. After hearing the Prosecution, the Defence, and the legal representative of victims, the pre-trial judges decide (usually within 60 days) if there is enough evidence for the case to go to trial.

If the case proceeds to trial, three trial judges hear the prosecution, which must prove beyond reasonable doubt the guilt of the accused. Judges consider all the evidence, then issue a verdict and, when there is a verdict of guilt, issue a sentence. The judges can sentence a person to up to 30 years of imprisonment and, under exceptional circumstances, to life imprisonment. Sentences are served in countries that have agreed to enforce ICC sentences. Judges can also order reparations for the victims.

The expenses of the ICC and the Assembly of States Parties are financed in several ways:

- Contributions made by States' parties, which are assessed, based on the UN regular budget scale of assessment.
- Funds provided by the UN, approved by the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council.
- Voluntary contributions from governments, international organizations, individuals, corporations and other entities.

The Security Council has ensured the expenses of its referrals are paid by the States' parties to the Rome Statute and not the general UN membership. For example, in OP7 of resolution 1593 (2005) and in OP8 of resolution 1970 (2011), the Council decided that the expenses incurred in connection with its referrals would be borne by the parties to the Rome Statute and those States that wished to contribute voluntarily.

History

The establishment of the ICC was preceded by the establishment, by the Security Council, of two ad hoc international criminal tribunals – the International Criminal Tribunal for the former Yugoslavia (1993–2017), and the International Criminal Tribunal for Rwanda (1994–2015) (see Tool 17 "Ad hoc international criminal tribunals").

Since the establishment of the ICC, the Council has made two referrals. In 2005 it referred the situation in Darfur, Sudan (S/RES/1593 (2005)), and in 2011 it referred the situation in Libya (S/RES/1970 (2011)).

The relationship between the Security Council and the ICC has been somewhat fraught over the years. Three of the Council's permanent members – Russia, China and the United States – are not party to the Rome Statute. The Council has been criticized about the selectivity of cases referred to the ICC, and its decision in those referrals to oblige parties to the conflict to cooperate with the ICC, but only *urge* other

States to do so. It has also been criticized for its seeming indifference towards Member States' non-cooperation with the ICC on those referrals. The prosecution by the ICC of incumbent Heads of State has proved controversial, particularly among the African Union and African States. The divide among Council Members and the wider UN membership on the performance and proper role of the ICC remains, to the extent it has led to some Council Members seeking to limit or remove ICC-related language from resolutions.

Darfur

In September 2004, the Security Council requested the Secretary-General to establish an international commission of inquiry to "investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable" (S/RES/1564 (2004)) (see Tool 14 "Commissions of inquiry"). Following the receipt of the report of that commission (S/2005/60), the Security Council decided to refer the situation in Darfur since 1 July 2002 to the ICC (S/RES/1593 (2005)). The referral resolution was adopted by 11 affirmative votes and 4 abstentions – Algeria, Brazil, China and the United States.

The referral was made acting under Chapter VII, obliging the Government of Sudan and all other parties to the conflict to cooperate with, and provide assistance to, the Court. It *urged* all States, regional and other international organizations to cooperate with the Court, even those not party to the Rome Statute which did not have the obligation to cooperate.

The investigation into the situation in Darfur was opened in June 2005 and has produced several cases with suspects including Sudanese Government officials, Militia/Janjaweed leaders, and leaders of the Resistance Front. The cases have involved a range of charges of genocide, war crimes (murder, attacks against the civilian population, destruction of property, rape, pillaging, and intentional attacks on peacekeeping personnel and assets), and crimes against humanity (murder, persecution, forcible transfer of population, rape, inhumane acts, imprisonment, torture, and extermination).

The referral of the situation in Darfur to the ICC was the first by the Security Council. It was also the first ICC investigation on the territory of a non-State Party to the Rome Statute; the first ICC investigation dealing with allegations of the crime of genocide; and the first ICC indictment of a sitting Head of State, although neither of the two arrest warrants against Sudan's former President, Omar Al Bashir, have been enforced. The ICC Prosecutor reports to the Security Council every six months on the status of the cases.

Libya

The referral of the situation in Libya was part of a package of measures to address the Libyan conflict. The resolution in which the referral was made also established an arms embargo, travel ban and assets freeze, and called upon UN Member States to work with the Council to support and facilitate the return of humanitarian agencies and humanitarian assistance to Libya (S/RES/1970 (2011)). The resolution was adopted unanimously.

Unlike the Council's other referral to the ICC, and its establishment of two ad hoc criminal tribunals, the referral did not follow the report of findings of an independent commission of inquiry. However, the Council did welcome the decision by the Human Rights Council to establish such a commission made the day before the referral (A/HRC/RES/S-15/1 (2011)).

Acting under Chapter VII of the UN Charter, the Council decided to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the ICC. Like in the Sudan case, the Council obliged the Libyan authorities to cooperate with, and provide assistance to, the Court. It also *urged* all States, regional and other international organizations to cooperate with the Court, even those not party to the Rome Statute which did not have the obligation to cooperate. The situation in Libya was the second ICC investigation on the territory of a non-State Party to the Rome Statute.

The investigation into the situation in Libya was opened in March 2011 and has to date produced three cases against five suspects, including the former Head of State, Muammar Mohammed Abu Minyar Gaddafi, and his son. These have involved charges of crimes against humanity (murder, imprisonment, torture, persecution and other inhumane acts) and war crimes (murder, torture, cruel treatment and outrages upon personal dignity). The arrest warrant against Gaddafi was withdrawn due to his death.

The ICC Prosecutor reports to the Security Council every six months on the status of the cases.

Conditions for success

- Having an independent commission of experts carry out an initial investigation into a situation may assure Council Members of the need for a referral.
- If the ICC investigation is to be carried out in the territory of a State not party to the Rome Statute, the referral should be made under Chapter VII, and may need to explicitly oblige the cooperation of the relevant parties to the conflict.
- The political commitment of the Security Council and its willingness and ability to enforce the indictments, arrest warrants and judgments is also important.

The successful operation of the ICC rests upon several factors, including:

- The cooperation of all States, including for making arrests, transferring arrested persons, freezing assets, and enforcing sentences.
- The integrity, impartiality and competence of the Prosecutor and judges.
- Sufficient financial support for the Court's operations.
- The actual and perceived record of efficiency in administering justice and effectiveness in ensuring criminal accountability.

Risks/ benefit

Benefits:

- The referral of a situation to the ICC can contribute to ending impunity for grave crimes, and advance a number of objectives, including:
    - Acting as a deterrent to serious violations of international humanitarian and international human rights law.
    - Pursuing accountability of those responsible for such violations.
    - Securing justice and dignity for victims.
    - Establishing a record of events.
    - Promoting national reconciliation.
    - Re-establishing the rule of law.
    - Contributing to the restoration of peace.

- The ICC significantly contributes to international criminal legal jurisprudence. The Statute of the ICC was the first such instrument to include "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence" as war crimes.

- The Trust Fund for Victims established by the ICC Assembly of States Parties in 2004 supports the implementation of court-ordered reparations and provides physical, psychological and material support to victims and their families, contributing to sustainable peace.

- Combined with other conflict management tools, referral of a situation to the ICC may enable the simultaneous pursuit of peace and justice.

Risks:

- The fact that some Security Council Members are not parties to the Rome Statute but are able to make referrals of other States that are not parties to the same Statute, has been criticized.

- The lack of consistency and predictability of the Council referring some situations to the ICC but not others has been criticized. There is currently no objective criteria for referral. Selectivity of Security Council referrals, which can be seen as serving the interests and political preferences of its members, risk politicizing the work of the ICC and bringing into question its credibility, integrity and legitimacy.

- In the case of a Security Council referral to the ICC, often the ICC will need the Council to oblige States to cooperate with its investigations,

arrests and sentencing. If the Council fails to provide the necessary political and operational support to assist the ICC in this regard, it can undermine the ICC's effectiveness and bring into question the Council's political commitment to the work of the ICC and its willingness to enforce certain of its own measures.

- Politically sensitive issues can arise over the immunity of Heads of State and ensuring that the Court can effectively exercise its jurisdiction over them.

- Non-State parties to the Rome Statute who are members of the Council may be cautious about a referral that provides the ICC jurisdiction over the nationals of non-State parties in a certain situation.

Legal considerations

Even in the case of a referral from the Security Council, the ICC's admissibility criteria will need to be met. In accordance with the principle of complementarity, which recognizes the primacy of national criminal jurisdictions, the Court may determine a case is inadmissible where:

- The case is being investigated or prosecuted by a State unless the State is unwilling or unable genuinely to carry out the investigation or prosecution.
- The case has been investigated by a State and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute.
- The person concerned has already been tried for the same crime.
- The case is not of sufficient gravity to justify further action by the Court.

With regard to Heads of State and other government officials, Article 27(2) of the Rome Statute provides that "[i]mmunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person". The ICC has indicated that Article 27(2) explicitly provides an exception to the immunity under customary international law, including the immunity from arrest, otherwise enjoyed by Heads of State for prosecution before domestic criminal jurisdictions. However, this has proved controversial.

The ICC has so far concluded that, while under Article 98, Heads of State of non-State parties are immune from prosecution, the Security Council referral of (at the time) President Al Bashir obliging non-State parties to cooperate with the Court "was meant to eliminate any impediment to the proceedings before the Court, including the lifting of immunities" (*Prosecutor v. AL-Bashir* decision, ICC, Pre-Trial Chamber, ICC-02/05-01/09-302, 6 July 2017, para. 29). In that case, the ICC also found that the Security Council resolution triggered the Court's jurisdiction and held that, for the limited purpose of the situation in Darfur, "Sudan has rights

and duties analogous to those of States Parties to the [Rome] Statute" (para. 88). This generated significant controversy, including protestations by South Africa and the African Union.

In referring a situation to the ICC, the Council will need to consider whether the referral includes or precludes the ICC's jurisdiction over nationals of non-State parties to the ICC (that is, other than over the nationals of the relevant State of the situation referred to the ICC).

UNSC procedure

- The Security Council may make a referral to the ICC by resolution based on Chapter VII of the UN Charter. Such referrals may follow the findings of an independent commission of inquiry, but need not do so.
- The ICC will regularly report to the Council on the status of the situation, case or cases.

Further reading

Rome Statute of the International Criminal Court.
UN docs S/RES/1593 (2005) and S/RES/1970 (2011).
UN doc S/2004/616 *Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies.*
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International Criminal Court, *Understanding the International Criminal Court* (ICC, 2020).
Louise Arbour, "The Relationship between the ICC and the UN Security Council", *Global Governance*, vol. 20, no. 2 (2014), pp. 195–201.
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LEGAL TOOLS: COMPENSATION MECHANISMS

19. COMPENSATION COMMISSIONS

Summary	A compensation commission is a mechanism through which persons and entities who have suffered death, injury, loss or damage due to an act of aggression or other serious violation of international law can seek reparation from a fund established for this purpose. The objective of a compensation commission is both to provide compensation to victims, and to ensure that the violating party pays for the suffering and damage caused by their illegal acts. A commission would likely engage primarily in fact-finding and assessment of the damages suffered and the amount of compensation due, rather than determination of liability. To date, the Council has established only one such commission. The Security Council may also call for or recommend reparations in respect of a situation without creating a commission. **Example:** The UN Compensation Commission (UNCC), established in 1991.
Legal basis	The authority to establish a compensation mechanism addressing reparation for death, injury, other loss and damages caused by a breach of the peace or act of aggression is based on Article 41 of the UN Charter. This provision empowers the Council to employ measures not involving the use of armed force to fulfil its primary responsibility for the maintenance of international peace and security. The Council may consider that such compensation is necessary, for example, in order to maintain or restore the peace between two States after a period of damaging conflict. In that regard, the establishment of a compensation mechanism may be seen as necessary for the Council's exercise of its powers under the Charter, and therefore considered an implied power. The appropriateness of the Security Council's creating a compensation commission was debated at the time of the establishment of UNCC, but eventually accepted by the UN membership. An important factor was that the Government of Iraq had accepted its general liability.
Description	A compensation commission is a mechanism through which persons and entities who have suffered death, injury, loss or damage due to an act of aggression or other serious violation of international law can seek reparation from a fund established for this purpose.

The objective of a compensation commission is both to provide compensation to victims, and to ensure that the violating party pays for the suffering and damage caused by their illegal acts. A commission engages primarily in fact-finding and assessment of the damages suffered and the amount of compensation due, rather than determination of liability, the adjudication of which is reserved for courts and tribunals, or which may be implied from the Council's decision, or result from an agreement between the States concerned.

The jurisdiction of such a commission could span a range of actors including governments, individuals and corporations, and include a spectrum of claims including death, injury, loss or damage to property, commercial claims, and claims for environmental damage.

The Security Council may also call for or recommend reparations in respect of a situation without creating a compensation commission. A number of Security Council resolutions have alluded to the need for reparations in the past.

If the parties themselves are able to address the reparations issues, there may be no need for the Council to take measures.

To date, the Council has only established a compensation commission in one instance. The UN Compensation Commission (UNCC) was established in 1991 pursuant to resolutions 687 (1991) and 692 (1991), with the mandate to "process claims and pay compensation for losses and damage suffered as a direct result of Iraq's unlawful invasion and occupation of Kuwait". The Council simultaneously created a Compensation Fund to finance the work of the Commission, which was funded through exports of petroleum and petroleum products from Iraq.

As a subsidiary organ of the Security Council, the Commission operated within the framework of the Council's resolutions that established the body, its jurisdiction, its policy guidelines, and its financing. It was supported by a Governing Council, Panels of Commissioners and a Secretariat. The Governing Council comprised representatives from the 15 Members of the Security Council, and reported regularly to the Council on the work of the Commission.

The UNCC had very broad jurisdiction, being authorized to receive claims from governments, individuals and corporations for a range of damage including death, injury, loss of or damage to property, commercial claims and claims for environmental damage. It was not a court or tribunal, but rather a political and administrative organ that performed an essentially fact-finding function, with some ancillary adjudicative powers: examining claims, verifying their validity, evaluating losses, assessing payments and

resolving disputed claims.

The work of the Commission was conducted by 19 Panels of Commissioners, each of which comprised three Commissioners who were independent experts in different fields. They reviewed and evaluated the submitted claims and submitted recommendations to the Governing Council. The decisions taken by the Governing Council were final and not subject to appeal or review even by the Security Council.

Having fulfilled its mandate, the UNCC was closed in 2022 (S/RES/2621 (2022)).

History

The practice of claiming and paying war reparations has a history dating back to ancient Rome. They were a significant element of the settlements following both World Wars. Provision for reparations were included in the Rome Statute of the International Criminal Court, which came into force in 2002, in the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts, and in 2005 the UN General Assembly articulated Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violation of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147 (2005)).

The UNCC was established by the Security Council as part of a package of political, economic and operational measures to address Iraq's invasion and occupation of Kuwait.

On 2 March 1991, the Security Council demanded that Iraq "accept in principle its liability under international law for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait" (S/RES/686 (1991)). The next day, the Government of Iraq accepted liability by way of a letter addressed to the President of the Security Council and the Secretary-General. The following month, the Council reaffirmed that Iraq was liable "under international law for any direct loss, damage – including environmental damage and depletion of natural resources – or injury to foreign Governments, nationals and corporations as a result of its unlawful invasion and occupation of Kuwait", and decided to establish the UNCC and the Compensation Fund. It requested the Secretary-General to present his recommendations regarding the institutional framework that would be required for the implementation of the compensation commission (S/RES/687 (1991)). After receiving the Report of the Secretary-General, again acting under Chapter VII, the Security Council adopted another resolution accepting the Secretary-General's recommendations and establishing the UNCC and the Compensation Fund (S/RES/692 (1991)).

The Fund was financed through exports of Iraq's petroleum and petroleum products, and was capped to consume no more than 30 per cent of the value of those exports. Over time the cap was reduced, until the outstanding compensation was paid in full.

In total, the Commission received 2.7 million claims from Kuwaitis and others from over 80 countries – including governments, individuals and corporations – with a value of $352.5 billion. This included environmental damage suffered by Kuwait and the broader Gulf region. The Commission ultimately approved awards in half of the claims for approximately $52.4 billion.

The UNCC fulfilled its mandate after almost 31 years. Its mandate was terminated by the Council and the Commission closed in December 2022.

Despite questions initially being raised about the competence and appropriateness of the Security Council creating the Commission, it has generally been viewed favourably and considered to have professionally executed its mandate.

The success of the UNCC was ultimately rooted in its wide acceptance as a reparations or compensation mechanism – not as a form of sanction or "victor's retribution". The Iraqi Government's formal acceptance of liability contributed to this conclusion – both as a matter of fact and as a matter of perception. However, criticism was still levelled that the real price was paid by the people of Iraq not by the regime that unlawfully invaded and occupied Kuwait. In addition, the Commission only compensated the foreign victims of the Saddam regime; the Iraqi victims who suffered serious violations of international human rights law committed at home were not compensated.

The creation of the Commission was a significant innovation on the part of the Security Council. In addition, its jurisdiction was innovative both in terms of the scope of claimants and the types of damage covered. It is considered to have contributed significantly to the jurisprudence on international claims settlement.

However, the success of the UNCC was, to a significant extent, enabled by Iraq's significant petroleum exports. While the UNCC awarded $52.4 billion in compensation, by contrast, the Eritrea–Ethiopia Claims Commission awarded under $140 million, and the International Court of Justice in the *Democratic Republic of the Congo v. Uganda (Armed Activities)* case awarded $325 million to the Democratic Republic of the Congo.

Conditions for success	Drawing lessons from the UNCC, a number of conditions for success for a compensation commission may be identified: • Sustained political will of the Security Council to mandate and continue supporting a package of political, economic and operational measures to address a particular conflict situation. • The violator's acceptance of liability. • A source of income, which makes it possible to compensate the claimants. • The professionalism of the commission, and the reliability of its award processes. • The active participation and cooperation of the claimants.
Risks/ benefits	**Benefits:** • Compensation mechanisms can deliver a measure of "practical justice" to victims of conflict. • The prospect of internationally sanctioned and administered war reparations may act as a deterrent to conflicting parties. • A commission offers structured, predictable and professional administration of compensation funds. • Engagement of the Council on a broader spectrum of conflict management measures, including reparations, may contribute to building a more sustainable peace. **Risks:** • A compensation commission may be seen as punitive rather than reparative. Depending on the source of the compensation funds, it could be considered as another form of economic sanction that effectively punishes the population rather than the offending regime. • The competence or appropriateness of the Security Council establishing liability and a reparations mechanism could be questioned. This could particularly be the case where the offending parties have not explicitly accepted liability. • The commission and accompanying fund need to be designed to ensure it is not effectively a punitive measure and another type of economic sanction creating humanitarian difficulties for the local population.
Legal considerations	The liability of the offending party/parties will need to be clear before a compensation commission is established, including whether the State in question accepts such responsibility. Concerns may be raised about the

Security Council making that determination.

Awarding reparations or compensation may be controversial where such tasks are more typically the function of the International Court of Justice, as the principal judicial organ of the UN, or other international courts and tribunals.

The UNCC raised a number of issues related to State responsibility, environmental liability, the scope of claimants and types of damages that can be addressed, mass claims processing, and dispute settlement in a post-armed conflict context. Future commissions should seek to take those into account (Payne et al, 2011).

Consideration may be given to the provisions for reparations in the Rome Statute of the International Criminal Court, in the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts, and in the UN General Assembly Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violation of International Human Rights Law and Serious Violations of International Humanitarian Law.

UNSC procedure

- The Security Council adopts a resolution establishing a compensation commission. Ideally, this would include or be accompanied by a decision on the source of, and rules around, the funding for the compensation the commission will administer. This may be based on recommendations of the Secretary-General or expert group.
- The commission reports to the Security Council on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the mandate of the commission.

Further reading

UN docs S/RES/687 (1991) and S/RES/692 (1991).
UN doc S/22559 (1991) *Report of the Secretary-General Pursuant to Paragraph 19 of S*/RES/687 (1991).
UN doc A/RES/60/147 (2005) *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violation of International Human Rights Law and Serious Violations of International Humanitarian Law.*
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SANCTIONS MECHANISMS

UN sanctions mechanisms

Sanctions – a term which is not used in the UN Charter – describes coercive measures imposed by the Security Council to enforce its decisions and maintain or restore international peace and security under Chapter VII of the Charter in case of threat to the peace, breach of the peace or acts of aggression. The imposition by the Council of mandatory measures under Article 41 and/or Article 42 places a binding obligation on all Member States for their implementation.

Sanctions are conceived and designed to constrain, contain, deter or prevent the commission of further threats to, or breaches of, the peace, not to punish past violations. However, if sanctions regimes are in place for an extended period of time without resulting in behavioural change, they may come to be viewed as having a punitive effect.

The Security Council also combines the sanctions tools with other diplomatic, judicial and operational conflict management tools such as peacekeeping operations and referrals to the International Criminal Court. The measures are most effective at maintaining or restoring international peace and security when applied as part of a comprehensive strategy encompassing a collection of measures harnessed to an overarching strategy.

The conditions for, and likelihood of, success of any sanctions regime depends on Member States' readiness and ability to implement it, and the will of the Security Council to enforce it, including through taking additional measures in the event of non-compliance. It also depends on adequate resources to the bodies monitoring the implementation of the sanctions.

The Council has established a total of 31 sanctions regimes, the first in 1968, in response to the illegitimate seizure of power in Southern Rhodesia. Many sanctions regimes have been lifted, and there are currently 15 ongoing. Each is administered by a Sanctions Committee, and there are 11 monitoring groups/teams/panels of experts that support 12 of the sanctions regimes.

UN sanctions regimes have been applied to a range of purposes, including supporting the political settlement of conflict, supporting peaceful transition, nuclear non-proliferation, counter-terrorism, and protecting and promoting human rights. They have taken a number of forms, including assets freezes, travel bans, arms and goods embargoes, interdiction and inspection of ships and other vessels, diplomatic sanctions, and comprehensive economic sanctions.

Over time, UN sanctions have changed significantly in focus and scale. The comprehensive economic sanctions maintained by the Security Council against Iraq from 1990 to 2003 had a severe humanitarian impact on the Iraqi civilian population. Typically, the governments and elites of countries subject to such comprehensive sanctions have been able to exploit available resources to their own ends. To avoid such collateral consequences, and in response to parallel recognition of the increasing role of non-State actors in armed conflicts, all new sanctions regimes since 2004 have been "targeted" (also known as "smart sanctions").

Targeted sanctions are intended to be limited and focused on specifically designated individuals (up to and including Heads of State), entities, groups or activities. The most common sanctions are travel bans, assets freezes and arms embargoes. While significantly reducing the detrimental effects on civilian populations, targeted sanctions can give rise to other challenges, including human rights concerns around due process. They may also have other unintended consequences.

This *Handbook* only deals with sanctions imposed by the UN Security Council. These are distinct from other sanctions imposed by States, unilaterally or jointly with other States, and/or by regional organizations such as the African Union, European Union, League of Arab States or Organization of American States on a basis independent of the UN Charter.

The following table demonstrates the manner in which the Security Council has combined the various sanctions tools in each of the current regimes.

Current Sanctions Regimes

Sanction Regime	Assets freeze	Travel ban	Arms embargo	Goods embargo	Interdiction	Diplomatic
Central African Republic	•	•	•			
Democratic People's Republic of Korea	•	•	•	•	•	•
Democratic Republic of the Congo	•	•	•			
Guinea-Bissau		•				
Haiti	•	•	•			
Iraq	•		•			
ISIL (Da'esh) and Al-Qaida	•	•	•			
Lebanon		•	•		•	
Libya	•	•	•	•	•	
Mali	•	•				
Somalia	•	•	•	•	•	

Sanction Regime	Assets freeze	Travel ban	Arms embargo	Goods embargo	Interdiction	Diplomatic
South Sudan	•	•	•			
Sudan	•	•	•			
Taliban	•	•	•			
Yemen	•	•	•		•	

Legal basis

The legal authority for the Security Council to impose enforcement measures is explicitly elaborated in Articles 41 and 42 of Chapter VII of the UN Charter. In particular, Article 41 provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". If the measures under Article 41 are or prove to be inadequate, Article 42 provides that the Security Council "may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations".

Sanctions can be used to prevent a threat from escalating as well as to respond to a breach of the peace or act of aggression. As soon as the Security Council determines the existence of any threat to the peace, breach of the peace, or act of aggression pursuant to Article 39, it can then decide whether to impose provisional measures under Article 40. This will mean sanctions not involving the use of force under Article 41 and, if deemed necessary, other enforcement measures involving the use of force under Article 42. The Council typically considers sanctions before resorting to the use of force.

While Article 41 specifies measures including complete or partial interruption of economic relations and severance of diplomatic relations, the list is not exhaustive. In addition to the measures specifically mentioned in Article 41, the Council has imposed a range of other sanctions including assets freezes as well as travel bans, arms embargoes, oil embargoes and embargoes of other goods relevant to the conflict.

Because UN Member States need to be able to understand the Security Council's complex sanctions resolutions in order to successfully implement them, the corresponding resolutions need to be drafted using accurate, consistent and concise language. The three publications and reports resulting from the Interlaken, Bonn–Berlin and Stockholm sanctions processes provide carefully crafted model provisions in respect of financial sanctions, arms embargoes, and travel and aviation sanctions.

Subject to the pronouncements of the Security Council, and the Guidance Notes and Implementation Assistance Notes issued by each of the Sanctions Committees, Member States have discretion in determining the manner in which they will implement Security Council sanctions under their respective national laws. As a result, questions

of undercompliance or overcompliance can arise. There are also concerns regarding the politicization of the sanctions regimes including the support by governments of designations to undermine domestic opponents and foreign adversaries.

Designing, supporting, funding and implementing sanctions regimes

The Security Council has demonstrated significant innovation in adapting the design of sanctions regimes to address particular types of conflict and avoid adverse humanitarian and human rights effects. The most significant transformation in this regard was the transition from comprehensive to targeted sanctions. The establishment of sanctions monitoring groups, committees and expert panels has also been an important innovation, as have the Focal Point for De-listing for sanctions regimes, and the Office of the Ombudsperson for the Al-Qaida Sanctions Committee.

After identifying the purpose for which sanctions are to be applied, the Security Council decides which sanctions measures will be mandated. The authorizing resolution may also set out designation criteria, the establishment of the corresponding Security Council Sanctions Committee and monitoring group or panel of experts, cooperation with other UN entities (such as a peacekeeping operation), benchmarks for the lifting of sanctions, and reporting and review requirements.

Sanctions Committees are subsidiary organs of the Council and serve as "committees of the whole", comprising representatives from all Council Members. The committees are established under Article 29 of the UN Charter and Rule 28 of the Council's Provisional Rules of Procedure. Their role is to implement, monitor and provide recommendations to the Council on each particular sanctions regime. Each Sanctions Committee adopts guidelines for the conduct of its work, dealing with issues including mandate implementation, meetings, decision-making, listing/delisting, exemptions and notification. The Sanctions Committees are customarily chaired by representatives of the elected Members of the Council, usually the Permanent Representative.

In almost all cases, a monitoring group or panel of experts is created to assist the Sanctions Committee. This body monitors the implementation of the sanctions and reports their findings, including recommendations regarding designations, to the relevant Sanctions Committee or, in some cases, directly to the Council. The credibility of such expert groups rests largely on their actual and perceived independence, impartiality and objectivity, as well as their demonstrated expertise and competence. Their success depends on the resources made available to them and the political support of the Council, the cooperation of other UN actors including peacekeeping missions, and the cooperation and facilitation of Member States.

In an effort to ensure due process and address related human rights concerns, the Security Council established the Focal Point for De-listing (S/RES/1730 (2006)) and the Office of the Ombudsperson (S/RES/1904 (2009)) to process delisting requests. The Focal Point receives requests for delisting and exemptions for any of the sanctions regimes with designations, and forwards these to the reviewing governments and their responses to

the relevant committees. The European Court of Justice has indicated that the Focal Point is an insufficient mechanism for the protection of human rights. The Ombudsperson is mandated to review designations under the ISIL (Da'esh) and Al-Qaida sanctions regime. The Office can review the case of any individual on the sanctions list and present a report on whether the person should remain on the list. If the Ombudsperson recommends in favour of delisting, the individual concerned is delisted and the sanctions against him/her are lifted 60 days later unless a consensus of the Committee exists against the Ombudsperson's recommendation or an objecting member of the Committee decides to refer the matter to the Security Council for decision. The Council has encouraged its committees to give due consideration to the opinions of designating State(s), and State(s) of residence, nationality or incorporation when considering delisting requests, and to make every effort to provide their reasons for objecting to such delisting requests.

The UN Department of Political and Peacebuilding Affairs, in particular the Security Council Affairs Division, provides substantive and administrative support to Sanctions Committees and panels of experts. The Departments of Peace Operations and Operational Support coordinate support for Sanctions Committees in the field, especially where peacekeeping missions are deployed. This includes provision of transportation, accommodation, office space and other such arrangements, as well as security arrangements. UN sanctions bodies also receive substantive and logistical support from UN peacekeeping missions in the field. As mandates may overlap, peacekeeping support may take the form of sharing reports and other information as well as arranging interaction with all actors and other stakeholders on the ground.

The main UN funding requirements for sanctions regimes relate to the expenses and operational costs of the meetings and servicing of its Sanctions Committees and the relevant panels of experts. As subsidiary organs of the Security Council, their expenses are primarily met through the UN regular budget.

The implementation of sanctions regimes is the responsibility of Member States. Any Member States that fail to implement or enforce the sanctions are in violation of their UN Charter obligations. The Security Council can impose additional measures to bring such States into compliance, including imposing sanctions against them, known as "secondary sanctions". There is some provision in the UN Charter for recognizing and addressing that the implementation of sanctions can cause problems for Member States. In this regard, Article 50 provides that a State confronted with special economic problems arising from carrying out of the mandatory sanctions "shall have the right to consult the Security Council with regard to a solution of those problems". To date, the practice under Article 50 has not been well developed. The Council may also request a specific humanitarian impact assessment, for example, from the UN Secretariat.

Further reading

UN Security Council sanctions website: https://www.un.org/securitycouncil/sanctions/information.

UN doc S/2006/997 *Report of the Security Council's Informal Working Group on General Issues of Sanctions.*

UN Department of Political and Peacebuilding Affairs, *Fact Sheet: Subsidiary Organs of the United Nations Security Council* (UN, 2002).
UN doc A/69/941–S/2015/432 (2015) *Compendium of the High-Level Review of United Nations Sanctions.*
Best Practices Guide for Chairs and Members of United Nations Sanctions Committees (Compliance and Capacity Skills International, 2020).
Results from the *Stockholm Process: Making Targeted Sanctions Effective: Guidelines for the Implementation of UN Policy Options* (Uppsala University Department of Peace and Conflict Research, 2003).
Contributions from the *Interlaken Process: Targeted Financial Sanctions: A Manual for Design and Implementation* (Brown University Watson Institute for International Studies, 2001).
Results of the *Bonn–Berlin Process: Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions* (Bonn International Center for Conversion, 2001).
United Nations University Centre for Policy Research, Conference Proceeding Paper: *Due Process in UN Targeted Sanctions Old Challenges, New Approaches* (UNU, 2020).

LEGAL TOOLS: SANCTIONS MECHANISMS

20. ASSETS FREEZE

Summary

An assets freeze imposed by the Security Council requires all Member States to freeze funds and other economic resources within their territories that are owned or controlled by individuals and entities designated by the Council and/or one of its Sanctions Committees. The purpose of an assets freeze is to deter or prevent reprehensible behaviour rather than to punish it.

An assets freeze is often mandated in conjunction with a travel ban and is usually part of a broader sanctions regime that includes other tools, such as an arms or goods embargo.

Examples: All but one of the current UN sanctions regimes include the freezing of the assets of designated individuals and entities. There are currently 704 individuals and 254 entities and other groups on the UN Security Council's Consolidated List who are subject to an assets freeze.

Legal basis

Although not specifically listed, assets freezes are a form of economic sanctions and fall within the scope of measures under Article 41 of the UN Charter, which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures".

For information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.

Description

Security Council mandated assets freezes are designed to prevent reprehensible behaviour and protect assets from misuse.

When an assets freeze is imposed by the Council, all Member States are required to freeze without delay funds, other financial assets and economic resources, which are in their territories or under their jurisdiction, that are owned or controlled, directly or indirectly, by individuals and entities designated by the Security Council and/or the relevant Sanctions Committee. The assets of individuals or entities acting on their behalf or at the direction of the designated individuals, or by designated entities owned or controlled by them, may also be frozen.

Assets freezes often contain specific exemptions for: basic or extraordinary

expenses; judicial, administrative or arbitral lien or judgment; interests or other earnings due on the accounts or payments due under prior contracts, agreements or obligations; or payments due under a contract entered into prior to the listing of such a person or entity.

The designation criteria may include:

- Engaging in, or providing support for, acts that threaten peace, security, stability, or peace and reconciliation processes.
- Violating applicable international humanitarian or human rights law such as the targeting of civilians including children and women in situations of armed conflict.
- Acting in violation of an arms embargo.
- Supporting a terrorist organization.
- Obstructing the delivery of humanitarian assistance or access to, or distribution of, humanitarian assistance.
- Recruiting or using children in armed conflicts.
- Trafficking in persons.
- Planning, directing or committing acts involving sexual and gender-based violence.
- Planning, directing, sponsoring, or participating in attacks against UN personnel.
- Engaging in, or providing support for, nuclear-related, other weapons of mass destruction-related, and ballistic missile-related programmes.
- Engaging in the illicit trade of cultural property.

While assets freezes are considered to be reasonably effective at achieving their goals, they have been criticized for undermining human rights, especially in respect of due process. Several designated individuals have been listed for many years without national investigation or prosecution and without the right of due process or the opportunity to rebut the allegation or establish their innocence. They are effectively deprived of their property without due process in violation of their human rights under international law. In an effort to address these concerns, the Security Council established the Focal Point for De-listing in 2006, and the Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee in 2009. However, these measures are considered inadequate by some Member States and courts.

In addition, the freezing of assets may have a negative humanitarian impact on civilian populations when they are imposed on private companies that hold a critical role in the situation country's economy or its central bank or national oil company. This can be mitigated by conducting humanitarian impact assessments to ensure that such negative impacts are recognized and eliminated or at least minimized to the extent possible.

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

Due to the severe humanitarian impact of comprehensive economic sanctions on the civilian population in Iraq, the former Yugoslavia, and Haiti in the mid-1990s, the Security Council transitioned towards targeted sanctions, including assets freezes and travel bans against specifically designated individuals and entities.

With the exception of the Guinea-Bissau sanctions regime, all current UN sanctions regimes include the freezing of assets of designated individuals and entities as follows:

- Central African Republic (S/RES/2127 (2013))
- Democratic People's Republic of the Congo (S/RES/1533 (2004))
- Democratic People's Republic of Korea (S/RES/ 1718 (2006))
- Haiti (S/RES/2653 (2022))
- Iraq (S/RES/1518 (2003))
- ISIL (Da'esh) and Al-Qaida (S/RES/1267 (1999), S/RES/1989 (2011) and S/RES/2253 (2015))
- Lebanon (S/RES/1636 (2005))
- Libya (S/RES/1970 (2011))
- Mali (S/RES/2374 (2017))
- Somalia (S/RES/751 (1992))
- South Sudan (S/RES/2206 (2015))
- Sudan (S/RES/1591 (2005))
- Taliban (S/RES/1988 (2011))
- Yemen (S/RES/2140 (2014))

The Council has made explicit exceptions for funds, financial assets and economic resources that support humanitarian assistance, including in Somalia (S/RES/1916 (2010)), Yemen (S/RES/2511 (2020)) and Afghanistan (S/RES/2615 (2021)).

Conditions for success

Ultimately, the success of any assets freeze depends on the extent of implementation by States as well as by central and private banks. However, they can have limited effect on non-State actors who deal largely in cash and through black market money exchange systems. Sanctions against private individuals and entities are more legitimate and better implemented when they are consistent with human rights, include due process and independent review, and are thus less vulnerable to legal challenge in national and regional courts.

Risks/ benefits

Benefits

- Assets freezes can curtail the continuance of reprehensible behaviour by designated individuals and entities and protect assets from misuse.

- They can prevent designated individuals and entities from hiding, destroying or distributing the affected assets, including, in some cases, the assets rightfully owned by the State or by the citizens of the country concerned, or otherwise putting such assets beyond the reach of the competent authorities, until such time as the individual or entity can be duly prosecuted.

Risks:

- Assets freezes may raise human rights concerns if designated individuals have been listed for many years without national investigation or prosecution, and without the right of due process or an effective opportunity to establish their innocence.

- They may have unintended humanitarian impacts if imposed on entities that hold a critical role in the designated country's economy.

- The counter-terrorism sanctions regimes have created difficulties for some Member States seeking to reconcile their obligations under the sanctions regime with those under international human rights law.

Legal considerations

The shift from comprehensive economic sanctions to more targeted sanctions allowed the Security Council to minimize the negative humanitarian impacts of the former, but in doing so gave rise to new questions from the human rights perspective. While the Council considers sanctions to be temporary measures and not intended to be punitive, they have been challenged, in both national and European courts (including the *Kadi* case in the European Court of Justice and the *Nada* case in the European Court of Human Rights), for lacking the necessary protections of due process and independent judicial review.

In the 2005 World Summit Declaration, the General Assembly called on the Security Council to ensure that fair and clear procedures are in place for the imposition and lifting of sanctions measures. In that connection, the Secretary-General conveyed his views, through a statement by the Legal Counsel to the Security Council in 2006, that the legitimacy of the sanctions regimes depends, in large part, on procedural fairness including the right to be informed; the right to be heard; the right to be assisted or represented by counsel; and the right to have the matter reviewed by an effective review mechanism.

Since 2006, the Security Council has significantly enhanced the fairness and transparency of the various sanctions regimes, in particular the counter-terrorism sanctions regimes. It has done this by requiring objective listing criteria and more detailed statements of case as well as by providing greater standing to states of residence, nationality, location and/or incorporation as well as states of transit and destination in

connection with requests for exemption and delisting. Most importantly, it established a Focal Point for De-Listing and the Office of the Ombudsperson. However, there remain concerns on the part of some UN Member States that additional due process protections are required. This is both to comply with international human rights law, and to avoid national or regional courts taking a contrary view to the Security Council regime, thereby putting the State concerned at risk of violating its UN Charter obligations.

In a 2010 Presidential Statement, the Council reiterated its commitment "to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions". It also underscored that "effective counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing, and are an essential part of a successful counter-terrorism effort …" (S/PRST/2010/19).

In a 2010 report, the UN High Commissioner for Human Rights called for "rigorous procedural safeguards which guarantee minimum due process standards, for both listing and de-listing decisions" including support to the Office of the Ombudsperson and "the establishment of an independent, quasi-judicial procedure for review of listing and de-listing decisions" (A/HRC/16/50).

A recent UN University study revealed the tension between sanctions and the needs of victims of armed conflict as envisaged under international humanitarian law. The study demonstrated that "if actors feel they cannot both maintain access and protect humanitarian activities in compliance with IHL, while implementing sanctions, it is likely that instances of non-compliance will only increase. Alternatively, humanitarian organizations, unwilling to risk non-compliance, may disengage from conflict contexts under UN sanctions" (UN University, 2021). The Council has provided explicit exceptions to assets freezes for funds used to facilitate humanitarian assistance in a number of cases, including in Somalia, Yemen and Afghanistan.

UNSC procedure

- The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures imposed. The resolution may include the criteria for listing individuals and entities, any exceptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements.
- The Sanctions Committee reports to the Council on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.

Further reading

UN Security Council sanctions website: https://www.un.org/securitycouncil/sanctions/information.

Repertoire of the Practice of the Security Council: Subsidiary Organs available at: https://www.un.org/securitycouncil/content/repertoire.

UN doc A/69/941–S/2015/432 (2015) *Compendium of the High-Level Review of United Nations Sanctions.*

UN doc A/HRC/16/50 (2010) *Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism.*

UN doc S/PRST/2010/19 *Statement by the President of the Security Council on 27 September 2010.*

Joy Gordon, *The Not So Targeted Instrument of Asset Freezes, Ethics & International Affairs* (Cambridge, Cambridge University Press, 2019).

Dr Rebecca Brubaker and Sophie Huvé, *UN Sanctions and Humanitarian Action: Review of Past Research and Proposals for Future Investigation* (United Nations University Centre for Policy Research, 2021).

LEGAL TOOLS: SANCTIONS MECHANISMS

21. TRAVEL BAN

Summary	A UN mandated travel ban requires all Member States to prevent the entry into, or transit through, their territories of individuals designated by the Security Council and/or a Sanctions Committee. The purpose of a travel ban is to deter or prevent reprehensible behaviour, rather than to punish it. It also aims to constrain the individuals concerned from contributing to further threats to, or breaches of, the peace. A travel ban is often mandated in conjunction with an assets freeze and is usually part of a broader sanctions regime that includes other tools such as an arms or other goods embargo. **Examples:** All but one of the current sanctions regimes include a travel ban on designated individuals. There are currently 704 individuals on the UN Security Council's Consolidated List who are subject to a travel ban.
Legal basis	Although not specifically listed, travel bans fall within the scope of measures under Article 41 of the UN Charter which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". For information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.
Description	Security Council mandated travel bans limit the mobility of designated individuals and are designed to prevent reprehensible behaviour and constrain individuals from contributing to further threats to or breaches of the peace. Once imposed by the Security Council, a travel ban obliges Member States to prevent the entry into, or transit through, their territories of the designated individuals. Member States are encouraged to add the names of the designated individuals to their visa watch lists and national watch lists to ensure effective implementation of the travel ban. They are also encouraged to take other relevant measures in accordance with their international obligations and national laws and regulations, which may include, but are not limited to, cancelling visas and entry permits or refusing to issue any visa/permit for listed individuals.

A travel ban may be extended to: individuals acting on behalf of or at the direction of designated individuals; anyone assisting in the evasion of sanctions or working on behalf of designated individuals; and anyone travelling for the purposes of carrying out activities related to the shipment of items for repair, servicing, refurbishing, testing, reverse-engineering, and marketing of embargoed goods.

Travel bans usually include two exceptions:

- Entry of Member States' own nationals.
- Entry or transit necessary for the fulfilment of a judicial process against the individual.

Other exceptions may be made for necessary travel, and require case-by-case approval of the relevant Sanctions Committee. These may include travel for medical or humanitarian need, or for the performance of religious obligations.

The designation criteria may include:

- Engaging in, or providing support for, acts that threaten peace, security, stability or peace and reconciliation processes.
- Acting in violation of an arms embargo.
- Obstructing the delivery of humanitarian assistance or access to, or distribution of, humanitarian assistance.
- Recruiting or using children in armed conflicts.
- Violating applicable international humanitarian or human rights law involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals, and abduction and forced displacement.
- Planning, directing or committing acts involving sexual and gender-based violence.
- Planning, directing, sponsoring, or participating in attacks against UN personnel.

For more information on designing, supporting, funding and implementing sanctions regimes generally, see the introduction to UN sanctions.

History

Due to the severe humanitarian impact of comprehensive economic sanctions on the civilian populations in Iraq, the former Yugoslavia, and Haiti in the mid-1990s, the Security Council transitioned towards targeted sanctions, including assets freezes and travel bans against specifically designated individuals and entities.

With the exception of the Iraq sanctions regime, all the active UN sanctions regimes include a travel ban on designated individuals as

follows:

- Central African Republic (S/RES/2127 (2013))
- Democratic People's Republic of the Congo (S/RES/1533 (2004))
- Democratic People's Republic of Korea (S/RES/1718 (2006))
- Guinea-Bissau (S/RES/2048 (2012))
- Haiti (S/RES/2653 (2022))
- ISIL (Da'esh) and Al-Qaida (S/RES/1267 (1999), S/RES/1989 (2011) and S/RES/2253 (2015))
- Lebanon (S/RES/1636 (2005))
- Libya (S/RES/1970 (2011))
- Mali (S/RES/2374 (2017))
- Somalia (S/RES/751 (1992))
- South Sudan (S/RES/2206 (2015))
- Sudan (S/RES/1591 (2005))
- Taliban (S/RES/1988 (2011))
- Yemen (S/RES/2140 (2014))

Conditions for success

- Ultimately, the success of any travel ban depends on the level and degree of implementation by Member States and their capacity to detect entry and exit at ports of entry as well as other cross-border movements.

- Travel bans can have limited effect on local non-State actors who infiltrate porous borders by land rather than through international airports and official border crossing points. They can be more effective against leaders and financiers of sanctioned groups who use international travel to promote their cause, or foreign terrorist fighters or nationals of one country who travel abroad to fight alongside a non-State armed group in the territory of another State.

- Sanctions against private individuals are more legitimate and better implemented when they are consistent with human rights, include due process and independent review, and are thus less vulnerable to legal challenge in national and regional courts.

Risks/ benefits

Benefits:

- Travel bans can curtail the continuance of reprehensible behaviour by designated individuals and those working under their direction. They can restrict the ability of designated individuals to commit or to continue to commit the prohibited activity or activities.

- Travel bans may also facilitate the apprehension of designated individuals for purposes of criminal investigation and prosecution.

Risks:

- Travel bans may raise human rights issues if designated individuals have been listed for many years without national investigation or

	prosecution, and without the right of due process or the opportunity to establish their innocence. • The counter-terrorism sanctions regimes have created difficulties for some Member States seeking to reconcile their obligations under the sanctions regime with those under international human rights law.
Legal considerations	The legal considerations for travel bans are the same as those for assets freezes.
UNSC procedure	• The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the measures imposed. The resolution may include the criteria for listing individuals, any exceptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements. • The Sanctions Committee reports to the Council on a regular basis. • The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.
Further reading	UN Security Council sanctions website: https://www.un.org/securitycouncil/sanctions/information. *Repertoire of the Practice of the Security Council: Subsidiary Organs* available at: https://www.un.org/securitycouncil/content/repertoire. UN doc A/69/941–S/2015/432 (2015) *Compendium of the High-Level Review of United Nations Sanctions*. UN Office of the High Commissioner for *Human Rights, Fact Sheet: Human Rights, Terrorism and Counter-Terrorism* (OHCHR, 2008).

LEGAL TOOLS: SANCTIONS MECHANISMS

22. ARMS EMBARGO

Summary	A UN mandated arms embargo obliges all Member States to prevent the sale or supply of arms and related materiel to a certain State, government or armed group(s), and/or to prohibit the export and procurement from the State of all arms and related materiel. The purpose of an arms embargo is to limit the ability of the targeted State or non-State actors to inflict violence on others, to weaken their military capabilities and/or to otherwise alter their behaviour, including towards a commitment to the peaceful resolution of conflict. An arms embargo is often part of a broader sanctions regime that includes other tools such as an assets freeze and travel ban. **Examples:** The Security Council has imposed arms embargoes in all but two of the current sanctions regimes, including the Central African Republic (2013), the Democratic People's Republic of the Congo (2004), the Democratic People's Republic of Korea (2006), Haiti (2022), Iraq (1990) ISIL (Da'esh) and Al-Qaida (1999), Lebanon (2005), Libya (2011), Somalia (1992), South Sudan (2015), Sudan (2005), the Taliban (2011), and Yemen (2014).
Legal basis	The Security Council has established both voluntary and mandatory arms embargoes. However, all arms embargoes it has mandated since 2000 have been mandatory. Although not specifically listed, arms embargoes fall within the scope of measures under Article 41 of the UN Charter which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". For more information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.
Description	Security Council mandated arms embargoes are designed to limit the ability of the targeted State or non-State actors to inflict violence on others, to weaken their military capabilities and/or to otherwise alter their behaviour, including towards a commitment to peaceful resolution of conflict.

When an arms embargo is imposed by the Council, Member States are requested or obliged to prevent the sale or supply of arms and related materiel to a certain State, government or armed group(s), and to prohibit the export and procurement from the country of all arms and related materiel.

The Council resolution may include specific exemptions to the embargo, as well as the criteria for lifting it, in whole or in part.

Common exemptions in arms embargoes include:

- Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the relevant Sanctions Committee.
- Protective clothing, including flak jackets and military helmets, to be worn by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.
- Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the relevant Sanctions Committee.

Such exemptions are either subject to the approval of the relevant Sanctions Committee or to an advance notification to, and absence of, negative decision by the relevant Sanctions Committee. There are also standing exemptions for which no prior approval from, or notification to, the Committee is required.

Where UN peacekeeping operations are deployed, arms embargoes are an important part of a multistranded UN conflict management strategy, as they can help to avoid the flow of weapons while the UN is trying to keep the peace. In resolution 2616 (2021), the Council resolved to consider whether and how UN peace operations could support national authorities in combating the illicit transfer and diversion of arms in violation of arms embargoes in their respective areas of operation.

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

While rare in the early years of the UN, the Security Council has increasingly and consistently imposed arms embargoes since 1991. A Wilson Center symposium concluded that they are regarded as popular because they are considered "more forceful than diplomacy but not as costly and risky as military interventions" preventing unnecessary loss of

life while achieving containment, deterrence, compliance and ultimately aspiring to achieve peace (Hogendoorn, 2008).

The earliest instance of a UN arms embargo was in 1963 when the Council "called upon" States to cease the sale and shipment of arms, ammunition and military vehicles to South Africa in response to its apartheid policies (S/RES/181 (1963)). In 1970, the Council called upon States to strengthen the arms embargo, expanding its scope and further articulating key elements (S/RES/282 (1970)). In 1977, the Council made the embargo mandatory, acting under Chapter VII, strengthening and imposing the embargo upon all UN Member States (S/RES/418 (1977)). It also established a committee to engage with Member States on their implementation efforts, examine and report on the progress of the embargo, and recommend ways it could be made more effective (S/RES/421 (1977)). The embargo was finally lifted in 1994 following the first all-race multiparty election in South Africa (S/RES/919 (1994)).

Another early example was the arms embargo established by the Council in 1966 to prevent the sale or shipment to Southern Rhodesia of arms, ammunition, military aircraft, vehicles and equipment, as well as materials for the manufacture and maintenance of arms and ammunition (S/RES/232 (1966)).

Since the 1990s, arms embargoes have become a regular feature of most UN sanctions regimes. All but two of the current regimes (Guinea-Bissau and Mali) include some form of arms embargo:

- Central African Republic (S/RES/2127 (2013))
- Democratic People's Republic of the Congo (S/RES/1533 (2004))
- Democratic People's Republic of Korea (S/RES/1718 (2006))
- Haiti (S/RES/2653 (2022))
- Iraq (S/RES/661 (1990)) and S/RES/1483 (2003)
- ISIL (Da'esh) and Al-Qaida (S/RES/1267 (1999), S/RES/1989 (2011) and S/RES/2253 (2015))
- Lebanon (S/RES/1636 (2005))
- Libya (S/RES/1970 (2011))
- Somalia (S/RES/751 (1992))
- South Sudan (S/RES/2206 (2015))
- Sudan (S/RES/1591 (2005))
- Taliban (S/RES/1988 (2011))
- Yemen (S/RES/2140 (2014))

Some examples include:

The Democratic People's Republic of Korea (DPRK) sanctions regime, established under UN Security Council resolution 1718 (2006), includes an arms embargo which applies a "catch-all" clause to the supply, sale

or transfer of any item if such an item could directly contribute to the development of the operational capabilities of the country's armed forces, or to exports that support/enhance the capabilities of armed forces of another State.

The Libya sanctions regime, established under UN Security Council resolution 1970 (2011), includes an arms embargo which prevents the sale or supply to Libya of arms and related materiel of all types, and prohibits the export by Libya, and procurement by Member States, of all arms and related materiel.

The South Sudan sanctions regime, established under UN Security Council resolution 2206 (2015), contains an arms embargo which prevents the direct or indirect supply, sale or transfer to the territory of South Sudan, including to the Government of South Sudan or the Sudan People's Liberation Army-in-Opposition (SPLA-IO), of arms and related materiel of all types as well as technical assistance, training, financial or other assistance related to military activities, or the provision, maintenance or use of arms and related materiel, including the provision of armed mercenary personnel.

In the case of the Lebanon sanctions regimes, established under UN Security Council resolution 1701 (2006), the Council decided that States should take the necessary measures to prevent the sale or supply of arms and related materiel to any entity or individual in Lebanon other than those authorized by the Government of Lebanon or by the UN Interim Force in Lebanon.

According to a 2006 Oxfam study, arms embargoes have been systematically violated with impunity. The study concluded that none of the UN's embargoes have succeeded in stopping the flow of weapons to the target countries or target groups and that few arms embargo breakers have been successfully prosecuted (Oxfam, 2006). A 2007 Stockholm International Peace Research Institute (SIPRI) study pointed out that a record of unenforced arms embargoes and unprosecuted sanctions violators calls into question the authority and credibility of the UN in general and the Security Council in particular (Fruchart, 2007).

Conditions for success

- The success of an arms embargo rests on Member States' implementation efforts, but can be limited by the embargoed State's ability to manufacture its own weapons or to illegally obtain them on the black market.

- UN Sanctions Committees, expert panels and the UN Secretariat need to be adequately resourced to undertake their work monitoring

the implementation of the sanctions and supporting Member State compliance.

- Addressing the issue of impunity of embargo violators would go some way to acting as a deterrent to such behaviour.

- Effective implementation can be dependent on five sets of actors: (i) the Council's five permanent members; (ii) arms-supplying States; (iii) arms-transit and transhipment States; (iv) States neighbouring embargoed target States; and (v) embargo targeted States (Fruchart, 2007). It is, however, heavily influenced by the willingness of the Security Council to enforce the arms embargoes and take additional measures to ensure that there are consequences for any violations.

Risks/ benefits

Benefits:

- Arms embargoes can reduce the loss of life and the extent of destruction in an armed conflict.

- They can alter the behaviour of one or more parties to the armed conflict in the hope of incentivizing the embargoed State and/or non-State actors to more peaceful methods of settling their disputes.

- They can demonstrate the Security Council's willingness to address a situation with a measure more weighty than diplomacy but less costly than military intervention.

- They can disincentivize the States, companies or individuals that profit from supplying arms, and the external support to proxy conflicts.

Risks:

- Embargoes that are persistently violated with impunity can call into question the authority and credibility of the Council.

- Fewer weapons do not necessarily equate to less violence or shorter wars. Impartial embargoes may inadvertently prolong an armed conflict (Hogendoorn, 2008).

- Due to complex supply chains, high financial stakes and sensitive political interests, arms embargoes violations can be hard to prevent, investigate and prosecute. In addition, many States have not made violating a UN embargo a criminal offence.

Legal considerations

Some UN Member States subject to a Council decision to impose an arms embargo have argued that such measures undermine the right of self-defence under Article 51 of the UN Charter. This claim was made by Bosnia and Herzegovina in the context of the armed conflict in the former

Yugoslavia, including in submissions before the International Court of Justice, as well as by South Africa during its apartheid regime.
Even where the Council has not adopted an arms embargo, its resolutions could become a basis for applying the Arms Trade Treaty (ATT) of 2013. Under Article 6(3) of the ATT, a State Party shall not transfer the arms covered by the ATT if it has knowledge at the time that the arms would be used for genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against protected civilian objects or civilians, or other war crimes under international agreements to which it is party. The Council's resolutions may provide factual evidence of a basis to apply the restrictions under Article 6(3) of the ATT.

UNSC procedure

- The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures imposed. The resolution may include the scope of the embargo, any exceptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements.
- The Sanctions Committee reports to the Council on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.

Further reading

UN Security Council sanctions website: https://www.un.org/securitycouncil/sanctions/information.

Repertoire of the Practice of the Security Council: Subsidiary Organs available at: https://www.un.org/securitycouncil/content/repertoire.

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LEGAL TOOLS: SANCTIONS MECHANISMS

23. GOODS EMBARGO

Summary	A UN mandated goods embargo obliges all Member States to prevent the sale and supply of a particular good to, and/or the purchase and procurement of a particular good from, a certain country. Such trade sanctions are used to change the behaviour of States and non-State actors by targeting assets and other sources of income and finance such as oil or other natural resources. They can also be used to protect the natural resources of a country against exploitation to preserve the wealth for the benefit and well-being of the population. A goods embargo is usually part of a broader sanctions regime that includes other tools, such as an assets freeze and travel ban. **Examples:** The Security Council currently imposes goods embargoes in respect of the Democratic People's Republic of Korea (DPRK), Libya, Somalia, and ISIL (Da'esh) and Al-Qaida, on goods including oil, petroleum, natural resources (such as charcoal), cultural goods, and luxury goods.
Legal basis	Although not express, goods embargoes fall within the scope of Article 41 of the UN Charter which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". The measures "may include complete or partial interruption of economic relations". For more information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.
Description	Security Council mandated trade restrictions are designed to alter behaviour. They can operate in a number of ways, including: (i) to directly target resources and industries that are fuelling conflict; (ii) to restrict access to natural resources with strategic and economic significance; (iii) to diminish income from commodity trade; and (iv) to preserve the resources of a State. When a goods embargo is imposed by the Council, Member States are obliged to prevent or restrict the import or export of certain goods and services.

The Council resolution may include specific exemptions to the embargo, as well as the criteria for lifting it, in whole or in part. These may include entry into ports if it is necessary for the purpose of an inspection, in the case of emergency, or in the case of return to the country in question. Other banned goods may be allowed if approved by the relevant Sanctions Committee on a case-by-case basis including for medical or humanitarian purposes.

Goods and services that have been embargoed include:

- Oil and gas
- Diamonds
- Coal, charcoal, iron, gold and other minerals
- Food and agricultural products
- Luxury goods
- Cultural goods

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

Targeted embargoes against specific goods have largely replaced comprehensive trade or economic sanctions to avoid the detrimental humanitarian impact of the latter.

In resolution 253 (1968), the Security Council imposed the first goods embargo when it obliged all UN Member States to prevent the import into their territories of all commodities and products originating in, and exported from, Southern Rhodesia, as well as any activities or dealings by their nationals or in their territories in any commodities or products from or originating in Southern Rhodesia.

Aside from the comprehensive economic sanctions imposed on Iraq (1990–2003), the Council has imposed several embargoes prohibiting the import of oil, including from Haiti (1993–1994), Sierra Leone (1997–1998), and Angola (1993–2002). It also imposed sanctions on exports of diamonds from Angola (1998–2002), and Sierra Leone (2000–2003), timber from Liberia (2003), and charcoal from Somalia (2012).

Currently, the following sanctions regimes contain at least one goods embargo.

Democratic People's Republic of Korea (DPRK)

Security Council resolution 1718 (2006) and subsequent resolutions set out a range of trade embargoes against the DPRK including:

- **Oil, natural gas and fuel:** Pursuant to resolution 2397 (2017), all Member States are required to prohibit the supply, sale or transfer to the

DPRK of all refined petroleum products as well as crude oil (in excess of the designated amounts); of all condensates and natural gas liquids; as well as aviation fuel, jet fuel and rocket fuel.

- **Minerals:** Pursuant to resolution 2371 (2017) and resolution 2397 (2017), the DPRK is prohibited from supplying, selling, or transferring coal, iron and iron ore, gold, titanium ore, vanadium ore, copper, nickel, silver, zinc and rare earth minerals, lead and lead ore. All Member States are required to prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels, whether or not originating in the territory of the DPRK.

- **Food and agricultural products:** Under resolution 2397 (2017), the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, food and agricultural products, machinery, electrical equipment, earth and stone including magnesite and magnesia, wood and vessels.

- **Seafood:** Further to resolution 2371 (2017), the DPRK is prohibited from supplying, selling or transferring seafood (including fish, crustaceans, molluscs and other aquatic invertebrates in all forms) as well all fishing rights. All Member States are prohibited from procuring such items from the DPRK.

- **Textiles:** Further to resolution 2375 (2017), the DPRK shall not supply, sell or transfer textiles (including but not limited to fabrics and partially or completed apparel products). All Member States are required to prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of the DPRK.

- **Luxury goods:** All Member States are required to prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, of luxury goods. The ban on luxury goods was meant to impose costs on those in the highest levels of the Government or at least to deprive them of the pleasures of such goods as jewellery and luxury watches, yachts and aquatic vehicles, as well as racing cars and other luxury vehicles.

- **Cultural goods:** Pursuant to resolution 2321 (2016), the DPRK is prohibited from supplying, selling and transferring statues.

Libya

Security Council resolution 2146 (2014) imposed measures to support the Libyan Government to address the illicit export of crude oil from Libya. The applicability of those measures was expanded to petroleum, including

crude oil and refined petroleum products, in resolution 2362 (2017). The measure operates by the Government of Libya contacting the Sanctions Committee and the flag State of a vessel illicitly exporting crude oil and petroleum from Libya with a view to the vessel being directed to return the goods to Libya. The interdiction measures to support this ban were found to have been largely unimplemented.

Somalia

Security Council resolution 2036 (2012) imposed a ban on the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia. It also obliged the Somali authorities to take the necessary measures to prevent the export of charcoal from Somalia. In resolution 2111 (2013), the Council requested the African Union Mission in Somalia (AMISOM) to support and assist the Somali authorities in that task. In resolution 2182 (2014), the Council authorized Member States or voluntary multinational naval partnerships to interdict vessels in Somali territorial waters and on the high seas (including the Arabian Sea and the Gulf) that may be carrying Somali charcoal and weapons destined for Somalia or designated individuals and entities. Unfortunately, the Monitoring Group reported that charcoal exports from Somalia and the revenue they generated for Al-Shabab were found to have risen following the imposition of the ban.

ISIL (Da'esh) and Al-Qaida

Security Council resolutions 1267 (1999), 1989 (2011) and 2253 (2015) include a trade ban on cultural goods in order to protect such goods from illegal trafficking and to preserve such items for their artistic, historical or archaeological value and which belong to the country's cultural heritage. Resolution 2199 (2015) obliges all Member States to take appropriate steps to prevent the trade in cultural property illegally removed from Iraq and Syria including by prohibiting cross-border trade in such items "thereby allowing for their eventual safe return to the Iraqi and Syrian people".

The effectiveness of trade sanctions for achieving their political purpose is debatable. This is the case particularly where States are able to adapt to the new economic situation, which becomes more likely the longer the limitations are in place.

Trade sanctions have also been criticized for having a high risk of unintended consequences including negative humanitarian and social impacts on civilian populations. This is frequently the case where food or medical supplies are affected.

In 2005, Security Council Report suggested that sanctions could be applied to natural resources not only as a means to restrict conflict financing, but also to improve natural resource governance in an effort for conflict prevention (Security Council Report, 2015).

Conditions for success

- Goods embargoes are more likely to succeed if the target State or non-State actors rely on the goods or proceeds from their sale to maintain their economic or military capacity, and on the extent of their reliance on the global market.

- Having a thorough understanding of the conflict is important for designing a meaningful and effective sanctions regime. This is especially so if it includes an embargo on certain goods (for example, natural resources), that are fuelling the conflict, when the embargo is intended to directly disrupt the violence, and not just deny the parties finance and resources.

- UN Sanctions Committees, expert panels and the Secretariat need to be adequately resourced to undertake their work monitoring the implementation of the sanctions and supporting Member State compliance.

- Ultimately, success depends on the willingness and capacity of the Security Council to enforce the embargoes and its willingness to take additional measures to ensure that there are consequences for violations.

Risks /benefits

Benefits:

- Goods embargos deprive targeted State and non-State actors from reaping financial benefit from banned goods and services, and restrict their ability to use the goods or proceeds in the commission of reprehensible behaviour.

- Trade restrictions can be harnessed towards improving natural resource governance, in an attempt to prevent conflict.

- They can also alter the behaviour of one or more parties to the armed conflict in the hope of incentivizing the embargoed State and/or non-State actors to more peaceful methods of settling their disputes.

- Goods embargoes can demonstrate the Security Council's willingness to address a situation, with a measure more weighty than diplomacy but less costly than military intervention.

Risks:

- While the scope of the ban can be targeted, the extent of the impact is harder to target. Goods embargoes risk unintended consequences including humanitarian impacts on civilian populations.

- The embargo may be ineffective if the State or non-State actors are able to successfully adapt to their new economic circumstances.

Legal considerations	To the extent that goods embargoes may negatively affect basic human needs such as food and water, and disrupt the right to education and to work, human rights challenges may potentially arise for the violation of social and economic rights. Under Article 50 of the UN Charter, any State – whether a UN Member State or not – having specific economic problems as a result of carrying out preventive or enforcement measures has the right to consult the Security Council with regard to a solution of those problems. To date, the practice under Article 50 has not been well developed.
UNSC procedure	• The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures to be imposed. The resolution may include the scope of the embargo, any exemptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements. • The Sanctions Committee reports to the Council on a regular basis. • The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.
Further reading	UN Security Council sanctions website: https://www.un.org/securitycouncil/sanctions/information. *Repertoire of the Practice of the Security Council: Subsidiary Organs* available at: https://www.un.org/securitycouncil/content/repertoire. Security Council Report (SCR), *Research Report: UN Sanctions: Natural Resources* (SCR, 2015). Emily Cashen, "The Impact of Economic Sanctions", *World Finance* (2017). UN Office of the High Commissioner for Human Rights, *Background Paper: The Human Rights Impact of Economic Sanctions on Iraq* (OHCHR, 2000).

LEGAL TOOLS: SANCTIONS MECHANISMS

24. INTERDICTION AND INSPECTIONS OF SHIPS AND OTHER VESSELS

Summary	The Security Council can authorize the interdiction and inspection of ships and other vessels suspected of carrying internationally prohibited items or goods subject to embargo, in order to implement and enforce the prohibition or embargo. These measures are usually authorized for ships and other vessels on the high seas but in some cases have involved inspection of shipments by land or air. Such measures have been authorized in various circumstances including to ensure compliance with arms embargoes, to enforce bans on trade in natural resources and to prevent migrant smuggling or human trafficking. **Examples:** Interdiction has been mandated by the Council in respect of inward and outward maritime shipping for Iraq (S/RES/665 (1990)); cargo or shipments to or from the Democratic People's Republic of Korea (DPRK) suspected to contain bulk cash or material that could be used in a nuclear programme (S/RES/2094 (2013)); and all cargo to Yemen that may contain items prohibited under the sanctions regime (S/RES/2216 (2015)).
Legal basis	Although not specifically listed, interdiction and inspection to enforce arms embargoes can fall within the scope of Article 41 of the UN Charter which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures". However, it may be necessary to use or threaten force or to board without consent of the flag State to effectuate an interdiction and/or inspection of the vessel. To the extent that the mandated enforcement measures reach the threshold of the use of force, the measures may also fall within, implicitly or in some cases explicitly, Article 42 of the Charter which provides for measures involving the use of armed force including actions by land, air or sea forces. For more information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.
Description	Interdiction and inspection is not a sanctions tool in and of itself, but rather a tool for the enforcement of sanctions.

The Security Council can authorize Member States to interdict and inspect ships and other vessels to ensure compliance with arms embargoes, goods embargoes, and sanctions aimed at limiting the exploitation of natural resources. This empowers Member States to stop and inspect ships or other vessels if there is a suspicion that they are violating an embargo by carrying prohibited items either to or from the target State or non-State actors. These measures are usually authorized for ships and other vessels on the high seas but in some cases, they have involved inspection of shipments by land or air. Those responsible for such violations can be subsequently designated by the relevant Security Council committee and subject to a travel ban or assets freeze.

When authorizing interdiction and inspection mechanisms, the Security Council usually refers to international law, in particular the law of the sea and, where relevant, to applicable international civil aviation agreements. It may also require the interdicting State to first seek the consent of the vessel's flag State, and sometimes to submit to the relevant Sanctions Committee a report on the inspection, including efforts made to seek the flag State's consent.

The interdiction of ships and other vessels often causes political and legal risk for the State or non-State actors responsible for transferring or receiving the prohibited items to or from the target State. The target State is already under sanctions and exposed to political criticism and legal measures, in contrast with the third-party States or non-State actors that are responsible for violating the sanctions regimes.

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

The Security Council first authorized the interdiction and inspection of vessels in 1966. Following the unilateral declaration of independence by the white minority of Southern Rhodesia, the Council mandated the United Kingdom "to prevent, by the use of force if necessary, the arrival at Beira of vessels reasonably believed to carry oil destined for Southern Rhodesia, and […] to arrest and detain the tanker known as the *Joanna V* upon her departure from Beira in the event her oil cargo is discharged there" (S/RES/221 (1966)).

The next such authorization came more than 20 years later in connection with the Security Council's efforts to secure the withdrawal of Iraqi forces from Kuwait. In resolution 665 (1990), the Council authorized Member States which had deployed maritime forces in cooperation with the Government of Kuwait to use such measures as may be necessary up to and including the use of force "to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes" to ensure strict

implementation of the embargoes imposed against Iraq.

In 1997, following the military coup d'état staged by the Revolutionary United Front in Sierra Leone, the Security Council adopted resolution 1132 (1997), which imposed arms and oil embargoes and restrictions on the travel of members of the military junta and their families. The resolution called upon all States to cooperate with those measures and authorized the Economic Community of West African States (ECOWAS), as necessary and in conformity with applicable international standards, to inspect incoming ships to ensure compliance.

The UN Interim Force in Lebanon (UNIFIL) Maritime Task Force was the first naval force to be part of a UN peacekeeping mission. In October 2006, following the request of the Lebanese Government, it was deployed to assist the Lebanese Navy to secure its territorial waters and help prevent the unauthorized entry of arms or related materiel by sea into Lebanon (S/RES/1701 (2006)).

As part of the sanctions regime against the Democratic People's Republic of Korea (DPRK), in 2009 the Council authorized UN Member States to interdict and inspect North Korean cargo and subsequently seize and dispose of illicit shipments (S/RES/1874 (2009)). Resolution 2094 (2013) further strengthened the interdiction and oversight authorities for Member States by calling for States to inspect and detain any suspected cargo or shipments to or from the DPRK that transit through their territory if the cargo is suspected to contain bulk cash or materials that could be used in a nuclear programme.

In resolution 1929 (2010), the Security Council called upon all States to inspect all cargo to and from Iran, in their territory, including seaports and airports, if the State concerned had information that provided reasonable grounds to believe the cargo contained prohibited items. The Council also allowed States to request inspections of vessels on the high seas with the consent of the flag State if there was information that the vessel was carrying prohibited items.

In 2012, the Security Council imposed a ban on the direct and indirect import of charcoal from Somalia (S/RES/2036 (2012)). In 2014, it authorized Member States and voluntary multinational naval partnerships to interdict charcoal and weapons on vessels in Somali territorial waters and on the high seas (including the Arabian Sea and the Gulf) that may be carrying charcoal from Somalia and weapons destined for Somalia or designated individuals and entities (S/RES/2182 (2014)).

In 2014, the Council imposed measures to support the Libyan Government to prevent the illicit export of crude oil from Libya, authorizing Member

States to inspect on the high seas designated vessels suspected of illicitly exporting oil and petroleum from Libya with a view to the vessel being directed to return the goods to Libya (S/RES/2146 (2014)). The resolution sets up a complicated process that must take place prior to boarding, something that the Panel of Experts recommended changing as it was hindering implementation. In 2015, the Council called upon Member States to inspect any unflagged vessels that they had reasonable grounds to believe had been, were being, or imminently would be, used for migrant smuggling or human trafficking from Libya (S/RES/2240 (2015)). In 2021, it authorized Member States to inspect vessels on the high seas off the coast of Libya suspected of violating the arms embargo (S/RES/2578 (2021)).

In resolution 2216 (2015), the Security Council called upon Member States, in particular States neighbouring Yemen, to inspect all cargo to Yemen, in their territory, including seaports and airports, if the State has reasonable grounds to believe the cargo contains items prohibited by the Security Council.

Conditions for success

- An interdiction operation will typically require a significant deployment of naval assets, backed up by intelligence capability, in order to meaningfully enforce the relevant ban, prohibition or embargo.

- The success of interdiction measures depends largely on the resolve of the enforcing State(s) and their willingness to risk confrontation with the target State or non-State actors to enforce the relevant ban, prohibition or embargo.

- Clarity from the Council regarding the procedure for boarding and inspection on the high seas is important, as a lack of clarity may lead to implementation problems and hesitancy on the part of boarding States.

- The authoritativeness, credibility and clarity of the instructions of the enforcing vessel play a significant role in the willingness of the target vessel to comply. Moreover, the willingness of the inspecting vessel to resort to force, if deemed necessary, to ensure compliance with the Chapter VII sanctions regime and the national and international political support for such use of force is also a determining factor.

Risks/ benefits

Benefits

- Interdiction and inspection measures may enable States to actively implement arms embargoes and trade sanctions, including on the high seas and exceptionally within the territorial waters of the sanctioned State.

- They signal the Council's resolve to authorize strong measures to enforce certain sanctions.

Risks:

- There are operational risks in interdiction and inspection operations, particularly on the high seas, which may lead to risks to safety and even loss of life.
- Interdiction and inspection operations may escalate to the use of force resulting in reputational risk for the interdicting State.
- They are dependent on States taking costly action and being willing to risk escalation to enforce a sanctions regime.

Legal considerations

Under international law, States may as a matter of principle request inspections of vessels on the high seas only with the consent of the flag State. The UN Convention on the Law of the Sea (UNCLOS), which binds States parties and largely binds non-State parties through customary international law, provides for limited circumstances under which a military ship may exceptionally board a vessel on the high seas flagged to another State (Article 110). UNCLOS also provides more detailed provisions on the enforcement of coastal State jurisdiction over foreign flagged vessels in the areas from 12 to 200 nautical miles, the contiguous zone and exclusive economic zone (Article 220).

Unless otherwise indicated by the Council, the authorization to interdict and inspect ships and other vessels may obviate the need to obtain the consent of the flag State.

One comparative study of State practice on the interdiction and inspection of ships and other vessels found that interdiction raises important questions such as which State's law applies to the interdiction – the boarding State or the flag State – and which State has jurisdiction to prosecute any crimes discovered. There are also questions of responsibility and liability in case of an interdiction or inspection going beyond the Council's authorization or which is not enforced in compliance with the authorization and other applicable rules of international law (Guilfoyle, 2009).

There is a need to consider significant issues concerning the specificity of the procedure mandated by the Security Council for boarding and inspection on the high seas. For example:

- Prior notification to the Security Council of States participating in boarding, or of individual decisions to board and inspect, or results of boarding and inspections.
- Whether flag State consent is to be sought.

- The implications of a flag State's non-reply to a request for consent, and any timeframe after which consent may be presumed.
- What standard of proof is required for a decision to board and inspect (for example, reasonable grounds to believe).
- Any mechanisms for redress or compensation for damage or significant economic loss.

A lack of prescription by the Council can lead to implementation problems and hesitancy on the part of boarding States.

Any comprehensive measures for interdiction authorized by the Council, to the extent these authorize the interdiction of every vessel heading to/from the State concerned, may begin to take on some elements of a "blockade" as provided for under Article 42 of the UN Charter.

UNSC procedure

- The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures imposed. The resolution may include details on the procedure for interdiction and investigation, including whether force may be used, if necessary. It may also include benchmarks for lifting the measures, as well as reporting and review requirements.
- The Sanctions Committee reports to the Council on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.

Further reading

Repertoire of the Practice of the Security Council: Subsidiary Organs available at: https://www.un.org/securitycouncil/content/repertoire.

Douglas Guilfoyle, *Shipping Interdiction and the Law of the Sea, Cambridge Studies in International and Comparative Law* (Cambridge, Cambridge University Press, 2009).

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LEGAL TOOLS: SANCTIONS MECHANISMS

25. DIPLOMATIC SANCTIONS

Summary

UN imposed diplomatic sanctions oblige Member States to take a range of specified actions, from restricting diplomatic relations with the target State to imposing measures against named senior officials and other representatives. They have been used by the Security Council to express disapproval or displeasure with the actions or positions of the Government of a target State.

Diplomatic sanctions are often mandated in conjunction with an assets freeze or travel ban against designated senior officials and other representatives of the target State. They may be the first step in a sanctions regime seeking to achieve a political settlement or peaceful resolution of a conflict prior to resorting to more stringent measures affecting the economic or trade relations of the target State.

Examples: Libya (1992), the Federal Republic of Yugoslavia (Serbia and Montenegro) (1992), Israel (1980), Iran (1980) and the Democratic People's Republic of Korea (DPRK) (2013). The measures imposed against the DPRK are the only diplomatic sanctions currently active.

Legal basis

The severance of diplomatic relations falls within the scope of, and is explicitly mentioned in, Article 41 of the UN Charter, pursuant to which the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures".

For more information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.

Description

Diplomatic sanctions may include the following:

- The severance of diplomatic relations, as explicitly mentioned in Article 41 of the UN Charter.
- The designation of diplomats and senior Government officials of the target State for measures such as an assets freeze or travel ban, or by restricting or banning their participation in meetings.
- The limitation or cancellation of high-level government visits or expelling or withdrawing diplomatic missions or staff.

Measures imposed against individuals may contain exceptions for medical or humanitarian emergencies.

Diplomatic sanctions are used by the Security Council to express disapproval or displeasure with the actions or behaviour of the Government of a target State through diplomatic and political means, rather than affecting economic or trade relations.

The Council has moved away from the general severance of relations in favour of targeted sanctions. Such targeted sanctions are designed to maximize impact on leaders, political elites and those believed responsible for the objectionable behaviour, while reducing collateral damage to the civilian population of the target country as well as other affected countries.

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

In 1946, the Security Council rejected several draft resolutions proposing the severance of diplomatic relations with the Franco Government under an item on the Spanish Question.

Similarly, after several years of considering and rejecting draft resolutions calling for States to sever relations with the illegal regime in Southern Rhodesia, the Security Council finally adopted resolution 288 (1970) which merely urged all States "not to grant any form of recognition to the illegal regime in Southern Rhodesia".

In 1980, in response to the taking of American hostages by the Government of the Islamic Republic of Iran, a draft resolution calling upon all Member States to reduce the Iranian diplomatic presences in their territories was vetoed by the USSR.

Also in 1980, the Security Council adopted resolution 478 (1980) in which it, inter alia, censured in the strongest terms Israel's enactment of the "basic law" which sought to alter the character and status of Jerusalem and called upon "[t]hose States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City".

Throughout the 1980s, several draft resolutions calling for the severing of all diplomatic, consular and trade relations with South Africa were vetoed by the United Kingdom and the United States.

In 1992, after determining that the situation in Bosnia and Herzegovina and in other parts of the former Yugoslavia constituted a threat to international peace and security, and acting under Chapter VII of

the UN Charter, the Security Council adopted resolution 757 (1992) in which it obliged all States to "(a) Reduce the level of the staff at diplomatic missions and consular posts of the Federal Republic of Yugoslavia (Serbia and Montenegro); (b) Take the necessary steps to prevent the participation in sporting events on their territory of persons or groups representing the Federal Republic of Yugoslavia (Serbia and Montenegro); (c) Suspend scientific and technical cooperation and cultural exchanges and visits involving persons or groups officially sponsored by or representing the Federal Republic of Yugoslavia (Serbia and Montenegro)".

In connection with its efforts to ensure that Libya would cooperate fully in establishing responsibility for the terrorist attacks against Pan Am Flight 103 and UTA Flight 772 in 1992, the Security Council banned all international air travel to and from Libya, with the exception of flights approved on grounds of significant humanitarian need. Moreover, the Council "required States to reduce the number and level of the staff at Libyan diplomatic and consular missions abroad" (S/RES/748 (1992)). In 2003, the diplomatic and other sanctions were lifted (S/RES/2003).

In 1996, the Council imposed diplomatic sanctions in an effort to ensure the extradition of the suspects wanted in the 1995 assassination attempt on the President of Egypt, who were sheltering in Sudan. The Council decided that all States should significantly reduce the number and the level of staff in Sudan's diplomatic missions and consular posts within their territory, and restrict or control the movement of the remaining staff. It obliged all States to take steps to restrict the entry into, or transit through, their territory of members of the Government of the Sudan, officials of that Government and members of the Sudanese armed forces. And it called upon international and regional organizations not to convene any conference in Sudan (S/RES/1054 (1996)). These sanctions were lifted in 2001 (S/RES/1372 (2001)).

In 2013, the Security Council adopted a new measure calling upon States "to exercise enhanced vigilance over diplomatic personnel of the Democratic People's Republic of Korea (DPRK), in order to prevent such individuals from contributing to that country's nuclear or ballistic missile programme or other activities" prohibited by the sanctions regime (S/RES/2094(2013)). The Council called upon all States to report to the Council within 90 days on "concrete measures" they had taken to implement the provisions of the resolution. By resolution 2270 (2016), the Council strengthened the restrictions on diplomats and overseas representation, authorizing Member States "to expel diplomats or government representatives working on behalf of or at the direction of a designated individual or entity of the Democratic People's Republic of Korea, or of an individual or entities assisting in the evasion of sanctions

or violating the provisions of prior resolutions". These are the only diplomatic sanctions currently in place.

On 18 December 2017, following the recognition of Jerusalem as the capital of Israel by the President of the United States, the Security Council failed to adopt a draft resolution, due to a veto by the United States, by which it would have called upon all States to refrain from the establishment of diplomatic missions in the Holy City of Jerusalem.

Conditions for success

- The success of diplomatic sanctions is more likely if the target State is concerned about its reputation and good standing in the international community, as well as its ability to conduct diplomatic relations with other States.

- Ultimately, the success of a sanctions regime depends on Member States' readiness and ability to implement and the will of the Security Council to enforce, including to take additional measures.

Risks/ benefits

Benefits:

- Diplomatic sanctions provide a way to put pressure on a regime without imposing any economic or other measures that may have an inadvertent adverse effect on the civilian population.

- They are also a peaceful alternative to measures involving the use of force.

Risks:

- Due to diplomatic sanctions being potentially the least impactful form of sanctions, they may not deter or alter the behaviour of the targeted State.

- Isolating diplomats and other State representatives may result in entrenching political positions and restricting diplomatic dialogue rather than altering the behaviour of the target State, which could adversely affect negotiations.

Legal considerations

To the extent that diplomatic sanctions are imposed against named senior officials, diplomatic and other representatives of the target State (such as assets freezes or travel bans) they might give rise to questions relating to human rights.

The Council's measures that relate to "enhanced vigilance" over a Member State's diplomats, or even their expulsion in exceptional cases is likely to be qualified by reference to implementation in accordance with the applicable national and international law (for example, see S/RES/2270 (2016) on the DPRK). This means that such diplomats, legally speaking, will be declared persona non grata rather than expelled. This is

	consistent with the provisions of the Vienna Convention on Diplomatic Relations.
UNSC procedure	• The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures imposed. The resolution may include the scope of the diplomatic sanctions, any exceptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements. • The Sanctions Committee reports to the Council on a regular basis. • The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.
Further reading	*Repertoire of the Practice of the Security Council: Subsidiary Organs* available at: https://www.un.org/securitycouncil/content/repertoire. Security Council Report (SCR), *Special Research Report: UN Sanctions* (SCR, 2013). Nicolas Angelet, "Le droit des relations diplomatiques et consulaires dans la pratique récente du Conseil de sécurité", *Revue belge de droit international*, pp. 149–177 (1999). Enrico Carisch, Loraine Rickard-Martin and Shawna R. Meister, *The Evolution of UN Sanctions: From a Tool of Warfare to a Tool of Peace, Security and Human Rights* (New York, Springer, 2017).

LEGAL TOOLS: SANCTIONS MECHANISMS

26. COMPREHENSIVE ECONOMIC SANCTIONS

Summary

Comprehensive economic sanctions prohibit the import and export of all products and commodities as well as the transfer of funds or other financial or economic resources to and from the target State. Exceptions may be made for medical or humanitarian purposes.

The purpose of comprehensive sanctions is typically to put severe economic pressure on a target State in order to change its behaviour.

Security Council practice has evolved away from comprehensive economic sanctions towards more targeted sanctions, such as assets freezes and travel bans.

Examples: The most comprehensive economic sanctions regime was imposed on Iraq (1990–2003) following its 1990 invasion of Kuwait. After the Lockerbie bombing, comprehensive sanctions were imposed on Libya in 1992. Comprehensive economic sanctions were also imposed on the Federal Republic of Yugoslavia (FRY) (1991–1996), in an effort to stop the fighting in Bosnia and Herzegovina.

Legal basis

Comprehensive economic sanctions are explicitly mentioned within the scope of measures under Article 41 of the UN Charter which provides that the Security Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures".

For more information on the legal basis of UN sanctions generally, see the introduction to UN sanctions.

Description

Comprehensive economic sanctions prohibit the import and export of all products and commodities as well as the transfer of funds or other financial or economic resources. Exceptions may be made for medical or humanitarian purposes.

The purpose of comprehensive economic sanctions is to put pressure on a State in an effort to cease, change or compel a certain behaviour. However, because of their broad scope, they can be, and be perceived as, punitive in nature.

Comprehensive economic sanctions are a blunt instrument that can have significant unintended consequences. Because of their indiscriminate nature, they can have considerable adverse effects on the civilian population, particularly on the humanitarian situation when they limit – directly or indirectly – medical supplies and other important services. This can lead to internal displacement and large refugee flows. They can also inadvertently lead to the reinforcement of the power of elites, creating scarcity of goods, which the government then controls.

The Council has only resorted to the use of comprehensive sanctions in response to the most egregious acts including aggression, acts of terrorism and the proliferation of weapons of mass destruction.

Due to the well-documented adverse effects of past comprehensive economic sanctions regimes, and difficulties in avoiding such unintended consequences, the Security Council is unlikely to use this tool in the future.

For more information on the design, support, funding and implementation of UN sanctions regimes generally, see the introduction to UN sanctions.

History

The first comprehensive economic sanctions were imposed by the Security Council in 1966 against Southern Rhodesia. The second set of comprehensive UN sanctions was imposed in 1977 in response to South Africa's apartheid system.

The most notable example of a comprehensive economic sanctions regime was that mandated by the UN Security Council on Iraq following its invasion of Kuwait in 1990. Acting under Chapter VII of the UN Charter, the Council obliged Member States to prevent: (i) the import of all products and commodities originating in Iraq or Kuwait; (ii) any activities by their nationals or in their territories that would promote the export of products originating in Iraq or Kuwait, as well as the transfer of funds to either country for the purposes of such activities; (iii) the sale of weapons or other military equipment to Iraq and Kuwait, excluding humanitarian aid; and (iv) the availability of funds or other financial or economic resources to either country, or to any commercial, industrial or public utility operating within them, except for medical or humanitarian purposes (S/RES/661 (1990)).

The Iraq sanctions regime lasted for almost a decade. During that time it significantly contributed to a major humanitarian crisis including chronic malnutrition especially among children, rise in disease due to a shortage of medical supplies and infrastructure, and a shortage of clean water due to the destruction of water treatment and purification facilities. The "oil-for-food" programme, in which the Security Council created an exception

on the sale of oil to purchase food and medicine, was an effort towards relieving the suffering (S/RES/986 (1996)). While the civilian population suffered, the Iraqi President, Saddam Hussein, and the political and military elite remained largely unaffected. The magnitude of the human toll was the subject of continuous condemnation from human rights organizations, opposition from many Members of the Security Council and other UN organs, as well as resignation of senior UN officials in public protest against the comprehensive sanctions. The civilian toll of the Iraqi sanctions regime was so great that it significantly influenced the Council's move towards more targeted sanctions.

After the Lockerbie bombing, comprehensive sanctions were placed on Libya between 1992 and 2003. Although not primarily economic in nature, the scope of the sanctions was broad. By resolution 748 (1992), in connection with its efforts to ensure that Libya would cooperate fully in establishing responsibility for the terrorist attacks against Pan Am Flight 103 and UTA Flight 772, the Council banned all international air travel to and from Libya, with the exception of flights approved on grounds of significant humanitarian need. It also prohibited the provision of weapons, ammunition and military equipment to Libya. And it required States to reduce the number and level of the staff at Libyan diplomatic and consular missions. By resolution 883 (1993), the Council obliged States to freeze funds and financial resources owned or controlled by Libyan Government or public authorities, and prohibited trade of petroleum related equipment. All sanctions were lifted in 2003 (S/RES/1506 (2003)).

In the same year, the Security Council imposed comprehensive economic sanctions on the Federal Republic of Yugoslavia in an effort to ensure compliance with resolution 752 (1992), by which the Council had demanded that all parties involved in Bosnia and Herzegovina stop fighting immediately and respect the ceasefire. In resolution 757 (1992), the Council obliged States to prevent: (i) the import of all products from Yugoslavia; (ii) any activities by their nationals or in their territories that would promote the export of products as well as the transfer of funds for the purposes of such activities; and (iii) the availability of funds or other financial or economic resources or to any commercial, industrial or public utility operating within Yugoslavia.

Currently, the Council continues its practice of imposing targeted instead of comprehensive economic sanctions, thereby minimizing the unintended adverse effects on civilian populations. The most comprehensive sanctions currently in place are imposed against the Democratic People's Republic of Korea (DPRK); they are, however, designed to maximize the effect on the country's senior leadership while minimizing the humanitarian effect on the country's civilian population. In addition to a long-standing arms embargo, the DPRK sanctions regime (resolution 1718 (2006) and

subsequent resolutions) includes, inter alia, an oil, natural gas and fuel embargo (resolution 2397 (2017)); a ban on certain natural resources (resolutions 2371 (2017) and 2397 (2017)); a textile ban (resolution 2375 (2017)); and a ban on luxury goods (resolutions 2094 (2013), 2270 (2016) and 2321 (2016)).

The reported death of half a million Iraqi children was attributed significantly to the comprehensive economic sanctions in Iraq. The lack of behavioural change of the Iraqi Government challenged the calculus that maximum economic pressure would result in swift and tangible political change. A study by Bossuyt in 2000 on the consequences of economic sanctions concluded that "the whole theory behind economic sanctions appears to be fallacious. It is assumed that pressure on civilians will in turn translate into pressure on the Governments for change. However, in regimes where political decision-making is not democratic, there is simply no pathway through which civilian pressure can bring about change in the Government … The most important criterion in evaluating sanctions is their legitimacy and it can hardly be disputed that sanctions imposed by the Security Council are legitimate. However, sanctions which are legitimate at the outset may cease to be so, if after a reasonable period of time they do not lead to the desired result. The lack of efficacy impairs their legitimacy" (Bossuyt, 2000).

Conditions for success

- The success of a comprehensive economic sanctions regime depends on Member States' willingness, readiness and ability to implement and sustain the sanctions; minimizing or mitigating the humanitarian consequences to the civilian population; preventing or punishing the elite from profiting from or otherwise politically manipulating the sanctions to entrench their power and positions; and on the will of the Security Council to enforce the sanctions including the willingness to take additional measures.

- Ultimately, the objectives that may be achieved through comprehensive economic sanctions need to be weighed against the likely adverse effects on the civilian population.

Risks/ benefits

Benefits

- Comprehensive economic sanctions have the best potential to undermine and significantly contract the economy of the target State, potentially putting the Government under significant pressure to alter its behaviour.

Risks

- Comprehensive economic sanctions may not result in behavioural change in States, where there is no avenue for the civilian population to put pressure on the Government.

- They can have unintended adverse consequences, including dire humanitarian effects on the civilian population.
- Comprehensive economic sanctions can also entrench the power of the elite by creating a scarcity of goods, which they then control.
- They may not have much effect on the daily lives of senior Government officials and the target country's elite. More targeted diplomatic, economic and financial sanctions against designated leaders and officials are more likely to be felt directly by those actors.

Legal considerations

In 2018, Idriss Jazairy, the UN Special Rapporteur on effects of sanctions on human rights, characterized comprehensive economic sanctions as a form of collective punishment of the civilian population in violation of international humanitarian law (IHL). While it is unclear the extent to which IHL may be applicable to Council decisions in any particular context, it is clear that any such Council decisions would raise serious humanitarian and human rights issues under international human law. Targeted sanctions alleviate the detrimental humanitarian effects and individualize the responsibility and accountability for the behaviour which the Security Council is seeking to alter.

A UN Member State that is not the subject of comprehensive economic sanctions, but which is seriously negatively affected by them, may raise their concerns with the Council. Article 50 of the UN Charter provides that when a State – whether a UN Member State or not – faces special economic problems in carrying out the measures, it has the right to consult the Council with regard to a solution to its problems. To date, the practice under Article 50 has not been well developed.

UNSC procedure

- The Council makes a determination under Article 39 and adopts a resolution establishing the new sanctions regime and setting out the precise measures to be imposed. The resolution may include the scope of the sanctions, any exceptions, the establishment of a Sanctions Committee and expert panel, benchmarks for lifting the measures, as well as reporting and review requirements.
- The Sanctions Committee reports to the Council on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the sanctions regime.

Further reading

Repertoire of the Practice of the Security Council: Subsidiary Organs available at: https://www.un.org/securitycouncil/content/repertoire.

Emily Cashen, "The Impact of UN Sanctions", *World Finance* (2017).

Marc Bossuyt, *The Adverse Consequences of Economic Sanctions on the Enjoyment of Human Rights prepared at the request of the UN Sub-Commission on the Promotion and Protection of Minorities* (2000).

Enrico Carisch, Loraine Rickard-Martin and Shawna R. Meister, The *Evolution of UN Sanctions: From a Tool of Warfare to a Tool of Peace, Security and Human Rights* (New York, Springer, 2017).

Joy Gordon, *The Enduring Lessons of the Iraq Sanctions* (Middle East Research and Information Project, 2020).

UN News, "Civilians suffering due to sanctions must be spared 'collective punishment' urges UN rights expert" (UN News, 2018).

OPERATIONAL TOOLS

OPERATIONAL TOOLS

Operational tools are some of the most powerful in the Security Council's tool kit. They are also the most expensive, often legally and politically complex, and logistically burdensome. The investment they require represents a meaningful and significant commitment to managing a conflict.

There is a large spectrum of operational tools. They can be deployed at any stage of a conflict, geared towards prevention, response, and/or recovery. While most will deal directly with the conflict, others may seek to address linked issues such as humanitarian access, and the use of illegal weapons, while others may seek to address issues that could cause or exacerbate conflict, such as health emergencies.

Ideally form will follow function and the design of an operation (mandate, size etc) will be predicated on its functional objectives established by reference to the needs on the ground and the political space to act. In reality, however, both function and form are often determined by what activities host States are willing to accept and what personnel and assets UN Member States are willing to contribute.

Operations can and have been designed to pursue the full range of conflict management objectives: prevention; containment and mitigation; settlement; and recovery support.

Due to the importance of regional and security arrangements, as well as the limitations on UN action, a significant portion of conflict management operational activity is undertaken by regional organizations and coalitions of States. Indeed, a UN operation is rarely the sole actor on the ground. If a peace agreement is being implemented, while the UN may provide political support, an international actor will usually be required to provide a security guarantee, and the UN won't always have the capacity to do so.

There are important differences to the way the Security Council will approach such arrangements, so this section addresses three categories:

- UN operations
- UN operational support to non-UN operations
- UN-authorized non-UN operations

UN operations are further broken down into "special political", "peacekeeping" and "other" missions. Although peace operations exist on a spectrum, and this distinction is somewhat artificial, it is made because the categories currently fall under different UN budgets. In addition, there are different legal bases for those missions that have military components mandated to use force and those that do not, which flows through to mandating and management practices.

This section of the *Handbook* provides a comprehensive, although not exhaustive, overview of the range of operational tools that may be employed by the Council. They are not necessarily stand-alone types of mission, but rather a series of tools many of which can be used independently or in combination to achieve particular operational objectives.

OPERATIONAL TOOLS: PEACEBUILDING STRATEGIES

27. PEACEBUILDING STRATEGIES

Summary	The Security Council may request the development of a comprehensive peacebuilding strategy in respect of a potential or active conflict or in a post-conflict setting. A comprehensive peacebuilding strategy is a plan that seeks to harness and focus the collective efforts (and funding) of the UN and other key actors to meet a host State's peacebuilding priorities. It is intended to help prevent the intensification and/or recurrence of conflict, and to lay the foundation for sustained peace. The strategy may cover just one country, or a region, and may also be incorporated as part of a UN peace operation mandate. The Council may consult with the Peacebuilding Commission (PBC) prior to making the request. **Examples:** UN Integrated Strategy for the Sahel (2013) and Liberia Peacebuilding Plan (2016).
Legal basis	There is no explicit or specific provision in the UN Charter empowering the Council to engage on peacebuilding issues. However, such activity is considered to fall within the general scope of Chapter VI and the implied powers of the Council necessary to carry out its core function of maintaining international peace and security. The role of the Security Council in peacebuilding was confirmed and strengthened by the creation of the PBC jointly by the General Assembly and the Security Council in 2005.
Description	The UN conception of "peacebuilding" has evolved over time. While the scope of tasks has remained largely consistent, the concept was originally clear and anchored in the post-conflict stage, but has been expanded to incorporate sustaining peace throughout all stages, reflecting a less linear idea of conflict. The basic premise is that peacebuilding can help prevent an initial lapse into conflict, the intensification of conflict, or the recurrence of conflict, and is therefore relevant in emerging conflict, active conflict, and post-conflict settings. However, this expanded concept has been criticized for diluting the meaning of "peacebuilding", removing the focus from post-conflict settings, potentially "securitizing" development, and in the case of emerging conflict, potentially being used to interfere in a country's internal affairs.

Comprehensive peacebuilding strategies are plans that harness and coordinate the collective efforts of the UN and other key actors to meet the host State's peacebuilding priorities. These usually focus on establishing security, building confidence in a political process, delivering initial peace dividends and expanding core national capacity. These objectives are pursued through several streams of activity (A/63/881 and S/2009/304):

- **Support to basic safety and security:** Including mine action, protection of civilians, disarmament, demobilization and reintegration (DDR), strengthening the rule of law, and security sector reform (SSR).

- **Support to political processes:** Including electoral processes, promoting inclusive dialogue and reconciliation, and developing conflict-management capacity at national and subnational levels.

- **Support to the provision of basic services:** Including water and sanitation, health, and primary education, and support to the safe and sustainable return and reintegration of internally displaced persons and refugees.

- **Support to restoring core government functions:** Including basic public administration and finance at national and subnational levels.

- **Support to economic revitalization:** Including employment generation and livelihoods (in agriculture and public works) particularly for youth and demobilized former combatants, as well as rehabilitation of basic infrastructure.

The Council can and has requested the development of comprehensive peacebuilding strategies both during active conflict (Sahel, 2013) and in post-conflict settings (Liberia, 2018).

Because of the large number of national and international actors involved in peacebuilding, having a common strategy has been identified by the UN Peacebuilding Support Office (PBSO) as one of the essential features of successful peacebuilding, along with national ownership and national capacity development.

In 2007, the Secretary-General's Policy Committee stressed that "[p]eacebuilding strategies must be coherent and tailored to the specific needs of the country concerned, based on national ownership, and should comprise a carefully prioritized, sequenced, and therefore relatively narrow set of activities aimed at achieving [the identified] objectives".

The Security Council may call upon the Secretary-General to develop peacebuilding strategies for countries or regions. The Council may also

directly incorporate such strategies into the mandates of peace operations, regional offices and Special Envoys.

The development of a comprehensive peacebuilding strategy is led by senior UN officials working closely with the PBC (see Tool 13 "Peacebuilding Commission"); UN actors in the country/region; national/regional actors; international financial institutions; and major donors. Once agreed, the strategy is adopted by the UN and ideally endorsed by the Security Council. The strategy may be informed by other plans such as a Strategic Framework for Peacebuilding, which may have been agreed between the Government and the PBC, or a Peacebuilding Priority Plan (PPP), which may have been agreed between the Government and the broader UN. All of these plans will inform and be informed by the UN Development Assistance Framework (UNDAF) and, if a UN peace operation is deployed, the UN mission concept and/or UN Integrated Strategic Framework (ISF).

Implementation of a comprehensive peacebuilding strategy is undertaken by a multitude of actors and facilitated/supported by existing UN presences, such as a peace operation, Country Team, resident agencies, funds and programmes, or a regional political office. However, additional UN capacity may be needed. In the case of the UN Integrated Strategy for the Sahel, the Council called upon the PBC to support the UN Office for West Africa and the Sahel (UNOWAS) in implementing the strategy.

Just as there is a multitude of UN actors involved in peacebuilding, so the implementation of a UN strategy will be supported through multiple avenues. Within the Department of Political and Peacebuilding Affairs (DPPA) lies the PBSO which supports the PBC and the Peacebuilding Fund (PBF) and provides strategic advice to the Secretary-General to strengthen peacebuilding efforts. The DPPA and the Department of Peace Operations will provide important implementation support roles, as will the various UN agencies funds and programmes. The senior-most UN official in the field responsible for implementation of the strategy – be it the SRSG of a mission, the head of a Country Team or regional office, or a specially appointed official – may monitor strategy implementation and report regularly to the Council.

The funding for a comprehensive peacebuilding strategy will mostly flow through individual implementing actors. Many peacebuilding activities undertaken by peacekeeping missions are funded through the mission budget. Unfortunately, when a mission departs, the funding for carrying out peacebuilding activities through the mission also disappears. Peacebuilding activities carried out by UN agencies, funds and programmes are generally funded through their programmatic funding. Financing for peacebuilding activities is also sometimes provided by

the PBF, however the PBF relies on voluntary contributions from a small donor base. Other sources of funding include the UN Central Emergency Response Fund (CERF), the World Bank, and regional bodies such as the European Commission.

History

In his 1992 report, *An Agenda for Peace*, UN Secretary-General Boutros-Ghali articulated a chronological sequence of peace efforts, starting with "preventive diplomacy", moving through "peacemaking", "peacekeeping", to "post-conflict peacebuilding". The report described peacebuilding as action to solidify peace and avoid relapse into conflict.

In 2000, the Brahimi Report defined peacebuilding as "activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war". It identified peacebuilding as one of the principal activities of UN peace operations and placed much emphasis on the need for formulating coherent and coordinated peacebuilding strategies.

From the late 1990s, peacebuilding tasks were incorporated as central elements in the mandates of most peacekeeping missions (for example, in Sierra Leone (UNAMSIL), the Democratic Republic of the Congo (MONUC), Sudan (UNMIS), and Côte d'Ivoire (UNOCI)) and were the core function of the transitional administrations in East Timor (UNTAET) and Kosovo (UNMIK). Peacebuilding tasks were also mandated in several political missions (for example, in Guinea-Bissau UNOGBIS, UNIOGBIS and Burundi BINUB, BNUB), often deployed to carry on with peacebuilding following the departure of a peacekeeping mission (for example, in Liberia (UNOL to follow UNOMIL), Central African Republic (BONUCA to follow MINURCA) and Sierra Leone (UNIOSIL to follow UNAMSIL)). A similar dynamic continues to exist, however peacekeeping missions currently tend to be more focused on core tasks such as the protection of civilians, support to humanitarian assistance, and DDR (for example, MONUSCO in the Democratic Republic of the Congo and UNMISS in South Sudan).

In 2006, the UN "peacebuilding architecture" was established comprising the PBC, the PBSO and the PBF (see Tool 13 "Peacebuilding Commission"). Part of the reasoning for the establishment of the PBC was to promote sustained international attention on a situation, which often waned (along with the accompanying financial support) following the withdrawal of a peacekeeping operation or the attainment of key benchmarks, such as elections.

In 2015, as part of the tenth anniversary review of the peacebuilding architecture, the Secretary-General's Advisory Group of Experts in their

report *The Challenge of Sustaining Peace* advocated the expansion of the peacebuilding concept to also include efforts to sustain peace, before and during conflict. This was adopted by the General Assembly and Security Council which recognized "sustaining peace" to be broadly understood "as a goal and a process to build a common vision of a society, ensuring that the needs of all segments of the population are taken into account, which encompasses activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development". They went on to emphasize that "sustaining peace is a shared task and responsibility that needs to be fulfilled by the government and all other national stakeholders, and should flow through all three pillars of the United Nations' engagement at all stages of conflict, and in all its dimensions, and needs sustained international attention and assistance" (S/RES/2282 and A/RES/70/262). This expanded concept has, however, been subject to criticism.

The Security Council has directly called for the development of comprehensive UN peacebuilding strategies on two occasions. The first was in 2012, in connection with the crisis in Mali and concerns about the cross-border threats causing destabilization across the region. In that case, the Security Council requested the Secretary-General to "develop and implement, in consultation with regional organizations, a United Nations integrated strategy for the Sahel region encompassing security, governance, development, human rights and humanitarian issues, including through the involvement of the United Nations Office for West Africa ..." S/RES/2056 (2012). The strategy was presented by the Secretary-General (S/2013/354 (2013)) and endorsed by the Council in June 2013. The Secretary-General also appointed a Special Envoy to lead the implementation of the strategy. In order to ensure broad support, the Secretary-General convened a high-level meeting on the Sahel in the margins of the sixty-eighth UN General Assembly in September 2013. During the meeting, all countries of the region, as well as donor countries and institutions, expressed their support for the strategy. The UN Secretary-General, the Chairperson of the African Union, the President of the World Bank, the President of the African Development Bank, and the European Commissioner for International Cooperation and Development undertook a joint visit to the region in November 2013.

The second occasion was a national plan, requested by the Council in 2016, in connection with the withdrawal of the UN peacekeeping mission from Liberia. In that case, the Council requested the Secretary-General to develop a "peacebuilding plan" "to direct the role of the United Nations system and other relevant partners, including multilateral and bilateral actors, in supporting Liberia's transition" (S/RES/2333 (2016)).

Following an intense consultation process led by UNMIL, working closely with the Government of Liberia, international partners and civil society organizations, "Sustaining peace and securing development: Liberia peacebuilding plan" was presented by the Secretary-General to the Security Council (S/2017/282 (2017)). The plan was welcomed by the Council (S/PRST/2017/11 (2017)).

Conditions for success

Peacebuilding includes a multitude of actors and activities both at the national and international level, each with their own focus and funding. Having an overarching strategy that guides commonality of effort and funding towards agreed priorities and objectives helps promote efficiency and effectiveness.

The UN has a high level of trust, legitimacy and convening power, uniquely situating it to lead the development of comprehensive peacebuilding strategies. Having the strategy requested and endorsed by the Security Council leverages the participation of the UN and other actors, and encourages national and international "buy-in". It also raises the profile of the initiative, as was seen with the high-level UN meeting that accompanied the adoption of the UN Integrated Strategy for the Sahel.

The PBSO emphasizes the importance of an agreed common strategy for effective peacebuilding, and highlights several key features:

- **National ownership:** The strategy needs to be developed through a process involving many and diverse national stakeholders.
- **Clear priorities:** The strategy should articulate clear priorities against which the UN, the international community and national partners can allocate resources.
- **Assessment based:** The strategy needs to be based on a robust analysis of the situation that includes an assessment of risks of return to violence and needs of the population.

(See PBSO, "UN Peacebuilding: An Orientation", 2010.)

It is important that strategy development is inclusive, interdisciplinary and integrated. There is a need for shared adoption of, and investment in, common peacebuilding goals. Beyond national ownership, the strategy needs the involvement of major donors, international financial institutions and regional organizations, especially where transnational dynamics feed into conflict, such as in the Sahel. The role of the UN Country Team and of senior officials on the ground, including any SRSGs and the Resident Coordinator, will be very important for ensuring an informed, credible

and integrated approach.

The assessment on which the strategy is based needs to include analysis not only of the security situation and needs of the population, but also an assessment of existing national capacities – both strengths and weaknesses – and institutional needs for the country to reach a point at which external assistance is no longer needed. The assessment should be ongoing, so that the strategy can be adjusted to address the prevailing situation, as some peacebuilding activities can be undertaken in volatile situations (DDR, SSR), while others require solid trust among multiple actors and are best suited to post-conflict settings (development and reconciliation).

It is helpful for the strategy to have an end-state or "exit strategy", so that all parties are clear that the peacebuilding responsibilities taken on by the UN will over time be handed over to national actors.

The Council can tend to focus on States. When conceptualizing a peacebuilding strategy, it is important to look beyond State borders and below the State level.

Risks/ benefits

Benefits

- Effective peacebuilding can avert a country slipping back into violence, ensure peace dividends, promote reconciliation, and set the foundation for a stable and prosperous future.

- A comprehensive peacebuilding strategy can harness the efforts and funding of the multitude of actors towards commonly agreed national priorities. The Security Council requesting such a strategy provides impetus and authority for its development, and leverages the involvement of the UN system, and national and international actors. Endorsement of the strategy by the Security Council raises the profile of the country situation and cements the strategy as the primary guide for common effort.

- An effectively implemented peacebuilding strategy incorporated as part of a peacekeeping mission mandate may contribute to resolution of the conflict and shorten the time a mission needs to be deployed.

- Security Council engagement on peacebuilding can help retain the focus of the international community on post-conflict countries once a peace operation departs or key milestones are met.

- Engagement on peacebuilding can help the Council work towards the longer-term conditions required for sustainable peace, and avoid just focusing on short-term solutions.

	Risks: • The Council may become associated with an ineffective peacebuilding strategy. A strategy that favours certain groups can shift the political balances in ways that will contribute to conflict relapse rather than avoidance. And an ineffectively designed and implemented strategy can lead to resource waste. • The Council will eventually lose oversight and any level of control of the implementation of a peacebuilding strategy, particularly in the case of post-conflict situations that are removed from the Council's agenda.
Legal considerations	A Council decision to mandate or support comprehensive peacebuilding strategies may give rise to a need to coordinate and cooperate with other UN bodies and agencies, and consider criminal accountability and transitional justice issues, including reparations and reconciliation.
UNSC procedure	• The Council may request the development of a comprehensive peacebuilding strategy by way of a resolution. The Integrated Strategy for the Sahel was requested as part of a resolution dealing with the situation in Mali, and the Peacebuilding Plan for Liberia was requested as part of a resolution dealing with the drawdown of UNMIL. • The Council may wish to consult the PBC in advance of making such a request.
Further reading	Security Council Report (SCR), *Special Research Report: The Security Council and the UN Peacebuilding Commission* (SCR, 2013). Cedric de Coning, *What Peacekeeping Can Learn from Peacebuilding: The Peacebuilding Dimensions of the A4P* (International Peace Institute, 2018). UN Peacebuilding Support Office, *UN Peacebuilding: An Orientation* (UNPBSO, 2010). Stephen Browne and Thomas G. Weiss, *Peacebuilding Challenges for the UN Development System* (Future UN Development System, 2015). United Nations and World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (World Bank, 2018).

UN OPERATIONS

A spectrum of operations

UN operations function at all stages of the conflict cycle. They employ a range of activities, some of which operate at every stage (for example, political process management) and some of which address just one aspect (such as neutralizing spoilers through the targeted offensive use of force). Moreover, there is a high degree of overlap among tools used by categories of operations. For example, while special political missions and multidimensional peacekeeping operations are sized, structured and paid for very differently, some of the functions they perform can be quite similar.

It is important not to get bogged down in categories of operations and instead to understand how the tools can be assembled and deployed flexibly. A central message of the cluster of reports that was adopted in 2015 (the "HIPPO Report", the Advisory Group of Experts on the Peacebuilding Architecture, and the Global Study on the implementation of resolution 1325) was to get away from supply-driven interventions in mandating and designing missions. They call for a more flexible, fluid, demand-driven approach that is context-appropriate and harnessed to an overarching political strategy. These reports critique the tendency to fall back on peace operation templates, and to allow budgets and bureaucratic structures to drive the planning process. Instead, the focus should be on what the circumstances on the ground require and what the political circumstances will allow.

UN operations may be mandated with a range of tasks (see table below). Some operations will have narrow, focused mandates, while others have expansive, comprehensive ones. Operations exist on a continuous spectrum and may be designed by mixing and matching tasks, as appropriate to the conflict management objectives. In addition, operations should be dynamic and evolve over time along with the conflict. Their configuration and mandate will vary during different phases of the conflict cycle: from preventing the escalation of violence to stopping it once it has begun, and from negotiating a peace agreement to implementing its terms and rebuilding a society post-conflict. Hopefully conditions improve over time, but sometimes they degrade. Whether the situation moves in a positive or negative direction, there must be a regular process of assessment and reassessment to ascertain whether and how the conditions are changing. As they change, new tools may have to be used and old ones withdrawn. Such changes take time, especially where heavy military components, installations and assets are involved, but rigid bureaucratic structures and "one size fits all thinking" can't be allowed to stand in the way of needed adaptation.

Within each operational tool, a variety of tasks and activities are undertaken, listed in the table below. "Tasks" are the broad functions of a mission, often included as elements of a

mission mandate, while "activities" are the things mission components do to fulfil those functions.

The table is not exhaustive, but contains common or indicative activities in an effort to give operational meaning to mandate language, and assist understanding of what certain terms translate to in practice in the field.

UN PEACE OPERATIONS TASKS AND ACTIVITIES

Tasks	Activities
Early warning	• Information collection: Open source research, discussions with a range of people, ground and air observation/surveillance, acquisition of satellite imagery • Information analysis: Collation, analysis and assessment of all sources of information, identification of emerging situations of concern and potential sources of violence • Information reporting: Providing analysis and assessment to decision makers in an effort to prompt preventive action or early response
Political process management	• Providing political advice to governments • Engaging with political parties and parliamentarians • Mediating and providing mediation support and advice • Supporting national dialogue • Promoting political inclusion by reaching out to community leaders, women's groups, marginalized groups and civil society • Supporting local reconciliation efforts
Human rights monitoring	• Gathering and analysing information • Receiving complaints • Interviewing victims and collecting testimony • Observing trials • Visiting prisons • Monitoring conditions in refugee and IDP camps • Informing of rights • Reporting on abuses
Ceasefire monitoring	• Monitoring lines of disengagement or withdrawal • Monitoring demilitarized zones • Monitoring areas of confinement • Verifying disarmament, destruction of ordnance, or mutually agreed downsizing • Reporting breaches or violations

Monitoring and supporting force withdrawal	• Monitoring withdrawal routes • Manning checkpoints along withdrawal routes • Border patrols, border checkpoints • Establishing and monitoring a demilitarized zone • Reporting breaches or violations
Monitoring non-UN peace operations	• Liaising between operations • Monitoring identified aspects of operations • Reporting on identified aspects of operations
Contributing to the provision of a safe and secure environment	• Engaging in dialogue and building trust with the local population and armed groups • Ground, air, riverine and sea observation/surveillance • Maintaining a visible presence in areas of potential threat (patrolling) • Manning checkpoints • Conducting cordon and search operations of bases of armed groups • Removing illegal barricades and checkpoints on civilian roads • Establishing and monitoring demilitarized zones • Establishing safe areas and maintaining security within them • Separating combatants and non-combatants • Using force to combat an attack on civilians
Protecting civilians	• Establishing bases in areas of civilian insecurity • Maintaining a visible presence in areas of potential threat, including between civilians and perpetrators • Using force to combat attacks on civilians • Facilitating evacuation, safe passage and refuge of civilians • Establishing safe areas and maintaining security within them • Enforcing curfews • Demining • Identifying, demilitarizing and patrolling humanitarian aid supply routes • Escorting humanitarian aid convoys and protecting relief workers • Monitoring displacement camps • Security sector reform and capacity-building • Justice sector reform and capacity-building • Monitoring compliance with humanitarian and human rights law • Promoting local negotiation/dialogue
Offensive operations against specific targets	• Conducting intelligence-gathering and surveillance of targets • Conducting cordon and search operations against targets • Forcible disarmament of belligerents • Using force to disrupt targets' activities, or seize terrain or resources • Using force to defeat and destroy targets

Providing political support to a non-UN peace operation	• Liaison between operations • Advising on all aspects of peacebuilding
Providing operational support to a non-UN peace operation	• Liaison between operations • Information sharing between operations • Providing logistical support (rations, fuel, medical, water, facilities and engineering, communications and IT, vehicles and equipment, aviation services, troop rotations)
Supporting humanitarian relief	• Identifying, demilitarizing and patrolling humanitarian aid supply routes • Escorting humanitarian aid convoys and protecting relief workers • Negotiating or demanding humanitarian access, across borders and within States • Coordinating national and international actors
Supporting refugee and IDP return	• Creating conditions for safe return • Ensuring the return is voluntary • Facilitating reintegration into communities
Disarmament, demobilization and reintegration (DDR)	• Disarmament: Collecting, documenting, controlling and disposing of small arms, ammunition, explosives and light and heavy weapons from combatants and the civilian population • Demobilization: Supporting the discharge of combatants from armed forces and armed groups and their "reinsertion" into the civilian community • Reintegration: Supporting programmes to assist ex-combatants acquire civilian status and gain sustainable employment and income
Security sector reform (SSR)	• Developing policy and guidance • Building capacity of military forces • Building capacity of police forces • Building capacity of border guards • Joint patrolling and operations • Advising on security sector governance
Justice sector reform	• Strengthening judicial independence • Mentoring and training legal professionals • Supporting due process rights • Ensuring equal access to judicial institutions • Supporting transitional justice mechanisms • Supporting prison reform and capacity-building

Support to legislative and constitutional reform	• Supporting the design of the legislative or constitutional reform process • Supporting the establishment of legislative/constitution-making bodies • Supporting the holding of consultations on, negotiating, drafting and adoption of, new/amended legislation or a constitution • Supporting the development of implementation strategy
Executive functions	• Adopting legislation and regulations • Conducting civil administration • Delivering basic services • Conducting elections • Arresting criminals • Conducting trials
Electoral assistance and reform	• Providing technical assistance to national election authorities • Conducting electoral advisory and needs assessments • Monitoring election campaigns • Monitoring voting • Verifying whether elections are free and fair • Assisting with building independent electoral commissions • Advising on electoral laws
Supporting economic reconstruction	• Working with national authorities to develop reconstruction strategies • Coordinating external donors • Helping to restore basic government services for health and education • Helping to develop public financing mechanisms • Empowering women • Eliminating weapons of mass destruction (WMD) • Gathering information on WMD programmes • Inspecting WMD-related facilities • Monitoring WMD and related materiel embargoes • Destroying WMD • Long-term monitoring of dual use facilities

Principles of peacekeeping

The lack of a normative framework within the UN Charter specifically governing peace operations has provided the scope for their dynamic development. However, it has also meant that they have suffered from a lack of clarity regarding their purpose and limits, with ongoing and fundamental disagreements among Member States about just how interventionist and robust UN peace operations should be.

The 2008 *United Nations Peacekeeping Operations: Principles and Guidelines* ("Capstone Doctrine") provides the most authoritative contemporary articulation of the principles of UN peacekeeping:

- Consent of the parties
- Impartiality
- Non-use of force except in self-defence and defence of the mandate

Each of the principles has its origin in the foundational documents for UNEF I presented by Secretary-General Hammarskjöld to the General Assembly in 1956. However, right from their inception the principles were challenged, stretched and reinterpreted to cover the increasingly complex and robust mandates of successive peace operations.

The principles are based on the idea that a UN peace operation will be deployed where there is a peace to keep, following the conclusion of a peace agreement – whether a limited ceasefire or a comprehensive settlement. However, because that is not always the case, how the principles have been interpreted and applied has evolved over the years.

Consent of the parties refers to consent of the main parties to the conflict to the deployment of the UN peace operation. The theory is that the parties commit to a political process and accept the peace operation deployed to support that process. In reality, the consent of the parties is sometimes reluctantly provided, coerced by threats or induced by promises, and on occasion withdrawn after deployment, either explicitly or implicitly. This can manifest as obstacles to the mission's deployment, or activities and attacks against peacekeepers, making it difficult for the peace operation to fulfil its mandate.

Impartiality refers to a UN peace operation implementing its mandate without favour or prejudice to any party. This should not be confused with neutrality or inactivity. A UN peace operation should be even-handed in its dealings with the parties, but not neutral in the execution of its mandate. It should focus on the behaviour of the parties in relation to the mandate, not on who they are, and resist actions by any party that undermine the peace process or international norms and principles.

Non-use of force except in self-defence and defence of the mandate refers to the authority of a peacekeeping mission to use force at the tactical level both for self-defence and as authorized by the Council to implement its mandate. This is the principle that expanded most dramatically over time from the original conception of UN peacekeepers as unarmed observers, to interpositional ceasefire monitors, to well-equipped forces deployed inter alia to maintain a safe and secure environment and protect civilians. There is now an expectation, if not obligation, for UN peacekeepers to use all necessary means, up to and

including force, to protect civilians under threat of violence.

The Security Council has never explicitly acknowledged the principles of peacekeeping, nor any normative limits (beyond the UN Charter) on its powers to deploy peace operations into particular situations or mandate certain activities. It has continued with its progressive mandating practices, but has appeared to pay some heed to the principles or at least their underlying justification.

Use of force

Pursuant to its enforcement powers under Chapter VII of the UN Charter, the Council can mandate the use of military force by UN and non-UN forces. In practice, UN forces are unlikely to have the resources, capability and political support of contributing nations to conduct an enforcement operation, but are better suited to operating with the consent of the parties. By contrast, enforcement operations are better conducted by a coalition of States or a regional organization, with actively engaged interests, high military capability, and a high level of political support for the campaign.

UN peace operations do use force, but at the tactical or operational, rather than the strategic, level. This essentially means that they do not "fight their way in". Consent is given to their presence and their mandate, even if force is necessary to implement aspects of that mandate, including against those providing the consent. By contrast, peace enforcement operations may not have the consent of any or all of the parties to the conflict and so use force at the strategic as well as the tactical and operational level.

The Capstone Doctrine notes that the use of force by a UN peace operation will have political implications and potential security repercussions for all UN entities in the country, which needs to be kept in mind. It emphasizes that a UN peacekeeping operation should use force as a measure of last resort, and exercise restraint in doing so. It should be calibrated in a precise, proportional and appropriate manner with the minimum force necessary used to achieve the desired effect. In reality, UN peacekeeping has struggled with contributing States' reluctance to use force, rather than an overabundance of force being used.

The purpose of the use of force by a UN peacekeeping mission is usually to influence and deter spoilers, to assist national authorities maintain law and order, to protect civilians, and to defend UN personnel and assets, not to militarily defeat a party. In this sense, the UN does not enter the fight. However, where one or several parties continually target civilians whom the UN is committed to protect, it can seem this way. There have also been instances where UN peacekeeping forces were specifically mandated to "neutralize" a particular armed group, not because of any activity that armed personnel may be undertaking at the time of engagement, but because of their membership of that specific group, which was known to have targeted civilians and undermined security in the past.

A peacekeeping operation with force capability and a robust use of force mandate – such as the mandate to neutralize particular armed groups – may become a party to the conflict within the meaning of international humanitarian law (IHL). This occurred in respect of the MONUSCO Force Intervention Brigade (FIB) in the Democratic Republic of the Congo.

In such cases, members of the military component of the relevant force, and potentially the military members of the entire peacekeeping operation, will lose their protected status and become legitimate military targets under IHL.

However, UN military peacekeepers being legitimate military targets under IHL will be in tension with the criminalization of all attacks on UN peacekeepers under Article 8(2)(b)(iii) of the Rome Statute, and also the 1994 UN Convention on the Safety of UN Peacekeepers (that is, if due to application in respect of the relevant State Parties, or as simply deemed applicable by the Security Council acting under Chapter VII). The Council may also impose sanctions on those involved in attacks against UN peacekeepers or other UN personnel (as it did for MONUSCO).

A UN peacekeeping mission will have Rules of Engagement for the military, and Directives on the Use of Force for the police component, which clarify how and when force may be used and what authorizations are necessary. The manner in which UN peacekeepers use force is regulated not only by their mandate, but also by applicable IHL and international human rights law (IHRL). *The Secretary-General's Bulletin: Observance by United Nations Forces of International Humanitarian Law* (ST/SGB/1999/13) provides the UN Secretariat position on the application of IHL to UN peacekeeping operations. There is no corresponding bulletin on the application of IHRL to UN peacekeeping operations.

The extent to which a UN peacekeeping operation is lawfully able to use force in "self-defence" is unclear. This is not spelled out in Security Council mandates, status of forces agreements or other instruments, nor positively expressed in any other way. It is typically implied from the mission mandate and the host State's consent. "Simple" self-defence – the right to use force to protect UN peacekeepers and property – is relatively uncontroversial. Chapter VII operations will usually have an express authority to use force that goes beyond simple self-defence. While a peacekeeping operation is entitled to use force "in defence of the mandate", it has not been agreed what precisely that means when translated into the Rules of Engagement and Directive on Use of Force.

Vulnerable groups

Civilians have borne an increased burden of modern warfare, both through direct targeting and displacement. Armed conflict has had a particularly horrendous impact on women and children, particularly through the use of sexual and gender-based violence and the use of child soldiers. In response, since the 1990s the Security Council has placed vulnerable groups at the centre of UN protection efforts. In addition, the Secretariat has developed a policy architecture to support UN peace operations to effectively implement protection of civilians, child protection, protection of women, and sexual and gender-based violence reduction mandates.

While the primary responsibility to protect civilians lies with the State, almost all UN peace operations now include a mandate to protect civilians. Peacekeepers seek to support governments execute their protection responsibilities, they also seek to work to prevent conflict from developing, and when necessary to provide direct protection to civilians under attack. The mandate is implemented at several levels, including through political

engagement; physical protection; and establishing a protective environment through institution- and capacity-building.

However, implementation of civilian protection mandates has proved challenging for the UN. There are many reasons, including:

- Limited capacity to cover large populations over vast areas.
- Limited mobility assets.
- Limited ability to operate in high threat environments.
- Limited willingness of sending States to put their troops in harm's way.
- Obstacles to effectiveness posed by the host State.

In addition to the inclusion of the general protection of civilian measures, UN peace operations mandates often contain specific measures aimed at protecting women and children, including from recruitment and use as child soldiers, and from sexual and gender-based violence. It has become common practice for missions to include staff with expertise on these issues who provide advice on how they can be incorporated into, and addressed through, the mission's operations.

Legal basis

Special political and peacebuilding missions

The UN Secretariat divides special political missions into clusters: (i) special envoys and regional offices; (ii) sanctions monitoring teams and panels; and (iii) field-based, mainly civilian, presences led by a Special Representative of the Secretary-General (SRSG) that perform political functions. The first cluster is described in Diplomatic Tools (see Tool 9 "Mediators and special envoys" and Tool 10 "Regional offices and regional envoys"); the second cluster in Legal Tools (see the introduction to "Sanctions mechanisms"). This section of the *Handbook* focuses on the third cluster: political missions that resemble peacekeeping missions in terms of the tasks and activities they undertake (with the caveat that they do not include uniformed military or police personnel) and therefore are best understood as an operational tool that falls within the spectrum of other tools described in this section of the *Handbook*.

The legal authority for the Security Council to deploy this type of special political mission (SPM) derives from Chapter VI and Article 29 of the UN Charter. Although SPMs are not specifically mentioned, Chapter VI confers upon the Council broad powers to take actions for the pacific settlement of disputes, which is understood to include the deployment of such missions. This is reflective of the fact that SPMs are assistance missions. They do not involve coercive action and the use of force, although armed guard units may be mandated and deployed to protect UN personnel, installations and assets. Article 29 provides that the Council may establish such subsidiary organs (which SPMs are) "as it deems necessary for the performance of its functions".

SPMs are always deployed with the consent of the host State. While the consent of other parties to the conflict is not legally required, it is helpful to enable success. The relationship with the host State's Government, and the rights and obligations of the SPM, are usually

regulated by a Status of Mission Agreement (SOMA) concluded between the host State and UN Secretariat.

A few SPMs have been authorized by the General Assembly, but because many of the SPMs have mandates that involve security functions, this is rare. At least one SPM was established on the Secretary-General's own initiative, at the request of the parties (UNOWAS, the Cameroon–Nigeria Mixed Commission).

Peacekeeping operations

The legal authority for the Security Council to deploy a peacekeeping operation derives from Chapters VI, VII and Article 29 of the UN Charter. Although peacekeeping operations are not specifically mentioned, Chapter VI confers upon the Council broad powers to take actions for the pacific settlement of disputes, and Chapter VII confers upon the Council broad powers to take measures, including the use of force, to maintain and restore international peace and security following the determination of a threat. Like special political missions, peacekeeping operations are also subsidiary bodies, which the Council may establish under Article 29.

The International Court of Justice (ICJ) confirmed the authority of the Security Council to establish peacekeeping operations in the *Certain Expenses* advisory opinion of 1962. The general consensus is that the legal basis for UN peacekeeping missions derives from the operation of Chapters VI and VII together – at the interstices of the two. Moreover, the ICJ's *Certain Expenses* advisory opinion affirmed that not only the Security Council but also the General Assembly could establish firmly consent-based and non-forceful peacekeeping missions, as it did by creating the UN Emergency Force in 1956 (UNEF I) after vetoes by the United Kingdom and France in the Council. However, this power has rarely been used by the General Assembly.

For both practical and political reasons, UN peacekeeping missions do not use force for the kind of enforcement interventions envisaged by the UN Charter. They are not deployed against the consent of the host State. Practically, they would not have the ability to do so, and politically they are a different type of tool. When a non-consensual intervention, closer to that envisaged in the Charter, is necessary, it is undertaken by highly capable and well-equipped external forces (coalitions or regional arrangements), with specific Security Council authorization under Chapter VII. Although peacekeeping operations may use robust force to implement specific elements of their mandate, such as to protect civilians, and although that force may be used against any actors, including governments or government-backed groups, the operation is in place with the strategic-level consent of the Government. In this way force is used at the tactical and operational, but not the strategic, level.

Nevertheless, a peacekeeping operation mandate to use force beyond self-defence is founded in the general powers conferred upon the Council in Chapter VII of the UN Charter. Resolutions authorizing the use of force either specifically mention that the Council is "acting under Chapter VII" or use the equivalent "decides" and "all necessary means" language. This can be done with reference to the whole mission mandate or focused on particular tasks only, such as the protection of civilians.

While not legally required for an operation with a Chapter VII mandate, UN peacekeeping operations are typically deployed with the consent of the host State, although this may be reluctant or essentially assumed at the time of the Council's decision to establish an operation. However, the consent will be formally apparent at the point of conclusion of the Status of Forces Agreement (SOFA) between the host State and the Organization. While the consent of other State or non-State parties to the conflict is not legally required, it is helpful to enable success. The relationship with the host State Government, and the rights and obligations of the peacekeeping operation, are usually regulated by a SOFA. The UN Model SOFA is often deemed by the Security Council when acting under Chapter VII to be provisionally applied until a SOFA specific to the peacekeeping is concluded. The UN Model SOFA does not contain all the legal provisions, and therefore the same legal protections, common to contemporary operation-specific SOFAs.

In exceptional circumstances, a peacekeeping operation can be authorized by the General Assembly, exercising its residual responsibility for the maintenance of peace and security, when the Security Council fails to act. In this context, the General Assembly has twice invoked the Uniting for Peace resolution to authorize UN peacekeeping operations (UNEF I in 1956, and again to take over control of ONUC in 1960). However, these operations are unable to be authorized to use force beyond self-defence (although the concept of "self-defence" has been interpreted very broadly in the peacekeeping context), due to the General Assembly's inability under the UN Charter to take binding decisions in matters of peace and security. In the case of ONUC, the Security Council gave the original mandate to use force.

UN international transitional administrations (ITAs) with full governing powers are in a unique legal position because the sovereign status of the territory they govern is either contested (as was the case in Kosovo) or newly independent and lacking a host government able to grant consent (East Timor). Accordingly, they are established under Chapter VII of the UN Charter. For operations with lesser executive powers, a Chapter VII mandate is not technically required if the host Government consents to handing over those executive powers. However, because the capacity of the host Government to exercise sovereign authority in those situations is either severely compromised or underdeveloped, Chapter VII is usually invoked. International human rights law applies to ITAs given the degree of control they exercise over the territory. They are responsible under international law for wrongs they commit.

Accountability of operations and missions

The accountability of operations and missions, whether UN-led or UN-endorsed, is a large and complicated topic, which has a bearing on Council decision-making. A few key legal points are noteworthy in this regard.

The Organization has international legal personality and, therefore, can assume rights and obligations under international law, albeit not in the same manner as States do (see the ICJ's *Reparations for Injuries* advisory opinion). Guidance on the rules concerning the responsibility of the Organization, and attribution of its conduct, can be found in the Articles on the Responsibility of International Organizations for Internationally Wrongful Acts (2011) adopted by the UN International Law Commission.

The Organization has been accused in the conduct of its operations and missions of breaches of legal obligations, for example, relating to IHRL and IHL, and of responsibility for causing an epidemic. Such issues have led to legal claims being filed against the Organization in national jurisdictions, for which the UN has so far typically and successfully asserted its immunities based on the Convention on the Privileges and Immunities of the United Nations (1946). However, it may provide compensation out of court when its peacekeeping or other operations cause harm.

While the Council may be responsible for mandating a UN peacekeeping operation or special political mission, it does not have the competence to waive the immunities of the Organization or individual members of the operation/mission. Under the 1946 Convention, the Secretary-General has the responsibility and duty to decide upon the waiver of immunity of UN personnel. Troop and police contributing countries generally retain the exclusive responsibility for criminal jurisdiction over their own forces, in accordance with their national law. Both the standards to be observed by UN peacekeepers part of a national contingent, and the national-led accountability processes for those who commit breaches, are set out in the *Revised draft model memorandum of understanding between the United Nations and [participating State] contributing resources to [the United Nations Peacekeeping Operation]* of 2006 (A/61/494).

The Council has provided direction in resolution 2272 (2016) to the Secretary-General on sexual exploitation and abuse in peace operations. This included a request that the Secretary-General repatriate offending units or even all the forces of a TCC or PCC. In addition, the Council has also requested that the Secretary-General provide support to non-UN forces and joint operations in accordance with the Human Rights Due Diligence Policy (for example, more recently in S/RES/2614 (2021) and S/RES/2502 (2019)).

Mandating, design, planning, support and funding of UN peace operations

As an armed conflict develops, the UN will often be involved in consultations with key actors to identify possible international response options. These discussions will likely include the potential host Government and parties to the conflict, regional organization(s), other key Member States, and potential troop and police contributors.

If deployment of a peacekeeping operation is being considered, the Secretary-General may undertake a strategic assessment of the situation and a technical field assessment, following which a report would be issued to the Council containing recommendations for UN engagement, including financial estimates. The recommended options might contain a range of measures including a UN special political or peacekeeping mission. Upon deciding to deploy a UN special political or peacekeeping mission, the Council would then adopt a resolution setting out the mission's mandate, including its composition and key functions.

In the case of SPMs, the consultation and decision-making process may be less structured. The mandate of an SPM is often based on an exchange of letters between the Secretary-General and the Security Council. The Security Council's approval may be in the form of a resolution or Presidential Statement; occasionally, the Council President simply writes back

to the Secretary-General "taking note" of his/her decision to establish a SPM. However, if the SPM has a military guard unit to provide security for mission personnel, Security Council authorization in the form of a resolution is required.

Once the decision to establish a mission has been made, the Secretariat will commence more detailed mission design, planning and logistics processes. A mission concept will be developed and, in missions with uniformed military and police personnel, so too will the Concept of Operations (ConOps) and Rules of Engagement (RoE). The Head of Mission, usually an SRSG, will be appointed along with other senior posts, which may include the Force Commander, Police Commissioner, and senior civilian staff. The Department of Political and Peacebuilding Affairs (DPPA), the Department of Peace Operations (DPO) and the Department of Operational Support (DOS) will commence mission planning, including generating military and police forces from Member States through the Peacekeeping Capability Readiness System, directly recruiting civilian personnel, and contracting for critical assets and installations. An advance team will often be deployed to establish mission headquarters, to be followed by the build-up of all components.

The Head of Mission will be responsible for day-to-day mission management and mandate implementation, and will be supported from Headquarters by DPPA, DPO and DOS. He/she will report to the Secretary-General who will report regularly to the Council on the mission's mandate implementation, if there are significant changes in the situation, and upon request. The Council will maintain an ongoing oversight role and renew and adjust the mission mandate as required by the circumstances and until the mission is completed or closed.

Special political missions are financed through the UN regular budget, which is funded by assessed contributions. In the early start-up phase, before an SPM gets a mandate from the Security Council or General Assembly, it may be financed out of extra-budgetary (voluntary) contributions or the Secretary-General's "unforeseen expenditures" fund. DPPA may also apply to the Peacebuilding Fund for resources.

UN peacekeeping missions are financed through the peacekeeping budget, which is funded by contributions determined by the special peacekeeping scale of assessment, which requires higher contributions from the P5 due to their central role in the maintenance of international peace and security. They also have access to the peacekeeping reserve fund to support start-up and reconfiguration.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

28. SPECIAL POLITICAL AND PEACEBUILDING MISSIONS: COMPREHENSIVE MANDATES

Summary

A special political mission (SPM) is a field-based, mainly civilian, presence led by a Special Representative of the Secretary-General (SRSG) that performs political and peacebuilding functions. Some of these missions have comprehensive mandates that include not only good offices, mediation and political process management, but also monitoring and peacebuilding functions in support of human rights, participatory governance, the rule of law, disarmament, and security sector reform. They range in size from about 100 people to over 1200 personnel. SPMs with more limited mandates are discussed as separate tools in this section.

Examples: UN Assistance Mission in Afghanistan (UNAMA); UN Assistance Mission in Iraq (UNAMI); UN Assistance Mission in Somalia (UNSOM); UN Support Mission in Libya (UNSMIL); UN Integrated Transition Assistance Mission in Sudan (UNITAMS); UN Integrated Office in Sierra Leone (UNIOSIL); UN Integrated Peacebuilding Office in Sierra Leone (UNIPSIL); UN Peacebuilding Support Office in the Central African Republic (BONUCA); UN Integrated Peacebuilding Office in the Central African Republic (BINUCA); UN Integrated Office in Haiti (BINUH); UN Peacebuilding Support Office in Guinea-Bissau (UNOGBIS); UN Office in Angola (UNOA); UN Peacebuilding Support Office in Tajikistan (UNTOP); UN Office in Liberia (UNOL); UN Integrated Office in Burundi (BINUB); UN Mission in Côte d'Ivoire (MINUCI); UN Verification Mission in Colombia (UNVM).

Legal basis

UN special political and peacebuilding missions are typically established under Chapter VI of the UN Charter. For further information on the legal basis of SPMs generally, see the introduction to UN operations.

Description

While SPMs vary widely in their functional roles and characteristics, they can be broadly defined as UN civilian missions that are deployed for a limited duration to support Member States through good offices, conflict prevention, peacemaking and peacebuilding (Report of the Secretary-General, *United Nations Political Missions*, submitted pursuant to General Assembly resolution 67/123, 2013).

They are funded out of the regular budget of the UN, as opposed to the peacekeeping budget. As a budgetary category, SPMs encompass three clusters: Special Envoys and regional offices (see Tool 9 "Mediators and Special Envoys" and Tool 10 "Regional offices and regional envoys"); sanctions monitoring teams and panels (see "Sanctions mechanisms"); and field-based, mainly civilian, presences led by an SRSG that perform political functions. The cost of SPMs in the third cluster with comprehensive mandates (those covered in this tool) range from approximately $34 million (UNITAMS) to $137 million (UNAMA).

While political process management is the core task of "comprehensive" SPMs, they perform a range of other monitoring and peacebuilding functions as well. As assistance missions, they are designed to provide advice and support to local authorities rather than substitute for them. They may be deployed at any point in the conflict cycle: prevention of conflict, mediation during conflict, and post-conflict peacebuilding. They operate at various geographic levels, from the community level, to nation-wide and, on occasion, the sub-regional and regional levels. Many SPMs succeed peacekeeping operations; some have preceded them. Some are deployed alongside military operations; others are self-standing. When SPMs withdraw, they often hand over residual functions to the UN Country Team or a UN regional office.

SPMs with comprehensive mandates range in size from fewer than 100 personnel (for example, UNITAMS) to over 1200 (for example, UNAMA). The Head of Mission is usually an SRSG. Most staff are civilian, and typically more than half are nationals of the host country. Many missions include a substantial number of UN volunteers. Some missions employ out-of-uniform military and police advisers. After the suicide bomber attack on UN headquarters in Iraq in 2003, SPMs deployed in volatile security environments have often included guard units composed of small military and/or police contingents, as in Iraq, Libya, Somalia and the Central African Republic. The job of these units is to protect UN personnel and premises, not to protect the local population.

Most SPMs have a mandate to engage in purely "political tasks", such as direct mediation or otherwise supporting political negotiations, providing policy advice, promoting reconciliation, and engaging in informal good offices. "Good offices" is a flexible term that the UN Secretariat has deliberately avoided defining to avoid limiting the Secretary-General's scope of action. It refers to anything the Secretary-General or his/her representative can do of a diplomatic nature to help prevent, manage, or resolve a conflict. Even for those that were not given a political mandate (such as UNMIN in Nepal, which was focused on disarmament and elections), it can be argued that they have an implied power to engage in good offices. The logic is that none of the additional

functions could be performed effectively without the exercise of good offices from time to time.

Other functions tend to get layered onto the core political tasks. Thus, some missions have a mandate to assist elections and promote human rights. Others work to foster inclusive politics through dialogue with multiple stakeholders and promoting women's participation in peace processes, as well as that of marginalized groups. Some are tasked with monitoring and reporting on political and security developments, but not to take direct follow-up action. Others entail a more proactive role, through advising and mentoring local officials or making recommendations on institutional reforms. Many coordinate humanitarian and development assistance. At the far end of the spectrum are SPMs with expansive peacebuilding responsibilities in rule of law, security sector reform and other areas.

A comprehensive list of mandated tasks includes:

- Early warning.
- Good offices.
- Preventive diplomacy.
- Formal mediation.
- Supporting political negotiations.
- Policy advice.
- Supporting national dialogue.
- Encouraging regional dialogue.
- Supporting women's participation and empowerment.
- Oversight of political processes.
- Electoral assistance and reform.
- Supporting legislative and constitutional reform.
- Monitoring human rights.
- Monitoring security developments.
- Monitoring force withdrawals.
- Supporting disarmament and reintegration of ex-combatants.
- Justice sector assistance and reform.
- Security sector assistance and reform (police and military).
- Coordinating humanitarian assistance.
- Coordinating development assistance.
- Supporting implementation of boundary agreements.
- Supporting the return of refugees and internally displaced persons.
- Protecting civilians.

All SPMs work closely with the UN Country Team. Following the adoption of the UN integration policy in 2006, SPMs with peacebuilding mandates designate the UN Resident Coordinator as a Deputy Special Representative of the mission whose focus is development and humanitarian assistance as well as capacity-building. This ensures that

the SPM and the Country Team operate in a coherent and mutually supportive manner, and in close collaboration with other partners. It also facilitates the handover of residual tasks to the Country Team when the SPM withdraws.

For further information on how SPMs are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

The origins of what are now called SPMs can be traced back to the earliest years of the UN when small political offices were established to carry out facilitation tasks, for example, in Jordan in 1958, and larger civilian presences were deployed to support political transitions, for example, in Libya in 1949. With the end of the Cold War, the Security Council and General Assembly became more active in deploying field missions with political mandates, for example, the UN Special Mission to Afghanistan (1993), the UN Office in Burundi (1993), and the UN Political Office for Somalia (1995).

The subsequent growth of SPMs with more comprehensive mandates can be attributed to at least three factors. The first was a realization that a follow-on presence is often needed as a large-scale peacekeeping mission withdraws. Second, the Security Council and Secretariat realized that large-scale peacekeeping is not the right instrument for many conflict situations; lighter, so-called "designer missions" are sometimes more appropriate. Third, budgetary considerations pushed the UN to look for less expensive alternatives to large-scale peacekeeping.

Many of the early examples succeeded peacekeeping operations, either because those operations failed (such as UNOA, which succeeded UNAVEM III in Angola) or because there were residual peacebuilding tasks that could be completed by a smaller-scale presence (such as UNIOSIL, which succeeded UNAMSIL in Sierra Leone). Others preceded UN peacekeeping operations, such as UNOL in Liberia and MINUCI in Côte d'Ivoire.

The instrument expanded and became more varied as experience accumulated. In addition to successor and predecessor missions, we see large SPMs operating alongside a military operation deployed by a regional organization or multinational coalition (such as UNAMA in Afghanistan, UNSOM in Somalia and UNAMI in Iraq). We also see self-standing missions, such as UNSMIL in Libya and UNIOGBIS in Guinea-Bissau.

There have been more than 15 "comprehensive" SPMs – with four or more mandated tasks. The following six are representative examples of the different types.

UNAMA (Afghanistan 2002–)

Preceded by the UN Special Mission for Afghanistan (UNSMA), the UN Assistance Mission in Afghanistan – UNAMA – was established in 2002 alongside the International Security Assistance Force (ISAF). The original mandate was to support implementation of the Bonn Agreement (2001), with support to the Afghan political process being the main task along with other functions in the realm of human rights, rule of law, gender, national reconciliation, and humanitarian relief. The mandate expanded to include support to the *Loya Jirgas* (great council) and elections, assistance in the return of refugees and internally displaced persons, coordinating economic reconstruction and helping to build governmental capacity. As the leader and principal coordinator of international civilian efforts, UNAMA remained in Afghanistan following the withdrawal of NATO and other troops. The mission is comprised mainly of civilians but has included military and civilian police advisers. In 2022, there were 799 national staff, 296 international staff, and 68 UN volunteers.

UNIPSIL (Sierra Leone 2008–2014)

In 2008, the UN Integrated Office in Sierra Leone – UNIOSIL – transitioned into the UN Integrated Peacebuilding Office in Sierra Leone – UNIPSIL – with a mandate focused on political support, human rights, democratic institutions, rule of law, good governance, decentralization, and peacebuilding. Among the 73 staff members in 2009 were 32 locally recruited and 13 national professional experts. UNIPSIL's political mandate and the UN Country Team's development and humanitarian mandates integrated with the extension into 2010. The drawdown and transition of UNIPSIL began in 2012 following elections that year and concluded in March 2014.

BINUCA (Central African Republic 2010–2014)

The UN Integrated Peacebuilding Office in the Central African Republic – BINUCA – succeeded the UN Peacebuilding Support Office in the Central African Republic – BONUCA – in 2010 with a mandate to support implementation of the political transition process, peacebuilding, and the extension of state authority in the Central African Republic. The mandate's focus changed as BINUCA was extended through the years to include the reconciliation process and good offices to help implement the Libreville Comprehensive Peace Agreement (S/RES/2088 (2013)). In response to the security situation and at the request of the Security Council, the Secretary-General proposed the establishment of a guard unit, initially composed of 250 military personnel and then increased to 560 military personnel. The UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) took over from both BINUCA and the African-led International Support Mission to the Central African Republic (MISCA) in September 2014.

UNSOM (Somalia 2013–)
At the recommendation of the Secretary-General, the UN Assistance Mission in Somalia – UNSOM – was established in 2013 alongside the African Union Mission in Somalia (AMISOM) and the UN Support Office for AMISOM (UNSOA). UNSOM is tasked with supporting the Federal Government of Somalia on peacebuilding and state building. UNSOM has also been asked to help implement the New Partnership for Somalia and the Security Pact, Somalia's National Strategy and Action Plan for Preventing and Countering Violent Extremism, the Mutual Accountability Framework for 2018 and 2019, the Comprehensive Approach to Security, and the Human Rights Due Diligence Policy. In 2022, there were 137 national staff, 187 international staff, and 38 UN volunteers, protected by a 400-person guard unit.

UNSMIL (Libya 2011–)
The UN Support Mission in Libya – UNSMIL – was established in 2011 by the Security Council with an original mandate that covered public security, rule of law, political dialogue, national reconciliation, electoral processes, human rights, transitional justice, economic recovery, and coordination of multilateral and bilateral actors. The mandate has expanded to support the democratic transition and provide good offices for the Libyan Political Dialogue that concluded with the Libyan Political Agreement. In 2022, there were 98 national staff, 210 international staff, and 6 UN volunteers. A UN Guard Unit of 235 was deployed in 2013, later expanded to 310.

UNITAMS (Sudan 2020–)
Preceded by the UN–African Union Mission in Darfur (UNAMID), the UN Integrated Transition Assistance Mission in Sudan – UNITAMS – was established in 2020. Its mandate has encompassed supporting Sudan in its political transition to democracy, assisting in peacebuilding, protecting human rights, supporting the mobilization of humanitarian assistance, and providing support to ceasefire arrangements. Notably, this political mission has a protection of civilians mandate, which it attempts to carry out through non-military means. In 2022, there were 117 national staff, 141 international staff, and 11 UN volunteers.

Conditions for success

It is difficult to generalize about the conditions for success or best practices because SPMs are so varied in the functions they perform and contexts in which they are deployed. Much depends on the nature and strength of the host Government, the security environment, and the other actors on the ground. Nevertheless, the following considerations apply to most comprehensive SPMs.

Strong leadership. The SRSG is the key figure who must be selected through a rigorous appointment process. An effective SRSG must have a

deep understanding of the country, of the conflict, and of the motivations, interests and strengths of the parties. Much of that must be learned on the job in the early days of deployment, mainly by listening to a wide range of national actors – not only "the 50 people who are most fluent in English" (see Brahimi and Ahmed, 2018). An SRSG must have a strong leadership team, able to support him/her in political tasks, as well as monitoring, peacebuilding, and other functions.

Impartiality. An effective political mission can (and often must) deliver hard messages. Those messages will be accepted only if the mission (and its SRSG) are perceived as impartial, honest brokers. It cannot be seen as serving the agenda of any party to the conflict, outside actor or special interest. As with peacekeeping, impartiality does not mean neutrality in the sense of equal treatment of all parties even in the face of abuses by one. It should be understood as impartiality in the best interests of the peace process and in accordance with fundamental international norms.

Integration/coordination as a guiding principle. The *Special Political Mission Start-Up Guide* of 2012 states that the components of the SPM must be integrated, and it must coordinate well with other parts of the UN system. Ultimately, the form of integration and coordination is less important than unity of purpose and a shared strategy. The best institutional arrangements for carrying out the strategy will vary (form should follow function).

Partnerships. Because SPMs are assistance missions, a good relationship with the host Government is important. But care must be taken not to get too close, especially if the host Government is perceived to be illegitimate by a substantial portion of the population. Engagement with other parties to the conflict, opposition figures, and civil society is also important. Effective political process management also requires ongoing engagement with key regional players and international actors. The leverage of the SPM will depend in large part on the degree of support from the international community. Partnership with a co-deployed peace operation (for example, ISAF and AMISOM) is especially important, but again care must be taken not to jeopardize the perception of the SPM's impartiality and independence.

Adaptability. Because SPMs tend to be deployed in fluid environments, they must be adaptable and able to change shape quickly in response to changing circumstances. There must be a regular process of assessment and reassessment to ascertain whether and how the conditions are changing.

Strategic communication. Related to the above two points, the mission must have a strong communications team and coherent messaging. Clarity

about what the mission is mandated to do and what it can realistically accomplish is critical.

Risks/ benefits

Benefits:

- SPMs can be tailored to the circumstances on the ground, providing a context-appropriate response. They expand the spectrum of possible peace operations, mitigating the concern that peacekeeping has fallen prey to the "cookie-cutter", "one-size-fits-all" syndrome.
- Their relatively small size and flexible organizational form allows them to adapt quickly to changing circumstances without getting bogged down by a rigid structure.
- They are a concrete manifestation of the primacy of politics. By their very nature, SPMs prioritize political process management; other activities are harnessed to that fundamental purpose.
- They are less expensive than large-scale peacekeeping missions, although large SPMs can carry a substantial price tag (UNAMA had a budget of $137 million in 2021).
- They are well-designed to respect and foster inclusive national ownership, in which a wide spectrum of political opinions and national actors are heard.

Risks

- Often deployed in volatile security environments, the safety of personnel is a concern. Guard units can mitigate some of the risk, but not guarantee protection against hostile actors. Some SPMs have been forced to operate from abroad, which inhibits their ability to fulfil the mandate.
- Co-deployment alongside a military peace operation can increase security but compromise the perception of impartiality and independence.
- Without the strong support of a unified Security Council, SPMs may lack leverage vis-à-vis the parties to the conflict and regional actors seeking to "tilt the scales" one way or the other.
- Moreover, with no troops on the ground, SPMs may suffer from a lack of high-level political attention. (Presidents, Prime Ministers, Foreign Ministers and Defence Ministers are more likely to pay attention to the progress of a peacekeeping operation than a political mission.)
- Without a military contingent, the mission has limited ability to protect civilians in any immediate or physical way and so there is risk of failing to fulfil expectations the local population may have.

- SPMs often suffer from uncertain and inadequate funding, especially for peacebuilding.

Legal considerations

The mandate of most SPMs is provided by the Security Council, but a few SPMs have been authorized by the General Assembly. If the SPM includes a military guard unit that enjoys UN privileges and immunities, then a Security Council authorization is viewed as necessary.

The relationship with the host Government is usually set out in a Status of Mission Agreement (SOMA) concluded by the host State and UN Secretariat. A military guard unit may raise complicated issues concerning whether the host or sending State exercises concurrent criminal jurisdiction over the unit's members in respect of misconduct in the mission. After the SPM is established, and until a SOMA is concluded, the SPM will not have a clear legal basis for its privileges and immunities.

While the consent of other parties to the conflict is not legally required, their acceptance of, and assurances of cooperation with, the SPM can help.

UNSC procedure

- The mandate for the SPM is usually developed by the Security Council in consultation with the Secretary-General.
- The Council adopts a resolution establishing the mission, based on an exchange of letters between the Secretary-General and the Security Council. Although the Security Council's approval is usually in the form of a resolution or Presidential Statement.
- The Secretary-General reports regularly to the Council on the mission's progress.
- Subsequent Council resolutions may be required to revise the mission's mandate and eventual closure.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

29. SPECIAL POLITICAL AND PEACEBUILDING MISSIONS: FOCUSED MANDATES – POLITICAL PROCESS MANAGEMENT

Summary	A special political mission is a civilian, field-based presence led by a Special Representative of the Secretary-General that performs political and peacebuilding functions. Some of these missions have mandates that are limited to core political tasks such as good offices, mediation, the promotion of national dialogue, and electoral assistance. They may also coordinate other actors in the UN system. Unlike "comprehensive" political missions, they do not engage in peacebuilding support, nor pure security functions such as the verification of disarmament. They tend to be quite small, typically fewer than 100 personnel. **Examples:** UN Special Mission to Afghanistan (UNSMA); UN Political Office in Somalia (UNPOS); UN Office in Burundi (UNOB); UN Special Coordinator for the Middle East Peace Process (UNSCO); Office of the United Nations Special Coordinator for Lebanon (UNSCOL); Office of the Special Adviser on Cyprus (OSASG).
Legal basis	UN special political and peacebuilding missions are typically established under Chapter VI of the UN Charter. Because SPMs with focused political mandates are based on host State consent and do not perform security functions, in addition to being established by the Security Council, they may also be established by the General Assembly (for example, UNSMA) or by the Secretary-General at his/her own initiative (for example, UNSCOL). For further information on the legal basis of SPMs generally, see the introduction to UN operations.
Description	The strategic objective of special political missions with a narrow "political" mandate is to provide support to a political process. They do this primarily through formal mediation or informal good offices aimed at fostering a durable political settlement. "Good offices" is a flexible term that the UN Secretariat has deliberately avoided defining to avoid limiting the Secretary-General's scope of action. Essentially, it refers to anything the Secretary-General or his/her representative can do of a diplomatic nature to help prevent, manage or resolve a conflict.

These SPMs may also provide advice and technical support to local authorities and other actors on political process management. Ancillary functions include electoral assistance and support to governing institutions. They also sometimes play a coordination function among other UN entities in the country. Unlike special political missions with "comprehensive" mandates, they do not engage in peacebuilding support, nor pure security functions such as the verification of disarmament.

Special political missions with narrow political mandates tend to operate in the absence of a peace process – indeed their main purpose is to try to generate such a process. They typically function at the national level, engaging with parties to an internal conflict. However, given that most internal conflicts have international dimensions, these missions also often engage with sub-regional and regional actors. Several such SPMs have followed failed peacekeeping operations (for example, UNPOS, which succeeded UNOSOM II in Somalia). Some have preceded larger peacekeeping operations that take over when a peace agreement is reached (such as UNOB, which preceded ONUB in Burundi) or when conditions change dramatically (such as UNSMA, which transitioned to the UN Assistance Mission in Afghanistan after the terrorist attacks of September 2011).

These missions tend to have fewer than 100 staff, unless they have an election observation mandate, in which case substantial numbers may be deployed for a brief period, as was the case with the UN Electoral Observation Mission in Burundi (MENUB). The Head of Mission is usually an SRSG but some have the title Personal Representative of the Secretary-General, Representative of the Secretary-General, or Special Coordinator. Most staff are civilian. Typically, more than half are from the host nation.

The mandates include:

- Early warning, signalling when a conflict risks breaking out or when a localized conflict risks escalating.
- Preventive diplomacy, to prevent disputes from arising between parties and to limit existing disputes from escalating or spreading.
- Formal mediation among the parties to a conflict.
- Consultation with regional and global actors.
- Informal good offices at the community and national levels to promote reconciliation.
- Support to national dialogue and engaging multiple stakeholders including marginalized groups.
- Support to women's participation in peace negotiations and peace process.
- Electoral assistance and reform.
- Coordinating humanitarian and other UN system assistance.

All SPMs work closely with the UN Country Team and other UN presences on the ground, such as a peacekeeping mission or a human rights office. Close coordination facilitates the handover of residual tasks to the Country Team when the SPM withdraws.

For further information on how SPMs are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

No SPM performs only good offices and mediation functions. Almost all perform at least a coordination function as well. But some, typically very small missions, concentrate on playing that political role. And even the coordination function is aimed mainly at providing political guidance to other parts of the UN system. Below are some representative examples, presented in chronological order.

UNOB (Burundi 1993–2004)

Following a coup d'état in Burundi in 1993, the UN Office in Burundi – UNOB – was established to assist the restoration of constitutional rule. This small UN team supported the SRSG in fact-finding and advice to facilitate efforts of the Government of Burundi and the Organization of African Unity to restore democratic institutions, promote reconciliation, and stabilize the security situation. UNOB's tasks expanded through the years to include assisting in the organization of the 1995 national debate, strengthening the national judicial system, supporting the Arusha talks and peace agreement, and providing assistance to the African Mission in Burundi (AMIB, 2003–2004). In 2004, UNOB and AMIB transitioned to a multidimensional UN peacekeeping mission, ONUB.

UNSMA (Afghanistan 1994–2001)

The UN Special Mission to Afghanistan – UNSMA – began in March 1994 with a mandate to assist Afghanistan in national rapprochement and reconstruction. This entailed consulting Afghan leaders (the warring parties as well as "neutral" actors) on a ceasefire and the establishment of a transitional authority. It later came to include negotiations on demilitarization and creation of a national security force, as well as promoting respect for human rights and humanitarian law. With the Taliban takeover in 1996, UNSMA's ability to function was curtailed, and following fatal attacks on UN personnel in 1998, all international staff were withdrawn from the country. By August 2001, the mission was reduced to one office in Kabul with one political officer, two civil affairs officers, and some civil affairs officers in Islamabad. After the 11 September 2001 terrorist attacks on the United States and the United States-led intervention in Afghanistan, UNSMA was replaced by UNAMA.

UNSCO (Middle East peace process 1994–)

The UN Special Coordinator for the Middle East Peace Process – UNSCO – was established in June 1994 to support the first UN Special Coordinator. Initially, UNSCO was tasked with assisting the transition that was to occur pursuant to the Oslo Accords, strengthening UN inter-agency cooperation, and supporting implementation of the Declaration of Principles, which were the guidelines for a political process. In 1999, UNSCO became the Office of the United Nations Special Coordinator for the Middle East Peace Process and the Personal Representative of the Secretary-General to the PLO and the Palestinian Authority, with a mandate to support the peace process. The Special Coordinator also became the Secretary-General's envoy to the Middle East Quartet, which has a mandate to mediate peace negotiations and support Palestinian economic development and institution-building.

UNPOS (Somalia 1995–2013)

Following the withdrawal of UNOSOM II in 1995, the UN Political Office in Somalia – UNPOS – was established in Nairobi, Kenya, at the recommendation of the Secretary-General. From their base in Nairobi, a Special Representative and small political staff monitored the situation in Somalia, coordinated humanitarian activities, and sought to expand contacts with all Somali parties. In 2004, UNPOS's mandate was adjusted to assist with peace and reconciliation processes and peacebuilding efforts, in support of the Transitional Federal Institutions. It continued to provide good offices, promote inclusive dialogue, helped to establish governance structures, and coordinated the UN system until 2013 when it was replaced by UNSOM, which was based inside Somalia.

UNSCOL (Lebanon 2007–)

The UN Special Coordinator for Lebanon – UNSCOL – was established by the Secretary-General in February 2007 with a political and good offices mandate, responsible for coordinating the work of the UN in the country and representing the Secretary-General on all political aspects of the UN's work there. The goal is to promote long-term stability, by coordinating all UN entities in discharging their respective mandates in the fields of peacekeeping, development assistance, humanitarian assistance and human rights. UNSCOL offers political guidance to the UN system in Lebanon on all these matters. Currently, there are 80 staff members from 15 different nationalities, headed by a Special Coordinator and Deputy Special Coordinator.

Conditions for success

Many of the best practices and lessons learned from comprehensive SPMs apply also to more limited mandate SPMs, including:

- **Strong leadership**. An effective leader of this type of SPM must have a deep understanding of the country, of the conflict, and of the

motivations, interests and strengths of the parties. Much of that must be learned on the job in the early days of deployment, mainly by listening to a wide range of national actors. The leader must also have the stature and political acumen to engage with regional and global actors that can impact the search for a political settlement, either in a positive or negative way.

- **Impartiality.** An effective political mission can (and often must) deliver hard messages. Those messages will be accepted only if the mission and its SRSG are perceived as impartial, honest brokers. They cannot be seen as serving the agenda of any party to the conflict, outside actor or special interest.

In addition, the following conditions/lessons/best practices are of particular importance to political SPMs:

- **Relationship with the parties to the conflict.** A constructive relationship with the host Government is a condition for success. While the consent of all parties to the conflict is not legally required, given that political process management is central to such missions, a good working relationship with all is important.

- **Inclusion.** In addition to the parties to the conflict, the SPM should seek meaningful inclusion of all stakeholders in the peace process. This implies not only (or necessarily) a seat at the negotiating table, but participation in the long-term process of building sustainable peace. Studies have shown that involvement of women's groups was a highly significant factor in terms of: i) prospects for an agreement to be reached; ii) the range of issues brought to the table; iii) the prospects for implementation of the agreement; and iv) the likelihood that the peace will hold for more than five years (see Paffenholz et al, 2016).

- **Patience.** Negotiating peace can take time. An SPM may be deployed when the conflict is not "ripe" for a settlement but that does not mean the SPM should necessarily withdraw. Its presence may prevent escalation of a conflict. Moreover, it can help to create the conditions for a settlement, perhaps by acting as a go-between if the parties are not ready to meet face to face. Then when the moment is ripe, a trusted SPM can be the catalyst for full-fledged negotiations.

Risks/ benefits

Benefits

- Small political SPMs embody "the primacy of politics", the importance of which was highlighted by the 2015 High-Level Independent Panel on Peace Operations ("HIPPO Report"). That report warned that too often larger peace operations lose sight of their fundamental purpose and best exit strategy, which is the search for a political solution.

- The narrow mandate enables them to focus on their political purpose, without the effort getting diluted by so-called "Christmas tree" mandates (that is, a long wish list of desirable goals that may be impossible to fulfil).
- As small missions, they tend to be nimble, unencumbered by rigid bureaucratic structures. This enables them to adjust quickly to changing circumstances.
- They are less expensive than large SPMs and large peacekeeping operations. This makes it easier to sustain them over a longer period without budgetary pressure to withdraw.
- Because they depend on the power of persuasion, as opposed to tangible incentives (such as development or security assistance) and disincentives (such as economic sanctions or the threat of force), they are less likely to become entangled in the politics of patronage that sometimes complicates peace operations.

Risks: benefits

- Given that these SPMs do not directly address security conditions, it can be difficult to make political progress. The parties may "talk the talk" in negotiations but not "walk the walk" on the ground.
- Insecure conditions can affect both the safety of personnel and their freedom of movement. Sometimes it is necessary for these missions to operate from outside the country, which renders them less effective.
- With a small staff and few eyes on the ground, it may be hard for these missions to maintain a nuanced understanding of the nature of a conflict as it evolves or to evaluate the progress made on a peace process.
- Without a broader peacebuilding mandate (and the resources that go along with that), the mission has limited leverage over parties.
- Without a security mandate or military presence, the mission may struggle to be seen as relevant by the parties.
- More generally, these limited missions can raise expectations without having the resources to deliver, for example, to protect civilians facing immediate threats of physical violence.

Legal considerations

The mandate of most SPMs is provided by the Security Council, but those with limited political mandates can be authorized by the General Assembly. After the SPM is established, and until a SOMA is concluded, the SPM will not have a clear legal basis for its privileges and immunities.

UNSC procedure

- The mandate for the SPM is usually developed by the Security Council in consultation with the Secretary-General.
- The Council adopts a resolution establishing the mission, based on an exchange of letters between the Secretary-General and the Security Council. Although the Security Council's approval is usually in the form of a resolution or Presidential Statement.
- The Secretary-General reports regularly to the Council on the mission's progress.
- Subsequent Council resolutions may be required to revise the mission's mandate and eventual closure.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

30. SPECIAL POLITICAL AND PEACEBUILDING MISSIONS: FOCUSED MANDATES – SECURITY

Summary

A special political mission is a field-based presence led by a Special Representative of the Secretary-General that performs political and peacebuilding functions. Some of these missions have mandates that are limited to security-oriented tasks such as verifying a ceasefire, assisting with weapons collection, or helping to implement security guarantees. Although security-oriented, these tasks aim to serve political purposes and are performed by civilian or out-of-uniform military and police personnel. Unlike other SPMs, they do not engage in mediation although they may use good offices to carry out their security tasks. They can range in size from a handful of personnel to more than 1000.

Examples: UN Political Office in Bougainville (UNPOB); UN Mission in Colombia (UNMC); UN Mission to support the Hudaydah Agreement in Yemen (UNMHA); Cameroon–Nigeria Mixed Commission (CNMC). The UN Mission in Nepal (UNMIN) is a special case because, in addition to security-related functions, it provided support to and monitored elections.

Legal basis

UN special political and peacebuilding missions are typically established under Chapter VI of the UN Charter. Although generally established by the Security Council, at least one security-oriented SPM was established at the Secretary-General's own initiative – CNMC – following a request from the parties.

For further information on the legal basis of SPMs generally, see the introduction to UN operations.

Description

The strategic objective of special political missions with a limited security mandate is to assist the parties to carry out the security-related aspects of a peace agreement they have concluded. Unlike SPMs with comprehensive mandates, or those with limited political mandates, they do not engage in mediation although they may use good offices to carry out their security tasks. They may also provide advice and technical support to local authorities and other actors. They also sometimes play a coordination function among the rest of the UN presences in the country.

SPMs with security-oriented mandates can range in size from a handful of personnel to more than 1000. The Head of Mission is usually an SRSG. The

staff may be civilian or unarmed and out-of-uniform military and police personnel, who are employed in an advisory or coordination role. SPMs never involve military contingents mandated to use force to implement the mission mandate. They are backstopped by the UN Department of Political and Peacebuilding Affairs (DPPA), with administrative support from the Department of Operations Support (DOS).

Tasks undertaken by these SPMs include:

- Monitoring a ceasefire
- Overseeing the withdrawal of forces
- Assisting with disarmament and weapons disposal
- Monitoring security conditions
- Overseeing security guarantees
- Demarcating a border

All SPMs work closely with the UN Country Team and other UN presences on the ground, such as deminers. Close coordination facilitates the handover of residual tasks to the Country Team when the SPM withdraws.

For further information on how SPMs are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

SPMs have been described as "designer missions" because they are carefully crafted to provide services the parties request and are tailored to the particular context in which they operate (see Martin, 2011). These limited SPMs with a security mandate are a good example of that. They demonstrate that a large peacekeeping operation is not the only instrument at the Security Council's disposal to address security challenges. The following SPMs represent a variety of alternatives.

UNPOB (Bougainville 1998–2003)

Following the signing of the Lincoln Agreement, the UN Political Office in Bougainville – UNPOB – was established in August 1998 at the request of the Government of Papua New Guinea and other parties to the conflict. UNPOB had a mandate to monitor the implementation of the Lincoln and Arawa Agreements and to chair a Peace Process Consultative Committee, which oversaw the ceasefire arrangement and other aspects of the peace process. Following the signing of a peace agreement in 2001, UNPOB assisted with weapons collection and disposal, paving the way for the Bougainville Government to hold elections. It was succeeded by UNOMB in 2003, which had a broader mandate to plan for elections, complete the weapons disposal, monitor the adoption of the Bougainville Constitution, and exercise good offices to facilitate the peace process.

CNMC (Cameroon 2002–)
At the request of the Presidents of Cameroon and Nigeria, the Secretary-General established the Cameroon–Nigeria Mixed Commission – CNMC – in 2002 pursuant to the October judgment of the International Court of Justice on the Cameroon–Nigeria boundary dispute. CNMC is tasked with demarcating and delimitating the border, overseeing withdrawal of troops, addressing the concerns of those affected by the demarcation, and recommending confidence-building measures. CNMC also assists in creating socioeconomic projects for affected citizens, planning logistics for fieldwork construction, assessing the security situation, and developing projects that support cross-border relations and basic services.

UNMIN (Nepal 2006–2011)
Following the signing of a Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal in November 2006, the UN Mission in Nepal – UNMIN – was established by the Security Council at the recommendation of the Secretary-General in January 2007. UNMIN was tasked with monitoring a ceasefire and assisting the parties in the management of their arms and armed personnel. It chaired a Joint Monitoring Coordination Committee, composed of the armies of both parties. While UNMIN deliberately was not mandated to play a political role, it helped to prepare for elections of a Constituent Assembly, and then monitored all technical aspects of the electoral process. UNMIN was a relatively large SPM with an authorized strength of over 1200 staff and UN volunteers. It was terminated on 15 January 2011.

UNMC (Colombia 2016–2017)
The UN Mission in Colombia – UNMC – was a mission of unarmed international observers deployed for 12 months to monitor and verify the ceasefire, cessation of hostilities, and laying down of arms between the Government of Colombia and the Fuerzes Armadas Revolucionarias de Colombia (FARC), pursuant to a Final Agreement they reached in 2016. It also oversaw security guarantees at the regional and local levels. The mission chaired a tripartite mechanism, composed of representatives of both parties. It was staffed by 450 unarmed military observers and 62 civilians. UNMC was succeeded by UNVM in 2017, which had a broader mandate to verify sections of the Final Agreement that covered the reincorporation of the FARC, implementation of security guarantees, and protection measures for communities and organizations in FARC territories.

UNMHA (Yemen 2019–)
The UN Mission to support the Hudaydah Agreement in Yemen – UNMHA – was established in 2019 with a mandate to support the implementation of the Agreement on the City of Hudaydah and Ports of Hudaydah, Salif

and Ras Issa. The head of UNMHA chairs the Redeployment Coordination Committee set up to oversee the ceasefire, the redeployment of forces, and mine action operations. UNMHA is composed of civilian, military and police personnel who monitor the ceasefire arrangement, work with the parties to assure security of the city and ports, and coordinate UN support for implementation of the Hudaydah Agreement. UNMHA consists of 85 national staff and 74 international staff.

Conditions for success

- **Demand-driven approach.** While the design of all peace operations (peacekeeping and SPMs) should be driven by demand, critics have complained of a "supply-driven", "one-size-fits-all" approach that is not necessarily context-appropriate. These limited SPMs with security mandates illustrate how missions can be carefully tailored to the particular political and security conditions on the ground, which may not be conducive to a large multidimensional peacekeeping mission, or even a comprehensive SPM.

- **Astute leadership.** An effective leader of this type of SPM must understand the country, the conflict, and the motivations, interests and strengths of the parties. The leader must also have a good understanding of the limitations within which it must operate given the political context. That context may include important regional and local actors who do not want the mission to play an active political role.

- **Impartial good offices.** Even when these types of SPMs are deliberately not given a political mandate, they must be prepared to exercise good offices to fulfil their security mandate. Good offices, exercised impartially, are inherent in a mission headed by a representative of the Secretary-General.

- **Technical competence.** An SPM with a security mandate must be perceived as an impartial, technically competent, independent agent.

- **Weapons monitoring, collection and disposal.** Even a light mission of unarmed personnel can play a useful role in disarming combatants through active surveillance of weapons storage and cantonment (soldier accommodation) sites. Tripartite mechanisms, chaired by the UN and that meet at regular intervals, can help resolve any issues that may arise during the disarmament process.

Risks/ benefits

Benefits

- The narrow mandates of these SPMs enable them to focus on their security purpose, without the effort getting diluted by so-called "Christmas tree" mandates (that is, a long wish list of desirable goals that may be impossible to fulfil).

- They tend to be small, do not require specialist assets or capabilities, and so can deploy quickly.
- Because they are small compared to most peacekeeping operations, they are relatively inexpensive.
- These missions can be tailored in accordance with the interests of the parties and the political circumstances in which they are deployed.
- By adopting a "technical" approach to their mandate, they can avoid political entanglements.

Risks

- With no explicit political mandate, these SPMs have little or no ability to influence a political process. That leaves them at the mercy of the parties to the conflict and other influential actors.
- With no ability to compel the parties to fulfil their obligations, they risk losing credibility – both in the eyes of the parties and the broader population.
- With a limited mandate, and yet sometimes substantial presence (such as UNMIN), they may raise expectations that cannot be fulfilled.
- With no military or police component, the safety and security of the mission personnel can be a concern.

Legal considerations

While the mandate of some SPMs is provided by the General Assembly, those with security tasks should be authorized by the Security Council, unless established under the Uniting for Peace resolution.

The relationship with the host government is usually set out in a Status of Mission Agreement (SOMA). While the consent of other parties to the conflict is not legally required, acceptance and assurances of cooperation can help. After the SPM is established, and until a SOMA is concluded, the SPM will not have a clear legal basis for its privileges and immunities.

UNSC procedure

- The mandate for the SPM is usually developed by the Security Council in consultation with the Secretary-General.
- The Council adopts a resolution establishing the mission, based on an exchange of letters between the Secretary-General and the Security Council. Although the Security Council's approval is usually in the form of a resolution or Presidential Statement.
- The Secretary-General reports regularly to the Council on the mission's progress.
- Subsequent Council resolutions may be required to revise the mission's mandate and eventual closure.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

31. PEACEKEEPING OPERATIONS: COMPREHENSIVE MANDATES – MULTIDIMENSIONAL PEACEKEEPING OPERATIONS

Summary

UN-led multidimensional peacekeeping operations involve military, police and civilian components, deployed to facilitate transition from armed conflict to peace, often by assisting with the implementation of a peace agreement. Multidimensional peacekeeping missions have ranged in size from a few thousand to over 30,000 uniformed personnel, complemented by much smaller civilian components. The missions are deployed with the consent of the host State, and mandated to perform a wide range of tasks, tailored to the needs of the conflict situation and peace process. This has been the most common type of UN peace operation deployed since the end of the Cold War.

Examples: UN Transitional Assistance Group (Namibia) (UNTAG); UN Transitional Authority in Cambodia (UNTAC); UN Protection Force (former Yugoslavia) (UNPROFOR); UN Transitional Administration for Eastern Slavonia, Baranja, Western Sirmium (UNTAES); UN Mission in Haiti (UNMIH); UN Operation in Mozambique (ONUMOZ); UN Observer Mission in El Salvador (ONUSAL); UN Angola Verification Mission (UNAVEM); UN Mission in Sierra Leone (UNAMSIL); UN Organization Mission in the Democratic Republic of the Congo (MONUC); UN Operation in Burundi (ONUB); UN Interim Force in Lebanon (UNIFIL II); UN Mission in Côte d'Ivoire (UNOCI); UN Mission in Liberia (UNMIL); UN Mission in Sudan (UNMIS); UN Mission in South Sudan (UNMISS); UN Mission in Support of East Timor (UNMISET); UN Mission in Timor-Leste (UNMIT); AU/UN Hybrid Operation in Darfur (Sudan) (UNAMID); UN Mission in the Central African Republic and Chad (MINURCAT).

Legal basis

UN multidimensional peacekeeping operations are established under Chapter VI or Chapter VII of the UN Charter, or a combination of the two. Whether Chapter VII is invoked, either expressly or impliedly, depends primarily on whether the operation has authority to use force beyond self-defence (that is, using force in defence of the mandate, not just in defence of UN forces).

For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

A multidimensional peacekeeping mission is a tool that can be employed by the Council to facilitate transition from armed conflict to peace, and assist with the implementation of a peace agreement. These missions have mainly been deployed in situations of intra-State armed conflict, often when major powers or regional organizations were unwilling to physically intervene.

The multidimensional nature of the mission refers to the inclusion of military, police and civilian components undertaking a wide range of tasks, tailored to the needs of the conflict situation. These can stretch across the spectrum from the provision of security and protection of civilians, through institution-building, to supporting political processes.

UN multidimensional peacekeeping missions are deployed with the consent of the host State and, ideally, the main conflict parties. They do not "fight their way in" to a theatre of armed conflict. They are usually deployed into situations where conflict has abated, or at least paused and there is a "peace to keep", albeit unstable. This is preferably, but not always, evidenced by a peace agreement, which is often the basis for the mission's initial deployment. Nevertheless, UN peacekeepers might subsequently be confronted by active armed conflict either because the peace agreement breaks down or they are targeted by non-signatory armed groups.

The basic principles of UN peacekeeping, which have evolved over time, are:

- Deploying with the consent of the host Government and main conflict parties.
- Remaining impartial when engaging the conflicting parties.
- Using force primarily in self-defence and in defence of the mandate.

For further information on the principles of peacekeeping, see the introduction to UN operations.

Multidimensional peacekeeping missions have been the most common type of UN peace operation deployed since the end of the Cold War. Most multidimensional peacekeeping operations have responded to intra-State armed conflicts rather than inter-State territorial disputes.

The Council has often given these missions complex and multifaceted mandates, requiring peacekeepers to perform numerous tasks, including:

- Protecting civilians.
- Supporting local police and military forces.
- Ceasefire monitoring.
- Security monitoring, patrolling and deterrence activities.
- Protecting humanitarian and UN personnel and facilities, including the freedom of movement of personnel and equipment.

- Supporting humanitarian relief efforts.
- Security sector reform (SSR).
- Demilitarization and arms management.
- Monitoring, protecting and promoting human rights.
- Engaging on issues of conflict-related sexual violence.
- Engaging on issues related to children and armed conflict.
- Engaging on issues related to women, peace and security.
- Strengthening rule of law and judicial institutions.
- Supporting political processes.
- Providing electoral assistance.
- Supporting State institutions.
- Enhancing international cooperation and coordination.
- Supporting sanctions regimes.
- Providing public information.
- Civilian–military coordination.
- Maritime and riverine security.

The mission's senior leadership team determines the operational details of mandate implementation, often working closely with the host State while retaining their impartiality.

All components of a UN multidimensional peacekeeping operation should cooperate to deliver the mandate. They should also coordinate their activities with those of relevant agencies and actors across the wider UN system. Some multidimensional peacekeeping missions may be structurally integrated with the UN Country Team, in which case the head of the Country Team, the Resident Coordinator/Humanitarian Coordinator, will also be part of the mission's senior leadership team, usually a Deputy Special Representative of the Secretary-General (SRSG).

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

Although the UN has deployed multidimensional peacekeeping operations since the 1960s, with the first police officers deployed in ONUC in the Congo and to the UNFICYP mission in Cyprus, it was not until after the Cold War that the Council began regularly establishing such missions. Since then, it has deployed dozens. In some cases, these missions were tasked to help implement a viable peace agreement or peace process (for example, in Namibia/UNTAG, El Salvador/ONUSAL, Mozambique/UNOMOZ, Cambodia/UNTAC, Liberia/UNMIL, East Timor/UNMISET/UNTAET/UNMIT). In others, they required more robust mandates to help manage situations where there was no reliable peace to keep (for example, Bosnia/UNPROFOR, Somalia/UNOSOM II, Angola/UNAVEM, Rwanda/UNAMIR, the Democratic Republic of the Congo (DRC)/

MONUC, Darfur/UNAMID, Côte d'Ivoire/UNOCI). They have, over time, been authorized to carry out a long and varied list of mandated tasks.

The bureaucratic hub for these operations emerged in 1992 with the establishment of the UN's Department of Peacekeeping Operations (DPKO), while the conceptual roadmap for many of them was broadly articulated in Boutros Boutros-Ghali's *An Agenda for Peace* (1992), which envisaged roles for peacekeepers in intra-State armed conflicts in the areas of security provision, institution-building, disarmament, demobilization and reintegration of former combatants, facilitating political and electoral processes, as well as supporting humanitarian relief and economic recovery. After major crises in Angola, Bosnia and Herzegovina, Rwanda and Somalia, this vision was scaled back somewhat in Boutros-Ghali's *Supplement to An Agenda for Peace* (1995). Nevertheless, the Council authorized a range of new, multidimensional peacekeeping missions with even broader mandates from 1999. The Brahimi Report (2000) and Capstone Doctrine (2008) elaborated on the underlying principles and core features of these operations.

Although each multidimensional mission is unique, they share several major characteristics:

- First, the UN's multidimensional peacekeeping missions tend to deploy into situations of intra-State armed conflict and the break-up of States.

- Second, they usually deploy during the same phase of the conflict cycle, namely, after a peace process is underway and some form of peace agreement has been concluded (although many of these agreements have been partial and many subsequently collapsed or had to be renegotiated over multiple rounds of talks). But there are exceptions, such as UNMIH, UNPROFOR and UNMISET which deployed without a peace agreement.

- Third, multidimensional peacekeeping missions tend to have much larger military components than police and civilian components. However, especially after 1999, multidimensional operations saw a major increase in police peacekeepers to help with public security and rule of law issues.

Although Formed Police Units were not deployed in UN peacekeeping operations until 1999, policing mandates have involved numerous tasks. They have usually been divided into capacity-building efforts (such as providing advice and support, training and mentoring, and technical assistance to local forces); monitoring and reporting on the practices of local forces and providing some limited guidance; attempts to reform

the practices, restructure and rebuild local police forces; and, in rare cases, executive functions where UN police have enforced the local law, investigated crimes, arrested suspects, as well as reformed and restructured local police institutions. A UN Office of Rule of Law and Security Institutions was established within DPKO in 2007, reflecting the growing importance of policing and rule of law activities in multidimensional missions.

Since 1999, almost all multidimensional peacekeeping missions have been mandated to use force to protect civilians. Protection tasks across all components have increasingly become a focus of multidimensional peacekeeping missions.

The UN is not the only actor to deploy multidimensional peace operations. Examples include the African Union's (AU) peace support operations in Sudan (AMIS) and Somalia (AMISOM), which included small numbers of police and civilian personnel. But it is important to recall that AU peace operations do not necessarily conform to the UN's principles of peacekeeping (see the introduction to UN operations) and the AU has in practice transitioned most of its missions into UN operations.

Conditions for success

From the many multidimensional UN peacekeeping operations that have been deployed since the end of the Cold War, some key themes and good practices have emerged:

- In order to be effective, UN peacekeeping missions need the active cooperation of the host Government, not just its formal consent. If a host Government pursues obstructive policies, the peacekeeping mission will struggle.

- Although multidimensional peacekeeping operations usually deploy into a conflict zone after a peace agreement has been concluded, the agreement may be only partial and/or collapse. Hence, peacekeeping operations must be harnessed to a viable political strategy for conflict management and reviving the relevant peace process should it stall or collapse.

- Multidimensional missions work best when they follow the three principles of UN peacekeeping: consent of the main parties; impartiality; and non-use of force, except in self-defence and in defence of the mandate. These principles and the peacekeepers' actions need to be clearly communicated to local and international audiences in order to manage expectations.

- Missions are unlikely to be effective if they are given insufficient resources and material capabilities. For example, sufficient airlift

capacity is crucial for missions with large areas of operation and proper protection capacity for missions in high-risk environments. Reliable medevac capabilities are essential for attracting troops from some States. Intelligence collection and processing technology has proved important for interrupting and combatting violence against civilians.

- Unified political support from the Council is very important for mission success, particularly when the actions of the host State challenge effective mandate implementation.

- In most multidimensional peacekeeping operations, the military component is the largest. As the Brahimi Report (2000) and UN Capstone Doctrine (2008) concluded, the military component of a mission should be robust enough to defend itself, deal effectively with spoilers, and protect civilians under its care. The Council must also clarify the military tasks and how they should contribute to the mission's political objectives.

- Multidimensional peacekeeping operations are more likely to be effective when their activities are coordinated with those of other agencies and actors within the UN system. It is important for a peacekeeping mission to work closely with the UN Country Team to ensure their activities are complementary and don't undermine each other. Even with good coordination, issues and tensions can arise due to different priorities and objectives, different mandates, different timelines, and different relationships with the Government and population.

- The success of UN multidimensional peacekeeping operations will sometimes depend on whether they can partner effectively with other actors and organizations conducting peace operations in the same theatre, most notably transition/"re-hatting" partnerships (for example, in Liberia, Burundi and Sudan) and working with parallel peace operations (for example, in Sierra Leone and Côte d'Ivoire).

Risks/ benefits

Benefits

- UN multidimensional operations can fulfil a long list of important tasks, including supporting implementation of a peace agreement; sharing information and building confidence between the conflicting parties; acting as a focal point for international support to the peace process; disarming and reintegrating former combatants; contributing to the provision of a safe and secure environment; protecting civilians; facilitating electoral and transitional governance processes; and supporting humanitarian relief efforts. There is good evidence that such missions reduce the likelihood of recurrence of armed conflict as well as the geographic spread and level of violence, including against civilians

(Walter et al, 2020). Larger UN missions tend to have a larger positive effect on reducing battle deaths and violence against civilians (Hultman et al, 2014, 2019).

- Deploying a multidimensional peacekeeping operation demonstrates the willingness of the Council and contributing countries to use a tried and tested conflict management tool to facilitate a war-to-peace transition in cooperation with the host State authorities. Peacekeeping operations can play vital roles in supporting international mediation, peacemaking, and peacebuilding efforts. In certain cases, these missions can also work in partnership with other actors and organizations engaged in peacekeeping, thereby strengthening relevant UN partnerships. UN peacekeeping missions are also cost-effective compared to Western-led coalition operations.

Risks

- In cases where there is a genuine peace to keep, UN peacekeepers have generally faced modest levels of risk, with fatalities usually more likely to result from disease and accidents than malicious attacks.

- In some cases, UN peacekeepers have caused harm to the population, including by committing sexual exploitation and abuse, and through the accidental introduction of disease.

- Arguably the two biggest practical risks facing multidimensional missions are: (i) the peace process derailing, leaving peacekeepers caught up in more violent circumstances than when they deployed; and (ii) personnel being targeted by non-signatory armed groups outside the peace process. On rare occasions, UN peacekeepers have been targeted by host State forces (for example, UNPROFOR, UNAMIR, UNOCI and UNMISS).

- There is a risk that a UN peacekeeping operation will not meet either local or international expectations, perhaps in relation to substantive goals or its timeline. Missions will also often struggle to demonstrate and communicate concrete progress and results that are worth the significant financial and human costs involved. It is also impossible to know if UN peacekeepers have succeeded in establishing stable, locally sustainable peace until they depart. But there are several cases where UN peacekeepers have withdrawn, only to be called back to the country when renewed violence erupted (for example, Haiti and East Timor).

- There is a significant risk that one or more local conflict parties will renege on their commitments made during the peace agreement. In which case, UN peacekeepers could also end up supporting an illegitimate, ineffective and corrupt Government.

Legal considerations

UN multidimensional peacekeeping operations raise a number of legal considerations, some of which can be complicated or controversial:

- The Council will usually deem the UN Model SOFA to apply until such time as a SOFA specific to the peacekeeping operation is concluded with the host State.

- If the PKO mandate envisages that peacekeepers may use military force, the Concept of Operations (ConOps) and Rules of Engagement (RoE) documents become essential to implementing this mandate. These documents are prepared by the UN Secretariat in consultation with key troop-contributing countries (TCCs). It is important to ensure that all relevant national contingents in the PKO share the same interpretation of the ConOps and RoE. The ConOps and RoE must be consistent with the mission's mandate provided by the Council.

- The express *authorization* to use force in the mandate is not tantamount to a legal *obligation* to use force. Where force is authorized for the protection of civilians, it may be a duty to use all necessary means, up to and including force, to protect civilians. In practice though, it is difficult to compel UN forces to act, or to make them accountable for any lack of action.

- There is a risk that a multidimensional peacekeeping operation with a robust use of force mandate may become a party to the conflict within the meaning of international humanitarian law (IHL). In this case, members of the military component of the peacekeeping operation lose their protected status and become legitimate military targets under IHL. However, this will be in tension with the criminalization of all attacks on UN peacekeepers under the Rome Statute and the 1994 UN Convention on the Safety of UN Peacekeepers. The Security Council may also impose sanctions on those involved in attacks against UN peacekeepers or other UN personnel (as it did for MONUSCO in the Democratic Republic of the Congo).

- Even where a peacekeeping operation becomes a party to the conflict for IHL purposes, the Council may still impose sanctions on those involved in attacks against UN peacekeepers or other UN personnel (such as it did for MONUSCO). The Rome Statute of the International Criminal Court also prohibits and criminalizes attacks on UN peacekeepers under Article 8(2)(b)(iii) as does the 1994 Convention on the Safety of UN Peacekeepers (that is, if due to application in respect of the relevant State parties, or as simply deemed applicable by the Council acting under Chapter VII).

- The Council may request the UN Secretariat and host State Governments to conclude the SOFA for the peacekeeping operation,

taking into account General Assembly resolution 58/82 on the legal protection under the Convention on the Safety of United Nations and Associated Personnel (such as occurred with UNMISS and UNMIS).

UNSC procedure

- The Security Council adopts a resolution authorizing the peacekeeping operation and setting out its mandated tasks and objectives.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.
- Subsequent Council resolutions will be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

Further reading

The Effectiveness of Peace Operations Network (EPON) publishes detailed assessments of some UN multidimensional peacekeeping operations at https://effectivepeaceops.net.

UN Peace Operations: Principles and Guidelines ("Capstone Doctrine") (UN, 2008).

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OPERATIONAL TOOLS: UN OPERATIONS

32. PEACEKEEPING OPERATIONS: COMPREHENSIVE MANDATES – STABILIZATION OPERATIONS

Summary

UN stabilization operations are deployed in the absence of a comprehensive peace agreement to assist the Government or transitional authorities extend State authority as the basis for creating a stable environment. While UN stabilization operations are practically similar to some multidimensional peacekeeping operations, multidimensional peacekeeping operations are deployed to assist implementation of a peace agreement and are not always authorized under Chapter VII of the UN Charter, while stabilization operations are.

UN stabilization operations have been large and multidimensional, with a robust military component, Formed Police Units, as well as a range of civilian specialists. Common characteristics of UN stabilization operations include:

- Operating in high-risk environments during active armed conflict.
- Supporting the host State Government to extend or restore State authority.
- Undertaking robust, and sometimes offensive, military operations.

Examples: UN Stabilization Mission in Haiti (MINUSTAH); UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO); UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA); UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA).

Legal basis

UN stabilization operations are established under Chapter VII of the UN Charter. For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

UN stabilization operations can be employed by the Council to stabilize a war-torn territory in the absence of a comprehensive peace settlement. Since the Council has conceived stabilization mandates in various ways, this tool is flexible, but common strategic objectives include consolidating and extending State authority; reducing intercommunal violence; removing spoilers; supporting political transitions and electoral processes; security sector reform (SSR); disarmament, demobilization and reintegration (DDR); and protecting civilians.

Achieving such objectives requires military, police and civilian components working together. The military component plays a key role in extending State authority, which will almost certainly involve the direct use of military force. Most UN stabilization activities are conducted in coordination with host State personnel. The mission's activities may be guided by an explicit stabilization strategy as occurred in MONUC/MONUSCO from 2008.

Unlike most multidimensional peacekeeping missions, which are generally deployed when there is a peace to keep, a stabilization operation can be established at any point in the conflict cycle, including during active armed conflict and in the absence of a peace settlement. While UN peacekeepers aim to be impartial in the implementation of their mandate, stabilization missions have been mandated to support the Government's attempts to re-establish and extend its territorial control. This has involved using force against identified spoilers.

The Council has often given these missions complex and multifaceted mandates, requiring tasks including:

- Consolidating and extending State authority
- Supporting political transitions and electoral processes
- Protecting civilians
- Degrading spoilers
- Facilitating humanitarian relief efforts
- Disarmament, demobilization and reintegration (DDR)
- Security sector reform (SSR)
- Justice sector reform, including combating impunity
- Return of IDPs/refugees
- Reducing intercommunal violence
- Promoting human rights and gender equality

The mission's senior leadership team determines the operational details of mandate implementation, often working closely with host State authorities.

All components of a UN stabilization operation should cooperate to deliver the mandate. They should also coordinate their activities with those of relevant agencies and actors across the wider UN system. This is particularly critical for a stabilization mission, which is likely to be involved in tasks that touch upon traditional development and peacebuilding activity. Some stabilization missions may be structurally integrated with the UN Country Team, in which case the head of the Country Team, the Resident Coordinator/Humanitarian Coordinator, will also be part of the mission's senior leadership team, usually a Deputy Special Representative of the Secretary-General (SRSG).

For further information on how UN peacekeeping operations are

designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

Although several earlier UN peacekeeping missions involved elements of what is now considered "stabilization", the Council has only explicitly used this label in the twenty-first century. While there has been broad consistency in the Council referring to "stabilization" as a strategic goal, it has been inconsistent in conceiving the mission concept and mandated tasks in its subsequent stabilization operations. The ways in which the Council has used stabilization are somewhat similar – although not identical – to the national stabilization doctrines of the P3 (the United States, United Kingdom and France).

The first time the Council explicitly authorized a stabilization operation was in Haiti, where MINUSTAH was confronted by general political instability, weak State institutions, and organized crime rather than a civil war. Resolution 1542 (2004) authorized MINUSTAH to deliver a secure and stable environment; support a political process, including organizing elections and extending State authority; and monitor the human rights situation.

Next, in 2010, the Council changed the name of its mission in the Democratic Republic of the Congo (DRC) from the UN Mission in the DRC – MONUC – to the UN Organization Stabilization Mission in the DRC – MONUSCO – indicating the mission was entering a new "stabilization" phase. Resolution 1925 (2010) defined two priorities: (i) the protection of civilians; and (ii) stabilization and peace consolidation. Stabilization involved consolidating State authority, supporting SSR and DDR programmes, assisting with local elections, and weakening armed groups in the eastern part of the country. Following the establishment of MONUSCO's Force Intervention Brigade in 2013, stabilization activities focused on extending State institutions and political processes across the conflict-affected parts of the DRC, as well as "neutralizing" certain armed groups – see resolution 2098 (2013).

In 2013, in Mali, the Council established a stabilization operation (MINUSMA) before a peace agreement had been concluded. This included "re-hatting" African Union (AU) forces and working alongside a French-led counter-terrorism mission, which was authorized to support MINUSMA. The initial focus was stabilizing major population centres and extending State authority across the country, including by conducting SSR and DDR programmes – see resolution 2100 (2013). In 2014, resolution 2164 defined MINUSMA's priorities as the protection of civilians, security and stabilization. This involved an increased presence in northern Mali and supporting the peace process facilitated by Algeria. MINUSMA would subsequently focus on stabilizing key population centres and combining stabilization and civilian protection activities. From 2015, this

involved broadening the mission's focus from the north of the country to the central region as well. MINUSMA's attempts at stabilization were made more difficult by two coups d'état in 2020 and 2021, which replaced the legitimate Government, and the withdrawal of the French-led counter-terrorism Operation Barkhane in 2022.

In 2014, in the Central African Republic (CAR), the UN established a stabilization operation (MINUSCA). Once again, the mission involved "re-hatting" AU forces, working alongside French and later EU forces, and was deployed before a peace settlement was concluded. Initially, MINUSCA's mandate did not explicitly identify "stabilization" activities but listed numerous common tasks such as the protection of civilians, supporting the governmental transition process, extending State authority, supporting DDR, and facilitating humanitarian relief – see resolution 2149 (2014). In 2016, MINUSCA's mandate did not explicitly define stabilization tasks but linked this goal to achieving respect for the country's constitution, reconciliation, extending State authority, strengthening justice institutions, and preserving the CAR's territorial integrity – see resolution 2301 (2016). The mission also subsequently had to fight off various rebel groups intent on capturing major population centres and encroaching on the capital city.

Two major types of reactions have followed these varied experiences with UN stabilization operations. First, some experts have called for more clarity and consistency in how the Security Council defines stabilization. For example, in 2015, the High-Level Independent Panel on Peace Operations ("HIPPO Report") noted the multiple ways in which the Council had conceived "stabilization" and concluded "the usage of that term by the United Nations requires clarification". To date, no such clarification has emerged. The second type of reaction was a concern that UN stabilization operations violated its basic principles of peacekeeping, especially impartiality, by tying such missions so closely to the goals of extending and consolidating State authority.

The UN is not the only actor to deploy stabilization operations, although other actors have conceived of stabilization in different ways. NATO deployed its Stabilization Force (SFOR) in Bosnia between 1996 and 2004 only after there was a peace to keep: the 1995 Dayton Accords. In contrast, the International Security Assistance Force (ISAF) to support the 2001 Bonn Agreement in Afghanistan faced a situation of ongoing war against the Taliban. Both SFOR and ISAF were almost entirely military forces. The AU has also used the term "stabilization" to describe certain activities in its peace operations in Somalia, Mali and the Central African Republic (CAR). So too did the ad hoc security coalitions that deployed the Multinational Joint Task Force (2015–) to combat Boko Haram in the Lake Chad Basin region, and the G5 Sahel Joint Force (2017–). These African

actors tended to define stabilization as "helping states in crisis to restore order and stability in the absence of a peace agreement" (De Coning et al, 2016: 10).

Conditions for success

There have been relatively few UN stabilization operations and each case has been rather idiosyncratic. It is therefore difficult to identify general conditions for success and failure. Nevertheless, certain key themes emerge, some of which broadly echo the lessons on best practice for UN operations more generally:

- Stabilization is a whole-of-mission strategic goal and therefore stabilization activities will require input from all mission components.
- Without agreement on what tasks are vital to achieving the strategic objective of stabilizing a territory, it will be very difficult to draw general lessons about success and failure.
- Like all UN peacekeeping missions, stabilization operations require the legal consent and ideally the active cooperation of the host Government. UN peacekeepers using force will often work in tandem with some elements of the host State security forces and UN stabilization missions will often be engaged in some form of SSR. This work should abide by the UN's Human Rights Due Diligence Policy (HRDDP) to ensure that it is not complicit in human rights violations.
- Stabilization operations should be harnessed to a viable political strategy for conflict management, either through some means to kick-start a new peace process or expand an existing peace process. That strategy should include the promotion of inclusive politics and participatory governance.
- Stabilization operations must work particularly hard to clarify how they are maintaining their impartiality, both in the absence of a comprehensive peace settlement and in their efforts to extend and consolidate State authority. This should involve impartial execution of the mandate but not neutrality vis-à-vis the conflict parties.
- The Council must clarify the military tasks and the political objectives of stabilization activities, although these need not be the same across different UN missions. If the Council consistently authorized the same types of stabilization activities, it would make sense to develop a new doctrine or set of principles for UN stabilization operations, highlighting key similarities and differences with the Organization's basic principles of peacekeeping.

- A key challenge concerns how the UN can work effectively with host State authorities that are corrupt, ineffective, and perceived as illegitimate by significant sections of the local population.

- Although stabilization is clearly not synonymous with the protection of civilians, civilian protection has been defined as an important part of stabilization activities. Missions should give particular emphasis to protecting civilians from "blowback" from other stabilization activities.

- The use of outreach activities with the local community can help plan stabilization-related tasks but may also raise the risk of those local communities being targeted by the spoiler groups concerned.

Risks/ benefits

Benefits

- In the short term, UN stabilization operations have managed to reduce levels of violence compared to the crises that triggered their deployment. Done well, these operations can fulfil a variety of important tasks, including restoring order, disarming belligerents, degrading and coercing armed spoilers, facilitating humanitarian assistance, as well as protecting civilians and UN personnel. There is, however, little evidence to support the conclusion that stabilization missions deliver effective local national security forces.

- The Council could point to stabilization operations as taking decisive action in response to extraordinary international crises in cooperation with the host State authorities (and, often, other international actors). In Mali and the CAR, these operations consolidated the UN–AU partnership by transitioning from unsustainable AU-led operations.

Risks

- As stabilization operations take place in zones of active armed conflict without a comprehensive peace settlement, they therefore face a variety of threats. Trying to increase the capacity of the host State authorities through SSR and joint operations can embolden – and seem to legitimize – corrupt and ineffective regimes that are seen as illegitimate in the eyes of substantial portions of the local population. There is also a risk that host State forces (and UN peacekeepers) engage in violations of international humanitarian law, including sexual exploitation and abuse.

- By playing such a significant role in helping the State to establish authority, the UN mission may undermine its ability to acquire legitimacy in the eyes of the population.

- The UN operation could also fail to achieve its objectives for a variety of reasons, it may suffer significant casualties, and it could contribute to a spiral of intensifying violence in the area.

- Engaging with local civilian populations in order to better understand conflict dynamics can put civilians at higher risk of retaliation from armed groups if they are seen as collaborators with foreign forces.

- There is a significant risk that stabilization operations will not meet either local or international expectations and will also struggle to demonstrate concrete progress worth the significant financial and human costs involved. It is very difficult to ensure a successful exit strategy for stabilization operations since they hinge on achieving both a comprehensive peace settlement and a legitimate and effective Government, over neither of which UN peacekeepers have much leverage. The longer stabilization operations are required, the greater the risk of contributing countries and the Security Council becoming divided over the course of the mission.

- Some UN stabilization operations may face difficult relationships with other international actors engaged in military activities. Examples include coordination challenges and becoming too dependent on parallel forces (for example, MINUSMA and Operation Barkhane), or being targeted by external military forces (for example, MINUSCA and Wagner Group forces).

Legal considerations

The legal considerations for UN stabilization operations are very similar to those for UN multidimensional peacekeeping operations – see Tool 31 "Comprehensive mandates – multidimensional peacekeeping operations".

UNSC procedure

- The Security Council adopts a resolution authorizing the stabilization operation and setting out its mandated tasks and objectives.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.
- Subsequent Council resolutions will be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

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OPERATIONAL TOOLS: UN OPERATIONS

33. PEACEKEEPING OPERATIONS: COMPREHENSIVE MANDATES – INTERNATIONAL TRANSITIONAL ADMINISTRATIONS

Summary

International transitional administrations (ITAs) are a type of peace operation in which the UN assumes governmental authority over a territory for a period, temporarily executing the sovereign responsibilities of the relevant State on its behalf.

ITAs can be used to aid transition out of conflict when the host State is newly independent and may not yet have built the institutions of State, or where the sovereign status of the territory is challenged and the authority of the institutions that exist is contested. In their most expansive form, these operations exercise all legislative and executive powers, including the administration of justice. An ITA may incorporate civilian, police and military components, or some of these elements may be separately undertaken by other organizations operating under the authority of the UN Security Council. Other UN and non-UN operations have been granted more limited executive powers, such as the power of arrest and detention and vetting of elected representatives.

Examples: There are two examples of expansive ITAs, the UN Mission in Kosovo (UNMIK) and the UN Transitional Administration in East Timor (UNTAET). More limited transitional administrations include the UN Transitional Administration in Cambodia (UNTAC); and the UN Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES). A non-UN case is the Office of the High Representative in Bosnia and Herzegovina.

Legal basis

ITAs are established acting under Chapter VII of the UN Charter. ITAs with full governing powers are in a unique legal position because the sovereign status of the territory they govern is either contested (Kosovo) or newly independent and lacking a host Government able to grant consent (East Timor). For operations with lesser executive powers, a Chapter VII mandate is not technically required as long as the local authorities consent. However, because the sovereign status of those authorities is either severely compromised or underdeveloped, Chapter VII is usually invoked.

For further information on the legal basis of ITAs, see the introduction to UN operations.

Description

In full-scale ITAs, such as UNMIK and UNTAET, the UN exercises territorial authority and full governing powers for a transitional period on behalf of the State or territory concerned. These are to be distinguished from the more common situation in which the UN and other international actors support a *national* transitional Government, for example, UNAMA and ISAF in Afghanistan from 2001–2004, and MONUC in the Democratic Republic of the Congo from 1999–2006. A middle ground is occupied by operations that exercise some executive authority, such as the power of arrest, but the exercise of sovereignty ultimately resides with national actors – typically a transitional government. UNTAC and UNTAES are examples.

ITAs have been established when armed conflict has made it impossible for any actors to govern in the territory, either for political or practical reasons. Thus, in the aftermath of NATO's intervention in Kosovo/Serbia in 1999, neither the Government in Belgrade nor the strongest Kosovar force (the Kosovo Liberation Army) were in a political position to exercise authority over the entire population and territory. In East Timor (as it was then called), the withdrawal of Indonesian administrators and security forces following the 1999 referendum on independence (and subsequent violence) left the region bereft of any government or administrative capacity. In both cases, the Security Council empowered a peace operation to fill the vacuum until local actors had the capacity and legitimacy to assume governing authority. The Special Representative of the Secretary-General (SRSG) temporarily assumed that authority, supported by many hundreds of administrators, police, judges, advisers and experts.

Transitional administrations are primarily civilian missions, with the focus on governance and administration, but they are typically backed by robust military capacity. UNMIK was (and still is) co-deployed with KFOR, now 3000 troops but peaked at more than 50,000. UNTAET was originally deployed alongside INTERFET, an Australian-led military coalition authorized under Chapter VII, but absorbed the military component after six months to become an integrated mission of more than 9000 military, 1600 police and 700 civilians.

The tasks ITAs perform include:

- Providing security, including to protect civilians
- Maintaining law and order
- Facilitating a political process
- Building capacity for self-government
- Conducting elections
- Establishing effective civil administration

- Administering justice
- Protecting and promoting human rights
- Assisting in the development of social services
- Coordinating the delivery of humanitarian relief
- Assisting in the return of refugees and displaced persons
- Supporting economic reconstruction

Even in the case of full-scale ITAs, de jure authority is not the same as de facto authority. Co-governance in some form is necessary, both for political and practical reasons. International officials cannot be expected to sufficiently earn the trust of a population to be able to provide effective governance for an extended period, nor do they have the knowledge or cultural awareness to manage a country that is not their own. The strategy in these operations, therefore, is to exercise only as much power as necessary to facilitate the transition and to hand over that power incrementally as the capacity and legitimacy of the national authorities grows.

In cases of transitional administrations where the mission has less than full governing powers, such as UNTAC and UNTAES, the same dilemma exists though on a lesser scale. De jure authority can be quite expansive, but the ability to exercise it may be somewhat limited.

UN ITAs are fully funded out of the peacekeeping budget. Some elements, such as humanitarian relief and development assistance, are funded through relevant agencies and/or out of extra-budgetary resources.

For further information on how UN transitional administrations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

The earliest UN peace operation having some governing powers was the UN Temporary Executive Authority in West New Guinea (UNTEA) during the transition from Dutch colonial rule to Indonesian sovereignty in 1962–1963. That relatively small-scale undertaking was not replicated until the end of the Cold War when UNTAC was given some executive powers in 1991, followed by UNTAES in 1996.

A big shift occurred in 1999, when two full-fledged international transitional administrations were authorized within four months of each other: UNMIK and UNTAET. There have been no new ITAs since then but UNMIT (the successor to UNTAET), MINUSTAH (Haiti) and MINUSCA (the Central African Republic) were all given some executive policing powers, including the power of arrest and detention.

There have been no non-UN peace operations with full governing powers,

but the High Representative in Bosnia has some executive authority, as did RAMSI I in the Solomon Islands.

UNTAC (Cambodia 1991–1993)

Following adoption of the Paris Peace Agreements in 1991, Cambodia was governed by the Supreme National Council (SNC) – a power-sharing arrangement among four factions – which was designated the "unique legitimate body and source of authority" in Cambodia. However, pursuant to the Paris agreements, the SNC delegated to UNTAC "all powers necessary to ensure the implementation of the agreement". In practice, this meant UNTAC was mandated to control (though not govern) important aspects of civil administration. It was also given the authority to conduct elections and verify the winner. Moreover, when the SNC was deadlocked, UNTAC and its SRSG had the power to make binding decisions to break the deadlock.

UNMIK (Kosovo 1999–)

In the aftermath of NATO's intervention in Kosovo/Serbia in 1999, UNMIK was established to run Kosovo pending agreement on the final status for the territory – either independence or substantial autonomy within the Federal Republic of Yugoslavia. By resolution 1244, adopted under Chapter VII, UNMIK was given "all legislative and executive authority with respect to Kosovo". It originally had four pillars, each of which reported to the SRSG but was run by different organizations: UNMIK itself was in charge of civil administration; UNHCR was in charge of humanitarian assistance; the OSCE had responsibility for democratization, institution-building and human rights; and the European Union (EU) for reconstruction and economic development. After the worst of the humanitarian crisis was over, Pillar I became "police and justice" under the direct leadership of the UN. UNMIK was deployed alongside KFOR, a NATO-led force that peaked at 50,000 troops from 39 NATO and non-NATO countries. While the SRSG had full legislative and executive authority in Kosovo, mechanisms for power-sharing and "co-administration" with local leaders were put in place early on. Since Kosovo's parliament declared independence in 2008, UNMIK's mandate has been scaled back and the presence of the EU has been enhanced. Formally, all operations in Kosovo continue to be within the framework of resolution 1244.

UNTAET (East Timor 1999–2002)

UNTAET was established following East Timor's referendum on independence in 1999. The explosion of violence that followed the vote, combined with the complete withdrawal of the Indonesian governing infrastructure, meant it was necessary to deploy both a military and civilian presence to ease the transition to independence. According to S/RES/1272, UNTAET had "overall responsibility for the administration

of East Timor and would be empowered to exercise all legislative and executive authority, including the administration of justice". In fulfilling its mandate, UNTAET was to "consult and cooperate closely with the Timorese people", which meant working closely with the leading political group, led by Xanana Gusmão. Security was initially provided by INTERFET, an Australian-led force of 8000. In February 2000, INTERFET was absorbed into UNTAET and most of its troop contributors "re-hatted". Consultation with Timorese leaders quickly evolved into co-governance in the form of institutions that combined Timorese and international figures. In July 2000, the UN Transitional Administrator created a "Cabinet of the Transitional Government in East Timor" with four portfolios held by Timorese and four by UNTAET officials. Following elections in 2002, East Timor declared independence and acceded to the UN. The name was changed to Timor-Leste. UNTAET was succeeded by UNMISET, a scaled-down support and assistance mission, with some lingering executive powers in the security field.

The Office of the High Representative in Bosnia and Herzegovina (1995–)

The best example of a non-UN mission with executive authority is the Office of the High Representative in Bosnia and Herzegovina. A position established by the Dayton Peace Agreement of 1995, the High Representative reports to the Peace Implementation Council (PIC) – a body of 55 countries and agencies created to oversee implementation of the agreement. In 1997, the PIC empowered the High Representative to adopt binding decisions when Bosnian parties were unable or unwilling to act, and to remove from office public officials who violated legal commitments or the Dayton agreement.

The Coalition Provisional Authority in Iraq (2003–2004)

Arguably, another non-UN case is the Coalition Provisional Authority (CPA) deployed in Iraq following the 2003 intervention. It did not have a mandate from the Security Council, but S/RES/1483 (2003) took note of a letter from the United States and United Kingdom acknowledging that they had the "authorities, responsibilities and obligations of occupying powers", and called upon them "to promote the welfare of the Iraqi people through the effective administration of the territory". The CPA, which was headed by an American diplomat, assumed governing powers until June 2004 when it was dissolved and authority handed over to an interim Iraqi Government.

Conditions for success

The establishment of international transitional administrations is a rare and controversial practice given that the UN assumes trustee-like powers for a transitional period. The Security Council may establish an ITA where there is a vacuum of authority in the host State and time is needed to construct a functioning *national* government (transitional or otherwise) or

for other similarly exceptional reasons where the Council considers that it is necessary. Below are some of the lessons learned and best practices.

- ITAs are most likely to succeed when the territory and population to be administered are quite small. The UN does not have the capacity to govern a large territory, especially one in which there are deep divisions among the political elite and local population.

- They are more likely to succeed when there is clarity about the end-state of the transition and substantial international support for that end-state.

- If for political reasons there is a lack of clarity about the end-state, then unity in the Security Council and among other key external actors about the process for achieving agreement on the end-state is critical.

- ITAs benefit from the presence of strong local leaders with legitimacy in the eyes of the population. These leaders can serve as credible interlocutors during the transition.

- If a UN peace operation is given executive powers, it must exercise those powers responsibly. When it fails to do that – for example, when it commits human rights abuses – it must be held accountable. It is important therefore to set up independent accountability mechanisms to oversee the day-to-day functioning of the mission.

- Co-governance mechanisms should be established as soon as is politically and practically feasible. The UN should hand over authority to the local leaders incrementally (but quickly) as the local authorities build the capacity for effective and legitimate governance.

- When there are deep divisions among local factions, it is important for the ITA and its SRSG is to strike the right balance in its relationship with the various factions. As a general matter, the ITA should govern alongside those with power and legitimacy, while asserting sufficient authority to ensure other important actors are not marginalized.

- Establishing legitimate self-governing institutions is a long-term enterprise – longer than the life of an ITA. For that reason, an ITA should typically be succeeded, when needed, by a more traditional assistance and support mission (either a multidimensional peacekeeping operation or a special political mission). The UN Country Team should also be part of the process, to take over residual tasks from the peace operation.

Risks/ benefits

Benefits

- ITAs can fill a vacuum of authority and capacity. They can bring expertise, resources and even-handed governance to societies

traumatized by armed conflict.

- ITAs, by their very nature and scope, attract high-level political attention. The members of the Security Council are likely to be deeply engaged, as are any neighbours or other actors who have a stake in a successful transition.

- ITAs create space and time for divided societies to reconcile, or at least to manage social and political conflicts through peaceful means. They also provide space and time for national authorities to earn the trust of the local population and thereby acquire legitimacy.

Risks:

- The greatest risk that an ITA faces is the perception of "neo-colonialism" with external actors imposing values, institutions and modes of governance that are inappropriate in the local context. That can generate resistance and may send the wrong signal if the ultimate goal is to promote inclusive self-governance. This risk is exacerbated if the personnel of the transitional administration do not have a good understanding of the local culture, politics and norms.

- Another risk is that mandating a UN operation to do everything from governing the territory to administering justice to delivering basic services will generate expectations that cannot be fulfilled. When that occurs, trust in, and support for, the operation will erode.

- A third risk – or challenge – is developing and implementing an exit strategy. This is especially difficult when there is no agreement among Security Council Members on the end-state (as is the case for UNMIK). Conversely, pressure to withdraw or scale down an operation for political reasons can lead to premature exit, before the national authorities and institutions are seen as legitimate in the eyes of the local population.

Legal considerations

ITAs raise a wide range of legal considerations, which may be highly complicated, contested and novel, including:

- When granting legislative and executive authority to a UN ITA, whether full or more limited governing powers, the Security Council should do so under Chapter VII. Relying on Chapter VI and the consent of a transitional Government is problematic given that legislative and executive authority is needed precisely because the local Government lacks the authority to effectively grant consent.

- Determining the applicable law that governs a territory under a transitional administration is a difficult and sensitive matter. In

Kosovo, the prior Yugoslavian law was initially applied by UNMIK insofar as consistent with international standards. This was vigorously protested in Kosovo, so UNMIK switched to law that applied in 1989 when Kosovo was an autonomous entity in the Federal Republic of Yugoslavia. Similar difficulties arose in Timor.

- International human rights law applies to ITAs given the degree of control they exercise over the territory.

- Mechanisms need to be put in place to hold the operation accountable for wrongs done. The Ombudsperson Institution in Kosovo is an example, albeit one that was established years after the initial deployment of UNMIK and criticized as lacking in key powers, means and political support for its work and recommendations.

- An ITA may assume certain international obligations of the territory, as UNMIK did in reporting for instance to the UN Human Rights Committee for the territory of Kosovo under the auspices of the Serbian periodic report. This derives both legally and politically from the degree of control that the ITA exercises over the territory.

UNSC procedure

- Establishing an ITA poses special challenges for the UN because there may be no host Government that would be the natural interlocutor for consultations regarding mission design. Alternatively, the issue may be that the State that was previously exercising sovereignty may be unsupportive or even hostile to the ITA. Accordingly, consultations by the Secretariat and Council Members should engage a broad range of local and international stakeholders prior to adoption of the mandating resolution.
- If regional organizations are involved in the transition, they too should have a Security Council mandate.
- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

34. PEACEKEEPING OPERATIONS: FOCUSED MANDATES – PREVENTIVE MILITARY DEPLOYMENTS

Summary

The UN may authorize preventive military deployments as part of a comprehensive mandate, or where it is the sole or primary purpose of the mission.

A UN-led preventive military force can be deployed to prevent the outbreak, escalation or international spillover of armed conflict. The main strategic functions are observation and deterrence. Preventive deployments should occur before violence has reached a significant intensity and require the consent of the host State.

While other operations may have preventive elements as part of their military mandate, preventive military deployments are distinguished by their arrival much earlier in the conflict cycle, and prevention of organized violence being their sole or primary objective.

Example: UN Preventive Deployment Force (UNPREDEP) in Macedonia.

Legal basis

UN preventive military deployments can be established under either Chapter VI or VII of the UN Charter. Such deployments will usually require a mandate for use of force, whether that derives from Chapter VII or from host State consent. For the only past example of this – UNPREDEP – the legal mandate was ambiguous. While the deployment had the consent of the host State (although Macedonia was not at the time a UN Member State), in resolution 983 (1995) the Council had "decided" that UNPROFOR's mandate would continue to apply. The Council did not expressly invoke Chapter VII or indicate a threat to international peace and security.

For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

A preventive military force can be deployed by the Council to prevent the outbreak of major organized violence, reduce the escalation of violence within a State, or prevent international spillover of armed conflict.
The main strategic functions of such an operation are observation and deterrence. The force should be deployed with the consent of the host

State into areas of instability, before violence has reached a significant intensity, and certainly before a ceasefire or peace agreement has been concluded.

Other operations that are deployed into an active conflict or following a ceasefire or more comprehensive peace agreement will likely have preventive elements as part of their military mandate. For example, they may be mandated to undertake tasks aimed at preventing the spread or escalation of violence, or to prevent relapse into armed conflict following a ceasefire. However, preventive military deployments are distinguished by their arrival much earlier in the conflict cycle and prevention of organized violence being their sole or primary objective.

The Council determines the force composition and posture. Its size could vary significantly depending on the situation, the available resources, and the mandated tasks. The force need not be heavily armoured since its principal strategic functions are observation and deterrence.

Mandated tasks are likely to include:

- Monitoring activities of conflicting parties.
- Monitoring cross-border flows of people and arms.
- Monitoring prohibited activities.
- Patrolling volatile areas.
- Patrolling borders.
- Being present at demonstrations, public celebrations and events of potential conflict.
- Providing early warning of the outbreak or escalation of violence and potential flashpoints.

A supplementary police capacity might be mandated to deter public disorder/rioting, while a civilian capacity might be mandated to support political and diplomatic efforts to resolve the conflict or build peace, to monitor the human rights situation, to engage with communities, and to provide administrative and logistics support.

To be successful, a preventive military deployment needs to be part of a broader political/diplomatic strategy aimed at resolving the conflict and/or building peace. This is particularly important for these deployments, because unlike some of the other operational tools, they are more passive with less independent agency to contribute to resolving the conflict or building peace.

In the event that the deployment does not prevent organized violence, it can serve as a "tripwire" for triggering greater international engagement, and provide a vanguard element to build upon or play a first responder role.

Security Council resolution 1366 (2001) affirmed the Council's "willingness to consider preventive deployment upon the recommendation of the Secretary-General and with the consent of the Member States concerned". However, the Council has only used this tool on one occasion: its preventive deployment in Macedonia (1992–1999).

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

This tool has been a possibility since the earliest days of UN peacekeeping but has been used only once by the Council in the case of the former Yugoslav Republic of Macedonia (FYROM) (1992–1999). The Council mandated the UN Preventive Deployment in the Former Yugoslav Republic of Macedonia (UNPREDEP) to monitor and report "any development in the border areas [with the former Yugoslavia and Albania] which could undermine confidence and stability in Macedonia or threaten its territory" (S/RES/795 (1992)). The mission's principal tasks were therefore observation of Macedonia's border areas with the former Yugoslavia and Albania and deterring any armed forces crossing those borders or engaging in prohibited activities. In March 1994, its mandate was broadened to include a "good offices" function focused on maintaining "peace and stability" inside Macedonia (S/RES/908 (1994)).

The Council's decision to deploy UNPREDEP came just months after UN Secretary-General Boutros-Ghali's *An Agenda for Peace* (1992, paras. 28–32) had made preventive diplomacy a central part of UN conflict management. This report suggested the UN could undertake preventive deployments in either intra-State or inter-State crises in order to discourage hostilities. For inter-State crises, a UN deployment could assume positions on either one or both sides of a border.

In the case of Macedonia, the deployment came after a request for conflict prevention measures was made to the UN Secretary-General by the Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia. UNPREDEP's deployment was made possible by the invitation from President Gligorov, a relatively rare situation given most UN Member States are reluctant to call for international forces before a violent crisis has erupted. Gligorov's decision may have been partly motivated by the desire to gain Macedonia's international recognition at the UN. Gligorov consented to the deployment in December 1992, several months before Macedonia (now North Macedonia) became a UN Member State in April 1993.

The deployment started as UNPROFOR-Macedonia, an extension of UNPROFOR in Croatia and Bosnia and Herzegovina. In this way,

UNPREDEP was facilitated by the existence of UN peacekeepers already in the region. It is unclear if the Council would have deployed UNPREDEP if it meant establishing an entirely new mission. The mission became UNPREDEP in March 1995. It continued until 1999, at which point the mission's mandate was not renewed due to a veto by China. This came just a few weeks before NATO launched its air campaign, Operation Allied Force, against the Federal Republic of Yugoslavia, which resulted in nearly 250,000 Kosovar refugees fleeing to Macedonia.

After UNPREDEP ended, a minor armed conflict erupted in Macedonia in early 2001. That armed conflict lasted for six months before the United States and the European Union (EU) mediated the Ohrid Agreement, which saw the subsequent deployment of NATO's Operation Essential Harvest in August 2001 (which transitioned into an EU mission in March 2003). It is impossible to say definitively whether UNPREDEP's termination in February 1999 precipitated the armed conflict that broke out in Macedonia in early 2001, or whether UNPREDEP's continued presence would have succeeded in averting that conflict.

There have also been very few non-UN preventive military deployments, and arguably none that fits the UNPREDEP mould. However, three cases are worth noting:

- First, in 2006, the EU deployed a military force to the Democratic Republic of the Congo (DRC) in support of the UN Mission in the DRC (MONUC) as a deterrent to ensure that planned elections did not spark renewed violence. In this case, the approximately 3000-strong force was dispersed: an advanced element deployed to Kinshasa, an on-call force stationed in Libreville-Gabon, and a strategic reserve retained in France and Germany.

- Second, in January 2017, the Economic Community of West African States (ECOWAS) deployed a several-thousand strong military force (ECOMIG) to uphold the result of the 2016 presidential election in the Gambia and prevent the incumbent President Jammeh from presiding over an unconstitutional change of government. This succeeded in ushering in the inauguration of the duly elected President Barrow.

- Third, in December 2017, the Southern African Development Community (SADC) deployed its Preventive Mission in the Kingdom of Lesotho (SAPMIL). Comprised of roughly 220 military, 24 police and 12 civilian personnel, it was mandated to restore stability in the country following the assassinations of the Commander of the Lesotho Defence Force and two senior officers.

Conditions for success

It is difficult to draw general lessons for this tool since it has only been applied in one case. Nevertheless, some key themes emerge, some of which broadly echo the lessons on best practice for UN operations more generally:

- Like all UN peacekeeping operations, preventive deployments require the consent and ideally the active cooperation of the host Government. As was seen in the case of UNPREDEP, the host Government need not be a UN Member State.

- In order to maximize its chances for success, a preventive force should deploy before armed conflict has started. The Council did this in Macedonia and no war broke out inside the country or across its borders during the mission's six-year presence. However, it is usually the eruption of organized violence that increases the political will of the Council to deploy troops.

- Like other UN operations, preventive deployments should be harnessed to a viable political strategy for conflict management. This is particularly important for these deployments, because unlike some of the other operational tools, they are more passive, with less independent agency to contribute to resolving the conflict or building peace.

- The use of outreach activities with the local community (for example, blood donations, school/facility refurbishment) helped UNPREDEP gain a better understanding of local issues, including potential conflict dynamics.

- Like all UN operations, UNPREDEP was able to function effectively while it received unified political support from the Council. Once that unity broke down, the mission ended.

- UNPREDEP's strategic function of deterring a spillover of the armed conflict in the former Yugoslavia was helped by the incorporation of a United States battalion, along with Nordic troops. The presence of United States troops in particular signalled that if the force was targeted there would likely be significant consequences; thus serving as a political "tripwire" for potentially more robust international engagement.

- Preventive deployments could be combined with the Secretary-General's good offices powers, as was the case with UNPREDEP. For example, resolution 908 (1994) encouraged the SRSG to use his "good offices as appropriate to contribute to the maintenance of peace and stability" in Macedonia.

- If a preventive force is deployed in an area before the outbreak of organized violence, it is impossible to definitively prove that the mission's presence was the reason the area remained peaceful. Similarly, it cannot be definitively attributed to a mission if violence is prevented from spilling over an international border.

Risks/ benefits

Benefits

- Deployment of a preventive force can keep the peace, discourage hostilities, and perhaps prevent the outbreak of armed conflict by generating deterrents that civilian missions probably cannot. Since preventive deployments are likely to be at the smaller and lightly armoured end of the military spectrum, they will probably be relatively cheap to deploy and maintain. Such military deployments could also be combined with diplomatic conflict management mechanisms, including mediation and the Secretary-General's good offices function.

- The Council could point to a preventive deployment as taking decisive action in cooperation with the host State(s). It would signal the UN is taking conflict prevention seriously and investing in cost-effective responses today in order to avoid spending much larger sums of money once war has erupted. As Boutros Boutros-Ghali put it in the *Supplement to An Agenda for Peace*, "'it is evidently better to prevent conflicts through early warning, quiet diplomacy and, in some cases, preventive deployment than to have to undertake major politico-military efforts to resolve them after they have broken out" (1995, para. 26).

Risks

- The force could fail to deter armed conflict, in which case it would be vulnerable to attack and suffering casualties.

- It is likely to be difficult to generate the political will to deploy military forces in the absence of actual armed conflict in the area concerned. In times where the UN has numerous peace operations deployed across the world's crisis zones, deploying troops to a territory without an armed conflict may be criticized for being an imprudent use of scarce peacekeeping resources.

- While it is easy to see when prevention efforts fail, it is more difficult to measure their success, in large part because that will be assessed against counterfactuals. It is helpful to identify in advance indicators of success and failure to ensure the mission's performance is fairly assessed.

- Preventive deployments run the risk of not having a clear exit strategy, since it is difficult to forecast whether their departure will precipitate organized violence. The longer the mission continues, the greater the risk of the Council becoming divided over the course of the operation,

and there is likely to be more political pressure to depart and use the equivalent peacekeeping resources elsewhere.

- In the absence of a diplomatic conflict management strategy, a UN force could potentially be seen as an instrument of Government oppression, complicit in stifling legitimate opposition. While a carefully crafted mandate would not, in reality, have this effect, such criticisms could still be levelled at the mission.

Legal considerations

The issue of the use of force is potentially more complex for a preventive military deployment than for other military deployments, and depends on the breadth of the mandate as reflected in the Council's decision to establish the deployment and the host State's consent. It cannot be assumed that a preventative mandate will be narrow, for example, UNPREDEP's mandate was essentially the same as UNPROFOR.

If the preventive military deployment is mandated under Chapter VII or with otherwise binding language (as for UNPREDEP) the deployment will be more likely to have a clear authority to use force. If the deployment is more consent-based and under Chapter VI, it may have a less clear mandate to use force. A UN operation will always retain the right to self-defence, but in the absence of a mandate from the Council it is unclear what would be an acceptable use of force "in defence of" a preventative mandate.

UNSC procedure

- The Security Council adopts a resolution authorizing the preventive deployment and setting out its purpose, mandated tasks, composition and posture.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.
- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONS

35. PEACEKEEPING OPERATIONS: FOCUSED MANDATES – OBSERVATION AND MONITORING

Summary

UN observer missions are usually deployed to monitor a ceasefire, troop withdrawal, and/or a buffer zone between conflicting parties. Some monitor arms embargoes, disarmament/demobilization/reintegration (DDR) and, more rarely, other aspects of a peace process such as elections and human rights. Their primary purpose is to provide transparency and assurance to each side that the other will not violate the ceasefire or other agreements reached. They also allow the parties space to reach a political solution to the conflict. Occasionally, they are deployed alongside a regional peace operation to work with and monitor the activities of that operation.

Most of the early UN peacekeeping missions had observation and monitoring mandates only. The earliest were unarmed and very small, but subsequently most have been armed. Sometimes called "traditional peacekeeping", they typically involve the deployment of troops or observers between regular armies, along a well-defined ceasefire line between two States, but have also been deployed in the context of a war of secession and purely internal conflict.

Examples: UN Truce Supervision Organization (UNTSO); UN Military Observer Group in India and Pakistan (UNMOGIP); UN Emergency Force (UNEF I and UNEF II); UN Disengagement Observer Force (UNDOF); UN Peacekeeping Force in Cyprus (UNFICYP); UN Interim Force in Lebanon (UNIFIL I and II); UN Mission for the Referendum in Western Sahara (MINURSO); UN Observer Mission Uganda-Rwanda (UNOMUR); UN Observer Mission in Georgia (UNOMIG); UN Mission in Ethiopia and Eritrea (UNMEE); UN Observer Mission in Liberia (UNOMIL); UN Observer Mission in Sierra Leone (UNOMSIL); UN Supervision Mission in Syria (UNSMIS).

Legal basis

UN observer missions are typically established under Chapter VI of the UN Charter.

In exceptional circumstances, an observer or traditional peacekeeping operation can be authorized by the General Assembly, exercising its residual responsibility for the maintenance of peace and security, when the Security Council fails to act. The Uniting for Peace resolution has been

invoked twice by the General Assembly to authorize peace operations – one of which was a traditional peacekeeping mission (UNEF I).

Non-UN operations of this type, such as the Multinational Force and Observers in the Sinai (MFO), do not require the authorization of the Council or General Assembly because they are not UN missions and the host State will have provided legal consent to the relevant States and/or regional organizations (for example, through a Status of Mission/Forces Agreement).

For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

UN observer missions are unarmed or lightly armed missions deployed to monitor a ceasefire, usually between two regular armies. They are typically deployed in the context of inter-State disputes (for example, UNEF and UNDOF), although there have been instances when observer missions were deployed where the status of the territory was contested (such as UNFICYP, MINURSO and UNOMIG). Observer missions in purely internal conflicts are less common, given that there is in principle no well-defined ceasefire line in such circumstances. Examples include UNOMIL and UNOMSIL. An unsuccessful case is UNSMIS.

Because the functions are primarily military, armed observer missions are usually headed by a Force Commander and unarmed missions by a Chief Military Observer. If the mission has significant civilian functions, it is led by a civilian Special Representative of the Secretary-General (SRSG). Unarmed observer missions have numbered as few as several dozen personnel, while armed peacekeeping missions have deployed as many as 6000 troops. In their origins during the Cold War, armed operations sought to rely on troop contributions from "neutral" countries, which tended to exclude the five permanent members of the Council, neighbouring countries, or those with a stake in the outcome of the conflict.

The broad function of an observer mission is to provide some assurance to each side in the conflict that the other will not cheat on the ceasefire or other agreement they may have reached, thereby preventing minor situations from escalating. They do so not by actively preventing violations but by deterring them through their presence as the "eyes and ears" of the Security Council. While armed operations are authorized to use force in self-defence, it is expected that they will not have to do so.

Thus, observer and traditional peacekeeping missions do not seek to impose peace, build peace, or even negotiate peace. Instead, by serving as a reassuring presence, they provide a degree of stability and confidence that can help to create the conditions for pursuing a broader political

settlement. If any mediation occurs, it is typically undertaken not by the peacekeepers but by a UN envoy or some other actor.

Specific tasks performed by observer and traditional peacekeeping missions include:

- Establishing observation posts along a ceasefire line.
- Active patrolling of a ceasefire line or buffer zone.
- Keeping track of violations and reporting them to the Security Council, General Assembly and/or Secretary-General.
- Good offices to prevent situations from escalating.
- Monitoring an arms embargo.
- Monitoring DDR.
- Monitoring elections and human rights.
- Observing a regional peace operation.
- Coordinating and, on occasions, providing humanitarian assistance.
- Using force to defend UN personnel and property.

It is out of these missions that the basic principles of UN peacekeeping were born: consent, impartiality, and the non-use of force, except in self-defence. For more on how those principles were originally understood, see the introduction to UN operations.

These missions coordinate with other UN entities on the ground but are not integrated. They often work closely with a UN envoy or other mediator. If they are deployed alongside a regional peace operation, they coordinate with that operation.

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

The first observer missions were established in the late 1940s, in the Middle East (UNTSO) and South Asia (UNMOGIP). These missions, which still exist, are composed of unarmed observers.

A major development occurred in 1956, when the UN established the first armed peacekeeping mission on the Egyptian side of the border between Israel and Egypt in the aftermath of the Suez Canal crisis. It had a mandate to monitor withdrawal of French, British and Israeli forces from Egypt, and to monitor a buffer zone in the border area. Several guiding principles were established and a force of 6000 was deployed in what became the prototype for most Cold War-era peacekeeping operations. The UNEF guidelines became the UN principles of peacekeeping: consent, impartiality, and the non-use of force, except in self-defence.

UNMOGIP (India and Pakistan 1949–)

UNMOGIP was first deployed in 1949 to supervise the ceasefire between India and Pakistan in the states of Jammu and Kashmir. The observers investigated complaints of ceasefire violations and submitted their findings to each party and to the Secretary-General. After the 1971 hostilities between India and Pakistan, the two countries signed an agreement defining a Line of Control in Kashmir. India took the position that the mandate of UNMOGIP had lapsed, but the Secretary-General argued the mission could be terminated only by a decision of the Security Council. Since then, it has continued its observation functions, but with limitations on its activities on the Indian-administered side of the Line of Control.

UNFICYP (Cyprus 1964–)

UNFICYP was established in March 1964 with a mandate to preserve international peace and security, prevent a recurrence of fighting, and assist with restoring law and order. After fighting broke out in 1974, the Security Council passed several resolutions calling for a ceasefire and negotiations. Since then, UNFICYP has been tasked with monitoring the ceasefire, the UN buffer zone and opposing forces. In addition to monitoring, UNFICYP facilitates the delivery of humanitarian assistance and liaises with all sides to help create the conditions for a long-term settlement of the dispute. As of June 2021, it comprised 796 military personnel and 65 police personnel, as well as a civil affairs branch and administrative support.

UNDOF (Israel–Syria 1974–)

UNDOF was established in May 1974 following the Agreement on Disengagement between Israeli and Syrian forces. UNDOF is mandated to maintain the ceasefire, supervise the disengagement of both forces in the area of separation, and oversee mine clearance operations. UNDOF also undertakes civil affairs activities through quick-impact projects aimed to help rehabilitate structures that were affected by explosives, and to build support for the mandate and safety of UNDOF forces. Headed by a Force Commander, as of August 2021 its strength was 1118 troops assisted by 73 military observers.

UNIFIL (Lebanon 1978–)

First deployed in 1978 to confirm the withdrawal of Israeli forces from southern Lebanon, to restore international peace and security, and to assist the Government of Lebanon to establish its authority in the South (resolution 425), UNIFIL I was a force of 6000 troops that essentially performed a monitoring function. Due to resistance from all the parties – including Israel's invasion in 1982 – it struggled to implement every aspect of its mandate. Following the unilateral withdrawal of Israel in 2000, the situation improved and UNIFIL was able to slowly scale down to

2000 troops while still helping to stabilize the situation and provide some humanitarian assistance within its area of operations. After the 2006 war between Israel and Hezbollah, the mandate of what came to be known as UNIFIL II expanded (resolution 1701). It continued its monitoring functions and its support for deployment of Lebanese armed forces to the South, including along the Blue Line, but was also authorized "to take all necessary action in areas of deployment of its forces and as it deems within its capabilities, to ensure that its area of operations is not utilized for hostile activities of any kind; to resist attempts by forceful means to prevent it from discharging its duties … and, without prejudice to the responsibility of the Government of Lebanon, to protect civilians under imminent threat of physical violence". Despite this "robust" language, and its expansion to 15,000 authorized personnel, UNIFIL II has operated as a traditional Chapter VI peacekeeping mission.

UNOMIG (Georgia 1993–2009)

UNOMIG was deployed in Abkhazia, an autonomous republic of Georgia, during the Georgia–Abkhaz war of 1992–1993. Its original mandate was to verify compliance with a ceasefire agreement, working alongside a Joint Peacekeeping Force (JPKF) of Russian, Georgian and Ossetian contingents. In 1994, the JPKF was replaced by a Commonwealth of Independent States (CIS) peacekeeping force composed entirely of Russian troops. The Security Council welcomed the CIS force and expanded the mandate of UNOMIG to include observing its operations (resolution 937). In 1996, the Security Council approved the creation of a human rights office as part of UNOMIG. In 2003, a small civilian police presence was added. UNOMIG struggled to fulfil its mandate throughout its life and, following the 2008 war between Russia and Georgia, withdrew in June 2009 after Russia vetoed a technical rollover of the mission's mandate. Before its withdrawal, a European Union (EU) Monitoring Mission was deployed on the Georgian side of the Abkhazia and South Ossetia borders. UNOMIG's peak strength was 133 military observers and personnel.

Non-UN cases

Non-UN traditional peacekeeping or observer missions include the Multinational Force and Observers (1981–), an operation of about 1000 military personnel with a mandate to supervise implementation of the Egypt–Israel Peace Treaty of 1979. Another is the Organization for Security and Co-operation in Europe (OSCE) Special Monitoring Mission to the Ukraine (2014–2022), a mission of about 1200 unarmed civilian monitors from 43 countries. Its initial mandate was to monitor the security situation in the Ukraine following the eruption of violence in 2014, and subsequently to assist in the verification of the Minsk Agreements. Other non-UN missions include the EU Monitoring Mission in Georgia, the International Monitoring Team in Mindanao (Philippines), and a number of small Intergovernmental Authority on Development (IGAD) missions in Sudan.

Conditions for success

Observer and traditional peacekeeping missions do not seek to impose peace, build peace, or even negotiate peace. Rather, their purpose is to help "keep the peace" by monitoring and reporting on violations of limited agreements (for example, a ceasefire) that the conflict parties have reached. In so doing, they seek to create the stability that will make it possible for negotiations on a broader settlement to progress.

- A condition for success is a genuine willingness of the parties not to see the violence escalate. This does not necessarily entail a willingness to make lasting peace. As the foregoing examples illustrate, there are a number of observer and traditional peacekeeping operations deployed in places where that will is lacking. But, if the parties have an interest in containing their conflict, an observer mission can be a reassuring presence. It helps if the parties have arrived at a "hurting stalemate" – a painful situation in which none believes they can fully achieve their goals through war.

- Consistent with the principles of peacekeeping as traditionally understood, not only is the original consent of the parties important, so is their continued cooperation. If the parties obstruct the mission from carrying out its functions, for example, by restricting freedom of movement, there is little the mission can do other than to use good offices or call on other actors to bring political pressure to bear. If that fails, they withdraw, as was the case with UNEF I, UNMEE and UNSMIS.

- These missions tend to succeed when their presence serves as a *political* deterrent and hence a confidence-building mechanism. Because they are neither mandated nor equipped to respond with force to a blatant transgression, they do not function as a military deterrent, but their presence can serve as political "tripwire" to draw the attention of the Security Council or other influential actors. The deterrent effect depends on the willingness and ability of those other actors to respond to transgressions.

- The security conditions must be such that they allow for application of the basic principles of peacekeeping. If the parties consent to the presence of the mission but don't cooperate on an ongoing basis, there is little a mission can do. Insisting on strict "impartiality" and the use of force only in self-defence can paralyse a mission if the conflict environment is not conducive to that. In those conditions, a traditional mission should be withdrawn and replaced with a more robust force. The shift from UNIFIL I to II is an example.

- When deployed alongside a regional peace operation, a UN observer mission must coordinate with it but also maintain some distance,

especially if the UN has a mandate to monitor the activities of that operation.

- Other success factors include:
  - Broad international consensus in support of the mission and the political process it is meant to foster.
  - A clear and achievable mandate.
  - Balanced multinational force composition.
  - Adequate financial and logistic support, including for mobility.

Risks/ benefits

Benefits

- Observer missions buy time and help to create the conditions for mediation and peace negotiations to be conducted.
- By serving as a political "tripwire", they deter violations of the ceasefire or other agreement.
- They serve as the "eyes and ears" of the Security Council, ensuring that international attention remains focused on a conflict situation.
- Given the limited mandates, it is relatively easy to find States willing to contribute military personnel. Moreover, they can deploy relatively quickly with adequate logistic support.
- New monitoring and surveillance technologies mean that these missions can be smaller than in the past and cover more ground. This opens UN peacekeeping to participation from "technology contributing countries" as well as those who provide personnel.
- Given their limited mandates, they are rarely accused of intervention in matters that are essentially domestic.
- Compared to large stabilization and multidimensional peacekeeping operations, they are relatively inexpensive and risk fewer casualties.
- When deployed alongside a regional peace operation, they can lend legitimacy to that operation by ensuring international standards are respected.

Risks

- Given their limited mandates and often small size, they can be brushed aside or ignored by a determined foe. This risk is especially great when the political "tripwire" function described above is not credible because the Security Council or other influential actors do not respond to violations.

- Given their limited mandates and sometimes substantial size, they may generate expectations that cannot be fulfilled. For example, traditional peacekeeping operations are not mandated or equipped to protect civilians from physical violence. But civilians, who generally do not read the fine print of Security Council resolutions, expect to be protected by armed peacekeepers when threatened.

- Because they cannot compel the parties to fulfil their commitments (for example, to withdraw forces from a buffer zone), the credibility of the mission can be damaged when it does not act.

- There is a risk that a traditional peacekeeping operation will entrench a "frozen conflict". By creating enough stability to prevent a conflict from escalating, the operation can remove the incentive to seek a broader political settlement if one or both parties are content with the status quo.

- When deployed alongside a regional peace operation that is seen as partial by one of the parties to the conflict and/or the local population, the UN mission may struggle to establish its independence and legitimacy.

- The safety of unarmed personnel is a concern in volatile environments, especially when they are expected to be mobile.

Legal considerations

Since missions with observation and monitoring mandates only are deployed on the basis of Chapter VI and do not use force beyond self-defence, the legal considerations are quite straightforward unless they are unarmed and therefore in practice do not use force at all. However, the extent to which a peacekeeping operation, and especially an observation or monitoring mission, is lawfully able to use force in "self-defence" is unclear. While the mission is entitled to use force "in defence of the mandate", what exactly that means when translated into the Rules of Engagement (RoE) and Directive on Use of Force (DUF) is also unclear.

It is also unclear whether UN military forces would have the authority or even obligation to protect civilians from violence, if they have limited capacity and it is not a mandated task.

UNSC procedure

- The Security Council adopts a resolution mandating the peacekeeping operation, normally on the basis of a recommendation from the Secretary-General.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.

- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

Further reading

UN, *Report of the Secretary-General, Summary Study of the experience derived from the establishment of UNEF*, A/3943 (1956), paras. 154–61, 166–67 and 178–79.

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OPERATIONAL TOOLS: UN OPERATIONS

36. PEACEKEEPING OPERATIONS: FOCUSED MANDATES – POLICING AND RULE OF LAW

Summary

Policing is now a standard component of peacekeeping operations with comprehensive mandates. There are also several cases of stand-alone police and rule of law missions. The purpose of these missions is to help maintain law and order and to support long-term capacity-building in the police and justice sectors. They are typically deployed as a follow-on to more expansive operations. Their mandates range from monitoring and training local police, through assessing judicial systems and advising on reform, to ''executive policing" or active law enforcement. Typically, these missions are staffed by unarmed police officers and civilians. However, in at least one case, it included Formed Police Units.

Examples: International Police Task Force in Bosnia (IPTF); UN Police Support Group in Eastern Slavonia (UNPSG); UN Civilian Police Mission in Haiti (MIPONUH); UN Mission for Justice Support in Haiti (MINUJUSTH).

Legal basis

UN peacekeeping policing and rule of law mandates have been provided under both Chapters VI and VII of the UN Charter. Because most UN policing and rule of law mandates are to assist local authorities and do not involve the use of force, they do not usually require Chapter VII authority. Executive policing and use of force to protect civilians, however, will require a Chapter VII mandate given the absence of detailed terms of consent from the host State. For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

The police components of peacekeeping missions and stand-alone policing missions have two core functions:

- Operational support for policing and other law enforcement activities (and on occasion, interim executive policing).
- Support for the reform, restructuring and rebuilding of host State police (DPKO/DFS Guidelines 2014, para. 53).

In addition, they may be called upon to monitor human rights, promote the rule of law, and protect civilians.

Tasks that fall under policing and rule of law mandates include:

- Advising local police and other law enforcement personnel.
- Advising Government authorities on law enforcement.
- Monitoring local police investigations, arrest and detention.
- Monitoring and reporting on human rights.
- Monitoring judicial organizations, structure and processes.
- Monitoring return of displaced persons.
- Providing operational support to host State police.
- Mentoring local police through joint patrolling.
- Training local police and other law enforcement personnel.
- Vetting police officers for recruitment and de-activation.
- Restructuring/reforming police forces and justice systems.
- Strengthening governance and accountability mechanisms.
- Supporting host State police in criminal investigations.
- Protecting UN personnel and facilities.
- Providing security for electoral processes.
- Engaging in investigations, arrests and detention.
- Protecting civilians through non-forcible methods.
- Protecting civilians through the use of force.

Stand-alone policing and rule of law missions are quite rare. Four UN cases are: IPTF in Bosnia (1995–1996), MIPONUH in Haiti (1997–2000), UNPSG in Eastern Slavonia (1998) and MINUJUSTH also in Haiti (2017–2019). The Security Council also authorized a police mission to Burundi, but the Council was divided over its deployment (10 members voted in favour and 4 abstained), and it never deployed due to resistance from the Government (resolution 2303 (2016)).

There have also been several non-UN cases, including the European Union Police Mission (EUPM) in Bosnia, the European Union Rule of Law Mission (EULEX) in Kosovo, and the Australia/New Zealand-led Regional Assistance Mission to Solomon Islands (RAMSI), which began as a more comprehensive mission but scaled back to policing only in 2012.

The UN missions have ranged in size from a few hundred to almost 2000 personnel. They have been composed of individual police officers, special police units, and/or Formed Police Units. The UN also has a Standing Police Capacity that enables it to rapidly deploy up to 36 police officers with specialist expertise to help start or reinforce an existing police component of an operation. It has been deployed in the Central African Republic, Mali, Somalia and South Sudan.

The mandates of most policing and rule of law missions (whether stand-alone or within a multidimensional peace operation) include monitoring and advising, but now go beyond that to include a more proactive

approach to supporting law and order through community engagement, hands-on mentoring, and intensive training. They also often include assisting with structural reform of police and justice institutions.

Executive policing, when the UN assumes responsibility for law enforcement for an interim period, is rare. As with international transitional administrations, it entails the assumption of sovereign authority and occurs only when the national authorities and local police forces are incapable of maintaining basic law and order. The UN temporarily substitutes for the local police, assuming responsibility for the full spectrum of policing and law enforcement activities, including the power to investigate, arrest and detain suspects. In these missions, UN police are also directly responsible for the physical protection of civilians against imminent threats, through force projection and/or high visibility patrolling (DPKO/DFS Guidelines 2017). Thus, for example, MINUSCA (not a stand-alone police mission) is authorized "to urgently and actively adopt, within the limits of its capacities and areas of deployment, at the formal request of the Central African Republic authorities and in areas where national security forces are not present or operational, urgent temporary measures on an exceptional basis … to arrest and detain in order to maintain basic law and order and fight impunity" (S/RES/2552 (12 November 2020), para. 32(e)(iii)).

First deployed in Kosovo and East Timor in 1999, Formed Police Units comprise contingents of approximately 140 officers. Whether as part of a larger peacekeeping mission, or a stand-alone policing/rule of law mission, their primary function is public order management (DPKO/DFS, para. 68). These tasks will in most cases be conducted in support of host State police. In executive policing missions, Formed Police Units can be called upon to act independently in accordance with mission mandates. There have been several cases of all-female Formed Police Units, deployed as part of the UN Mission in Liberia (UNMIL), the UN Stabilization Mission in Haiti (MINUSTAH) and the UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

The General Assembly has declared that the police in all societies ought to be "representative, responsible and accountable to the community" (UN GA resolution 34/169, 17 December 1979). This, in turn, became a guiding principle for UN missions. "Representative policing" means showing respect for the human rights of all, without discrimination; "responsive policing" means responding to the needs of the community; and "accountable policing" requires that the police are subject to the law, as well as enforcers of it (UN DPKO/DFS Guidelines, 2014).

The policy was later updated to include an emphasis on community-oriented policing, in which the public is encouraged to act as partners

with the police in preventing and managing crime as well as other aspects of security and order based on the needs of the community. It has four cornerstones: i) consulting with communities; ii) responding to the security needs of communities; iii) mobilizing communities to control crime; and iv) working preventively to solve recurring problems (UN DPKO/DFS Guidelines, 2018). In that updated policy, the UN also called for "intelligence-led policing" to target serious crime.

Stand-alone police and rule of law missions coordinate but are not integrated with other parts of the UN system deployed in a country. Critical partners include the UN Development Programme, Office of the High Commissioner for Human Rights, the Office of the UN High Commissioner for Refugees, the UN Office of Drugs and Crime, and UN Women. At UN Headquarters, coordination occurs through the Global Focal Point for Rule of Law (formerly the Global Focal Point for Police, Justice and Corrections). The operations are backstopped by the Office for the Rule of Law and Security Institutions (OROLSI), located within the Department of Peace Operations. Often these stand-alone missions are deployed alongside regional organizations and work closely with them.

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

Policing in peacekeeping missions dates back to the UN Operation in the Congo (ONUC) (1960) and became a common feature of multidimensional operations in the late 1980s and early 1990s. At first, the role of UN police in peacekeeping operations was quite limited, exemplified by supporting human rights, monitoring local police, advising local police, reporting on situations/incidents, and training local law enforcement. This non-intrusive approach applied to the first stand-alone missions: the IPTF in Bosnia (1995–1996) and MIPONUH in Haiti (1997–2000).

The functions and techniques of the police expanded in the late 1990s. In addition to monitoring and advising, they began accompanying local police on patrols, training them in specialized functions, and engaging with communities to prevent situations from escalating. In Bosnia and elsewhere, they also became involved in vetting and certifying local police.

Another important shift was the greater integration of policing with rule of law, security sector reform, and human rights activities, which led to the creation of the Office of Rule of Law and Security Institutions in the UN Department of Peacekeeping Operations in 2007. This more integrated approach was endorsed in the DPKO/DFS 2014 Strategic Guidance Framework.

The UN General Assembly has defined rule of law to mean "all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law" (General Assembly resolution A/Res/67/1, 30 November 2012, para. 2). A year later the Security Council stated that peace operations may be mandated to help "national authorities develop critical rule of law priorities and strategies to address the needs of police, judicial institutions and corrections system and critical interlinkages thereof, with a view to supporting the States' ability to provide critical functions in these fields, and as a vital contribution to building peace and ending impunity" (resolution 2086 (2013)).

Below is a brief description of the four stand-alone missions.

IPTF (Bosnia and Herzegovina 1995–1996)

The mandate of the International Police Task Force (IPFT) was rooted in Annex 11 of the Dayton Peace Agreement, which brought the Bosnia war to an end. The IPTF was authorized by Security Council resolution 1235 (21 December 1995). It comprised 1650 unarmed police officers from 34 countries. Its tasks included monitoring, observing and inspecting law enforcement activities and judicial institutions; advising, training and accompanying law enforcement personnel; and advising governmental authorities in Bosnia on the organization of law enforcement agencies, including police academies. In 1998, the IPTF defined its mission as the promotion of democratic policing, working with the local police to protect citizens' rights while maintaining order. The IPTF was unarmed and did not exercise any executive law enforcement functions. It was absorbed in the UN Mission in Bosnia and Herzegovina (UNMIBH) in 1996, then succeeded by the EU Policing Mission (EUPM) in 2003.

MIPONUH (Haiti 1997–2000)

The UN Civilian Police Mission in Haiti (MIPONUH) was established by the Security Council in November 1997. Its authorized strength was 300 civilian police, including a 90-strong special police unit to protect UN personnel and their property. They were supported by an administrative component of more than 200 international and local personnel. As a successor to UNTMIH, MIPONUH was mandated to support and contribute to the professionalization of the Haitian National Police through mentoring and training, and later to help create a proper command structure and administration. It worked alongside the Organization of American States (OAS)/UN International Civilian Mission in Haiti (MICIVIH), whose task was to monitor human rights and investigate violations. MIPONUH's mandate was extended until March 2000, at which point both MIPONUH and MICIVIH transitioned into the International Civilian Support Mission in Haiti (MICAH), created by the General Assembly.

UNPSG (Eastern Slavonia 1998)
The UN Civilian Police Support Group in Eastern Slavonia succeeded the UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES). It was established in January 1998 with an authorized strength of 180 civilian police monitors, supported by about 200 international and local civilian personnel. UNPSG was mandated to monitor investigations by the Croatian police of any allegations of police misconduct in connection with the return of displaced persons to the region. It also provided limited training of the local police. The UN police mission completed its mandate on 15 October 1998 and was taken over by the Organization for Security and Co-operation in Europe (OSCE).

MINUJUSTH (Haiti 2017–2019)
The UN Mission for Justice Support in Haiti was established as a follow-on to the UN Stabilization Mission in Haiti (MINUSTAH) on 13 April 2017. An integrated mission with an authorized strength of 351 civilians, 980 police in seven Formed Police Units and 295 individual police officers, it was mandated to assist the Government to strengthen rule of law institutions, to support the Haitian National Police, and to engage in human rights monitoring, reporting and analysis. It had Chapter VII authority to use all means necessary "to carry out its mandate to support and develop the Haitian National Police" and to protect civilians under imminent threat of physical violence (S/RES/2350 of 2017). In October 2019, MINUJUSTH was succeeded by a special political mission, the UN Integrated Office in Haiti (BINUH).

Non-UN police and rule of law operations
The EU Police Mission (EUPM) in Bosnia was deployed from January 2003 to June 2012, with a mandate to strengthen the operational capacity of law enforcement agencies engaged in the fight against organized crime and corruption, and to assist in the planning and conduct of investigations; to assist in the development of criminal investigative capacities; to enhance cooperation among the police, prosecution, and prison system; and to contribute to accountability.

The European Union Rule of Law Mission in Kosovo (EULEX), launched in 2008, has a mandate "to support relevant rule of law institutions in Kosovo on their path towards increased effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full compliance with international human rights standards and best European practices". EULEX undertakes monitoring activities and has some executive functions. Though not formally authorized by the UN Security Council, it works within the framework of resolution 1244 (1999).

The EU has also deployed a Police and Rule of Law Mission for the Palestinian Territories (EUPOL COPPS) and a similar one in the

Democratic Republic of the Congo (EUPOL RD Congo).

Conditions for success

Effective policing depends on a social contract between the police force and the population, based primarily on trust rather than coercion. UN police and rule of law missions lack some of the attributes necessary to establish that relationship of trust: they do not represent the legitimate authority of the host State; often they do not speak the language or fully understand the culture of the communities they serve; and, as a multinational force, UN police often must work with colleagues whose policing approaches may be different from their own (DPKO/DFS, Guidelines 2014, para. 11). In that context, a number of important lessons have been learned:

- Respect for human rights is essential. The legitimacy and credibility of the UN operation depends on scrupulous adherence to international human rights standards by mission personnel, and insistence that the local police and authorities adhere to those same standards. International police and justice personnel should see themselves as a model for host-State law enforcement authorities, helping them to build legitimacy in the eyes of the local population. The support provided should be gender-sensitive and pay particular attention to vulnerable groups.

- The core function of police missions must be implemented in a wider rule of law and security sector context. The doctrinal shift called for in the Brahimi Report signifies that working with the police alone is insufficient to cultivate a culture of legitimate law enforcement. Judicial and correction systems must also be strengthened. Moreover, security sector reform should be undertaken with a view to a division of labour between host State military and police forces, ideally with the former focused on external security and the latter on domestic law and order.

- Even when UN missions are given executive authority, host State ownership is critically important. The first step in any operation should be to assess the capacity and perceived legitimacy of local institutions. The goal should be to reform and strengthen existing capacity, building on what exists rather than replicating external policing and justice structures that may not be suitable in that society or context (DPKO/DFS Guidelines 2014, paras. 35, 39 and 41).

- In designing a mission and planning its intervention, the UN should consult widely with host State stakeholders in the spirit of "inclusive national ownership", and then foster political commitment to that spirit at the strategic level. For police missions, this could mean a compact between the UN police and the host State authorities to outline a long-term plan and matching strategy for public safety and police

development (DPKO/DFS Guidelines 2014, para. 42).

- A holistic approach to protection of civilians ought to be employed, relying on dialogue and engagement, presence and patrolling, and protection through the use of force only as a last resort. The mission should prioritize support to the host State in the prevention, investigation and prosecution of sexual and gender-based violence, as well as other forms of sexual exploitation and abuse.

- Strengthening capacity for policing and rule of law is a long-term effort – longer than the life of a particular UN operation. Accordingly, the UN must work with other external partners and be prepared to hand over residual tasks to the UN Country Team or a regional organization. This requires early planning for the transition.

- As the never-to-be-deployed operation in Burundi (2016) demonstrates, the Security Council must be united behind a policing mission's deployment and its members must work together to acquire host State consent before authorizing it.

Risks/ benefits

Benefits

- Stand-alone police and rule of law operations are flexible tools that can be used as follow-on missions to complete some of the most challenging and yet enduring elements of a peace process. Because social stability is not possible without attention to justice and a sense of security felt by the people, these operations can be important contributors to sustainable peace.

- Effective policing and rule of law missions, especially those that engage in security and justice sector reform, can facilitate a transition away from relying on the military (or paramilitary forces) to provide domestic security. Ultimately, this will help a Government to establish legitimacy in the eyes of the local population.

- Relatedly, policing can provide a more nuanced or less blunt approach to providing security in operations with comprehensive mandates. A joint military and police task force in MINUSCA was led by a police commissioner precisely because the security issues were better addressed through police-style than military operations (Williams with Bellamy, 2021, p. 381).

- While winning the trust of the local population is difficult for any external security forces, police are typically better able to engage with local communities than military – especially those who have experience in community policing. The recent emphasis on "community-oriented policing" in guidance documents is a reflection of a growing

understanding that building trust with the local population is central to effective policing (Osland, 2019, pp. 193–95).

- Around the world, female police officers (whether as individuals or in Formed Police Units) tend to make up a larger proportion of a total force than in the military. This makes it easier to include a substantial number in UN operations with policing mandates, which can have important benefits for engagement with women in the host State, especially those who have been victims of sexual and gender-based violence. International female police can also provide a good model for national police forces.

- Stand-alone policing and rule of law missions are typically smaller than those with military components, and therefore less expensive.

Risks

- As stand-alone operations, police and rule of law missions don't benefit from the synergies provided when they are part of a larger multidimensional mission. This creates the risk that any progress made within the narrow mandate of the mission will be lost to "back-sliding" in other aspects of a peace process. Moreover, without a military or high-level political presence, the mission may lack leverage in dealing with obstructive national authorities and non-State spoilers.

- A police presence alone may be insufficient to provide security in high-threat environments. In that situation, they should only be deployed alongside a military force, either as part of a multidimensional UN mission or a separate regional or coalition operation.

- The rapidly expanding range of tasks, which now sometimes includes protecting civilians, tackling organized crime, and training in specialized functions, as well as reforming governance structures and building technical capacity, can be overwhelming. The risk is that, in trying to do everything, these missions will do nothing well.

- If the mission is composed of police and justice officials from a multitude of countries who do not speak the language, understand the culture, or know the applicable law, winning the trust of the local population is difficult.

- Because building legitimate and accountable police and justice institutions takes time, and because all UN operations need an exit strategy, there is a risk that these operations will be oriented towards more short-term goals such as equipping and training local police or conducting investigations rather than long-term capacity-building.

- If the UN police work closely with, or in support of, local police, and the local police commit human rights abuses, the UN could be tainted by association.

- If a mission has the power of arrest and detention, eventually suspects must be dealt with in the local justice and corrections system. If that system is weak, or known to violate human rights, the UN can be tainted by association.

- More generally, executive policing carries some of the same risks as international transitional administration in terms of charges of "neo-colonialism" and practical feasibility.

Legal considerations

The UN's legal framework for policing is quite well developed, informed by international human rights law; thematic Council and General Assembly resolutions; the Code of Conduct for Law Enforcement Officials; Basic Principles on the Use of Force and Firearms; and the UN's Strategic Guidance Framework for International Policing, which includes an overarching policy, as well as numerous manuals and guidelines for matters such as the role for Formed Police Units, police command and administration, protection of civilians, and standard operating procedures.

As with international transitional administrations, determining the applicable law to be administered by an executive policing operation can be a difficult and sensitive matter. While UN police are not the best placed to apply local law in any detail, they may have to work independently of any local police.

If the peacekeeping operation mandate envisages that UN Formed Police Units may use force, the Directive on Use of Force (DUF) becomes essential to implementing this mandate. This document is prepared by the UN Secretariat in consultation with key police-contributing countries. The Directive on Use of Force will indicate whether UN police are armed, when they have legal authority to use force, and applies to all armed police personnel and Formed Police Units in the operation.

The Brahimi Report recommended that a panel of international legal experts evaluate the utility of developing an interim criminal code for use by such operations pending the re-establishment of local rule of law and local law enforcement capacity (Brahimi Report para. 83).

UNSC procedure

- The Security Council adopts a resolution mandating the operation, normally on the basis of a recommendation from the Secretary-General.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve

benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.
- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

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OPERATIONAL TOOLS: UN OPERATIONS

37. PEACEKEEPING OPERATIONS: FOCUSED MANDATES – CIVILIAN PROTECTION

Summary

The protection of civilians (POC) can be the sole purpose of a UN mission; it can the primary focus; or one among several mandated priorities.

The Council specifically authorizes the use of force for the protection of civilians, including against host State forces. POC mandates in UN peacekeeping operations are based on the consent of the host State but may be resisted by a range of non-State armed groups.

Examples: UN Mission in Sierra Leone (UNAMSIL); UN Organization Mission/Stabilization Mission in the Democratic Republic of the Congo (MONUC/MONUSCO); UN Stabilization Mission in Haiti (MINUSTAH); UN Operation in Burundi (ONUB); UN Interim Force in Lebanon (UNIFIL); UN Mission in Côte d'Ivoire (UNOCI); UN Mission in Liberia (UNMIL); UN Mission in Sudan (UNMIS); UN Mission in South Sudan (UNMISS); UN Mission in Support of East Timor (UNMISET); AU/UN Hybrid Operation in Darfur (Sudan) (UNAMID); UN Mission in the Central African Republic and Chad (MINURCAT); UN Interim Security Force for Abyei (UNISFA); UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA); UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA).

Legal basis

UN peacekeeping operations with a POC mandate are typically established under Chapter VII of the UN Charter. For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

Acting under Chapter VII of the UN Charter, the Council has often authorized its peacekeepers to use force or "all necessary means" to protect civilians. This mandate has often been limited to populations under imminent threat of physical violence, although more recent resolutions do not contain the word "imminent".

The Council can authorize a peacekeeping operation with the sole purpose of protecting civilians (for example, MINURCAT in Chad and the Central African Republic), it can identify POC as the primary focus and main priority of a mission (for example, UNAMID in Darfur, UNMISS in South Sudan), or include POC as one among many mandated priorities, which is

the case for most UN peacekeeping operations authorized since 1999.

Working with the strategic consent of the host Government and without prejudice to the host State's primary responsibility for protecting civilians, the uniformed and civilian components of a UN peacekeeping operation undertake various activities to protect civilians. Since 2010, this has involved following the UN's three-tier civilian protection framework:

- Tier 1: Providing protection by promoting a political process of conflict resolution. Ending the war would be the single largest contribution a mission could make to protecting civilians.

- Tier 2: Providing protection from physical violence. To this end, peacekeepers would work in four assumed phases: assurance and prevention, pre-emption, response, and consolidation (see UN 2020: 138ff).

- Tier 3: Establishing a protective environment that enhances the safety and supports the rights of civilians. Involving the promotion of legal protection (international humanitarian law, human rights and refugee law), facilitation of humanitarian assistance and advocacy, as well as support for national institutions.

The operational details of POC activities are developed by the mission's senior leadership team, including a mission-wide POC strategy complemented by sector-specific POC strategies. Tasks may include:

- Coercing perpetrators.
- Cordon and search operations against bases of armed groups.
- Responding to crises.
- Establishing bases in areas of civilian insecurity.
- Guarding installations.
- Patrolling, observation, surveillance for example, in/around displacement camps and areas of volatility.
- Removal of illegal barricades and checkpoints on civilian roads.
- Establishing safe areas and maintaining security within them.
- Separating combatants and non-combatants.
- Non-combatant evacuation operations.
- Providing safe passage for civilians.
- Identifying, demilitarizing and patrolling humanitarian aid supply routes.
- Escorting humanitarian aid convoys and protecting relief workers.
- Monitoring violations.
- Arresting war criminals.
- Demining.
- Making safe unexploded ordnance.
- Enforcing curfews.

- Protecting VIPs.
- Stopping hate media.
- Reforming and training security services.

Once the mission has deployed, POC activities can occur at any phase of the conflict cycle. In practice, the focus of UN peacekeepers' POC efforts has been limited to civilians under threat of imminent physical violence, within the peacekeepers' areas of deployment, and situations where the peacekeepers judged themselves to possess sufficient capabilities to act.

Since 1999, the Council has given POC mandates to most of its peacekeeping operations in order to support the host Government to fulfil its primary responsibility to protect civilians, and to prevent or respond to attacks on civilian populations, including those carried out by forces of the host Government. In rare cases (notably MINURCAT I and II), the Council has established a peacekeeping operation with POC as its sole focus. Usually, however, POC is one among many of the mission's mandated tasks. In some cases, an unforeseen turn of events has seen a UN peacekeeping operation prioritize POC relative to some of its other mandated tasks. This happened for different reasons in UNAMID, MONUC/MONUSCO and UNMISS.

In resolution 1894 (2009), the Security Council confirmed its intention to ensure that the mandates of UN peace operations include, "where appropriate", the protection of civilians. It also reiterated that the POC mandate is a priority mandate and such protection activities "must be given priority in decisions about the use of available capacity and resources".

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

Civilian protection was an implied objective in some of the UN's earliest peacekeeping operations, but only since 1999 has the Council formalized POC mandates in its peacekeeping operations.

Before 1999, several UN peacekeeping operations had protected local civilians as a by-product of implementing their mandated tasks (for example, ONUC in the Congo and UNFICYP in Cyprus) or had engaged in various activities to protect civilians without having an explicit mandate to do so (for example, UNPROFOR in Bosnia and Herzegovina, and UNAMIR in Rwanda). In these cases, POC was often regarded as a positive long-term effect of UN peacekeeping mandates but not the mission's principal focus. Indeed, the Council stressed that its peacekeepers in Rwanda and the former Yugoslavia were not there

primarily to protect civilians. Nevertheless, genocidal violence and mass atrocities in countries with a UN peacekeeping presence led the Council and Secretariat to rethink the position of POC in its peace operations.

In October 1999, Security Council resolution 1270 explicitly authorized UN peacekeepers in Sierra Leone to implement a POC mandate as part of a broader mandate aimed at supporting the peace process. Specifically, resolution 1270 (OP. 14) stated: "UNAMSIL may take the necessary action to ensure the security and freedom of movement of its personnel and, within its capabilities and areas of deployment, to afford protection to civilians under imminent threat of physical violence, taking into account the responsibilities of the Government of Sierra Leone and ECOMOG." Since then, every UN multidimensional mission has been mandated to protect civilians in one way or another, and the Council has generally used quite similar language in subsequent POC mandates.

In one case, the Council made POC the sole focus of a UN mission: MINURCAT in Chad and the Central African Republic. Authorized in late 2007, MINURCAT was initially deployed beside the European Union Military Operation in Chad and the CAR (EUFOR), and took on a greater military role when EUFOR's mandate came to an end. MINURCAT's area of operations was mainly in Chad to deal with the spillover of refugees and instability from the war in neighbouring Darfur, Sudan, but it also encompassed part of the north-eastern Central African Republic where similar refugee movements were occurring. MINURCAT and EUFOR did not have a political mandate because this was rejected by the Government of Chad, hence the mission's focus on POC.

Almost every UN peacekeeping mission deployed since 1999 has been given a POC mandate and authorization of "all necessary means" to implement it (for example, MONUC/MONUSCO, UNIFIL, UNOCI, ONUB, UNMIS, MINURCAT, UNMISS, MINUSMA, MINUSCA). In some missions, including UNAMID, MONUSCO and UNMISS, the Council subsequently elevated POC from being one of a longer list of mandated tasks to being the mission's primary focus.

However, the Council retained several important caveats and limitations within its POC mandates. This was done to prevent unrealistic local and international expectations and emphasize that relatively small and widely stretched peacekeeping missions could not protect all civilians from all potential threats at all times. One limitation was that the presence of UN peacekeepers would not alter the host State Government's primary responsibility for protecting civilians in its territory. Peacekeepers would play a supportive not leading role unless the host country was unable or unwilling. Second, UN peacekeeping POC mandates were overwhelmingly focused on protecting civilians under "imminent threat

of physical violence". The focus on "imminent" was dropped in only a couple of UN missions (UNMISS in South Sudan and MINUSCA in the Central African Republic). A third explicit limitation was that UN peacekeepers were only required to protect civilians "within their capabilities and areas of deployment". This gave considerable discretion to UN commanders on the ground over how to interpret the implementation of POC mandates in specific circumstances. But it also raised some difficult debates over what constituted "areas of deployment" – especially where patrols were concerned – and whether contingent commanders could always use lack of capabilities as a justification for inaction.

Despite the proliferation of POC mandates in UN peacekeeping operations, the Organization has faced many challenges effectively implementing them. These stem from many factors, including:

- Limited capacity to cover large populations over vast areas.
- Limited mobility assets.
- Limited ability to operate in high-threat environments.
- Limited willingness of sending States to put their troops in harm's way.
- Obstacles to effectiveness posed by the host State.

Several expert panels on UN peace operations have emphasized the importance of POC for UN peacekeepers. Perhaps most notably, in 2000, the *Report of the Panel on United Nations Peace Operations* concluded that "United Nations peacekeepers – troops or police – who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles" (Brahimi Report 2000: x). While in 2015, the High-Level Independent Panel on Peace Operations concluded that "Protection of civilians is a core obligation of the United Nations, but expectations and capability must converge" and that "The protection of civilians in armed conflict is a core principle of international humanitarian law and a moral responsibility for the United Nations" ("HIPPO Report" 2015: 11, 36).

Conditions for success

Although many UN peacekeeping operations have been given POC mandates, the specific threats and challenges facing civilian populations are rather idiosyncratic. This makes it difficult to identify general conditions for success and failure. Nevertheless, certain key themes emerge, some of which broadly echo the lessons on best practice for UN operations more generally:

- Like all UN peacekeeping missions, implementing POC mandates requires the strategic consent and ideally the active cooperation of the host Government. UN peacekeepers are there partly to support the host Government fulfil its primary responsibility to protect civilians on its territory. However, if Government forces are threatening civilians, the peacekeepers are authorized and expected to provide protection.

- POC mandates should be harnessed to a viable political strategy for conflict management. Ending the war/crisis is perhaps the single most important impact a UN peace operation can have on reducing threats to civilians.

- UN peacekeepers need relevant capabilities, training and doctrine to effectively protect civilians, especially in situations of ongoing armed conflict. The Brahimi Report accurately concluded: "If an operation is given a mandate to protect civilians … it also must be given the specific resources needed to carry out that mandate" (Brahimi Report 2000: 11).

- The UN mission (leadership and rank and file) must have the requisite political will to implement POC mandates even in the face of armed resistance, and be prepared to respond to any unintended consequences. Having Memoranda of Understanding between the UN and troop- and police-contributing countries free from caveats is one important indicator of requisite political will.

- Unified political support of the Security Council is necessary, especially if the UN peacekeepers might have to protect civilians against attacks by host Government forces.

- Implementing POC mandates requires accurate analysis of the major threats facing civilians, and the main potential perpetrators of civilian harm. The ability to monitor, track and analyse violence against civilians is a crucial part of the mission's POC strategy. So too is developing practical mechanisms that can link early warning analysis to an effective early response.

- A mission-wide protection strategy is now considered a best practice, including for addressing threats to civilians beyond physical violence. However, while a mission-wide POC strategy is important, missions operating over larger areas should complement it with regional/sector specific POC strategies that take account of salient local differences.

- The Security Council and mission leadership must clarify the actions UN peacekeepers should take after identifying a particular threat to a civilian population (including how much discretion local commanders have in determining a response).

- The use of outreach activities with the local community can help plan POC activities but it may also raise the risk of those local communities being targeted by the spoiler groups concerned. Missions should mitigate such risks as best they can.

Risks/ benefits

Benefits

- There is significant scholarly research that suggests UN peacekeepers with POC mandates have saved many civilian lives (for example, Hultman et al, 2019). POC mandates have also been used as justification for carrying out a variety of important tasks, including restoring order, facilitating humanitarian relief, mediating local disputes, disarming belligerents, and degrading armed spoilers.

- The Council's framing of POC mandates as supporting host State authorities can help improve cooperation with the host Government. POC mandates emphasize the importance of upholding IHL and signal the UN's willingness to uphold its responsibility to prevent or stop organized violence against civilians, irrespective of the perpetrator.

Risks

- POC activities could fail for a variety of reasons, including a lack of capabilities and political will; they may result in significant casualties; they could contribute to a spiral of intensifying violence in the area, including targeting of civilians; and UN peacekeepers might inadvertently engage in violations of international humanitarian law. Furthermore, it is not always easy to identify civilians and distinguish them from combatants.

- UN peacekeepers will have to balance implementing their POC mandate with ensuring force protection. Enforcing a POC mandate may produce retaliation and retribution against peacekeepers from various armed groups.

- POC operations are unlikely to have a clear endpoint, nor is it easy to assess progress to achieving POC objectives. As a result, it can be difficult to persuade sceptical audiences there has been sustainable success.

- There is a risk that peacekeepers might fail to protect civilians, resulting in many deaths and casualties.

- POC mandates will likely generate high expectations among international and local audiences that UN peacekeepers may not be able to meet.

- Since UN peacekeeping operations require host State consent, UN peacekeepers face a series of difficult and potentially dangerous dilemmas if Government security forces harm civilians. Although UN peacekeepers have a legal mandate to protect civilians irrespective of the source of the threat, politically, it can be very difficult for them to consistently challenge Government security forces while maintaining

the Government's consent to remain in the country. The implementation of POC mandates can sometimes convey the impression that the UN mission is more tolerant of the host Government and more critical of non-State armed groups, thus risking its claims to impartiality.

Legal considerations

The legal considerations for UN protection of civilians operations are very similar to those for UN multidimensional peacekeeping operations. However, it is worth emphasizing the following:

- If the mandate provides that peacekeepers may use military force for protection of civilians, the Concept of Operations (ConOps) and Rules of Engagement (RoE) documents are essential to implementing this mandate. These documents are prepared by the UN Secretariat in consultation with key troop-contributing countries. It is important to ensure that all relevant national contingents in the peacekeeping operation share the same interpretation of the ConOps and RoE, and that restrictive national caveats are not imposed (that is, which may defeat the purpose of the mandate). The ConOps and RoE must be consistent with the mission's civilian protection mandate provided by the Council.

- The express *authorization* to use force for the protection of civilians in the mandate is not tantamount to a legal *obligation* to use force. Where force is authorized for civilian protection, it may be a duty to use all necessary means, up to and including force. In practice though, it is difficult to compel UN forces to act, or to make them accountable for a lack of action.

UNSC procedure

- The Security Council adopts a resolution authorizing a POC mandate, normally on the basis of a recommendation from the Secretary-General.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council. This may also involve benchmarking processes to ascertain progress towards achieving the mission's mandated tasks.
- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation.

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OPERATIONAL TOOLS: UN OPERATIONS

38. PEACEKEEPING OPERATIONS: FOCUSED MANDATES – NEUTRALIZING IDENTIFIED ARMED GROUPS

Summary

As part of a comprehensive mandate, UN missions may be directed to neutralize identified armed groups, including through the use of targeted offensive operations. Such mandates have been rare in UN peacekeeping but have occurred both in the absence of a peace agreement and as part of international attempts to secure a peace process.

The Council has authorized UN peacekeepers to neutralize spoiler groups in order to preserve the territorial integrity of a State; enforce disarmament of belligerents; restore order to an area; enforce a warrant from the International Criminal Court; protect civilians; and respond to attacks on peacekeepers. The resulting targeted offensive operations occur at the tactical level while enjoying host State consent. In contrast, military enforcement operations either for humanitarian purposes or to repel acts of aggression occur without host State consent.

Examples: UN Operation in the Congo (ONUC); UN Operation in Somalia II (UNOSOM II); UN Organization Mission/Stabilization Mission in the Democratic Republic of the Congo (MONUC/MONUSCO); UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA); UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA); UN Operation in Côte d'Ivoire (UNOCI); UN Mission in Sierra Leone (UNAMSIL).

Legal basis

UN peacekeeping targeted offensive operations are established under Chapter VII of the UN Charter. For further information on the legal basis of UN peacekeeping operations generally, see the introduction to UN operations.

Description

The Council has authorized peacekeepers to use military force against spoiler groups to achieve a variety of operational and political objectives. Such mandates can apply to all or part of the military component of a UN peacekeeping force. Since 2020, offensive operations are an official task of UN infantry battalions, as set out in the second edition of the *United Nations Infantry Battalion Manual*.

In the context of UN peacekeeping, neutralizing spoilers through targeted

offensive operations is distinct from warfare, where the strategic goal is often to defeat a designated enemy (by destroying or disabling their armed forces). In a peace operation, the use of military force is tactical/operational and designed to coerce the spoiler group(s) to behave in accordance with the mission mandate or peace process.

Targeted offensive operations by UN peacekeepers could occur at any phase of the conflict cycle following deployment of the mission. If the threat of force fails to achieve the authorized objective, the UN Force Commander may use deadly military force.

The mission's Force Commander, sector headquarters, and relevant national contingent commander(s) determine the operational details. Historically, the Council has authorized proactive force to confront armed spoilers in order to:

- Preserve the territorial integrity of a State
- Remove foreign forces from a State
- Forcibly disarm belligerents
- Restore order to an area
- Ensure freedom of movement of UN personnel
- Enforce a warrant from the International Criminal Court
- Protect civilians
- Respond to attacks on peacekeepers

Pursuant to UN policy, an After Action Review should be completed swiftly following each use of military force. In the event of UN personnel being killed or seriously injured, a UN Board of Inquiry investigates the details of the event.

For further information on how UN peacekeeping operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

Authorizing force to neutralize spoiler groups has been a possibility since the earliest days of UN peacekeeping but has been used only rarely by the Council. Historically, this tool's key distinction is the use of targeted offensive operations. In UN peacekeeping operations, these occur at the tactical/operational level while enjoying the strategic consent of the host State. In contrast, military enforcement operations either for humanitarian purposes or to repel acts of aggression occur without host State consent (see Tool 46 "Military enforcement for humanitarian or human rights purposes" and Tool 47 "Military enforcement to repel aggression").

The Council has authorized UN peacekeepers to engage in targeted offensive operations on fewer than a dozen occasions, starting in the 1960s. The most sustained use of offensive operations by UN peacekeepers

occurred in ONUC (in the Congo), UNOSOM II (in Somalia), and MONUC/MONUSCO (in the Democratic Republic of the Congo).

The first and still most sustained use of offensive operations by UN peacekeepers against spoiler groups came in the UN Operation in the Congo (ONUC) between 1960 and 1964. ONUC was authorized to use force, to preserve the territorial integrity of the Congolese State, and to secure the removal of foreign forces (including paramilitaries and mercenaries) – see resolutions 143 (1960), 161 (1961) and 169 (1961). Secretary-General U Thant appears to have given ONUC the first explicit authorization to use offensive force in November 1961, in response to attacks on UN personnel (Findlay, 2002: 78). The UN's subsequent offensives were especially important in the expulsion of mercenaries. ONUC's offensive operations also included the use of air power. This was controversial in part because applying the offence-defence distinction is difficult: "Since the greatest danger to aircraft is other airborne aircraft, self-defence may involve pre-emptively destroying both aircraft on the ground and ground-based weapons – an action which those opposed to the UN may readily portray as offensive" (Findlay, 2002: 85). ONUC's activities also raised the issue of whether defending the freedom of movement of UN personnel may require the anticipatory, offensive use of force.

ONUC was a very rare mission in the Cold War context but UN peacekeepers used force offensively in several situations during the 1990s. In Somalia, in June 1993, UNOSOM II used offensive force to try to destroy and confiscate weapons and neutralize propaganda broadcasting stations of one of the armed factions that was claiming to be the Somali Government (see resolution 814 (1993)). Here, UN peacekeepers were trying to restore order in the capital Mogadishu by confiscating and destroying weapons stocks of the various fighting factions. The offensives lasted several days and included aerial bombardments and ground assaults by a mix of UN and United States troops. After more than two dozen peacekeepers were killed in such operations, Security Council resolution 837 (1993) gave UNOSOM II a mandate to apprehend the alleged perpetrators: General Mohamed Farah Aideed and his cohorts.

In a less well-known case, in September 1993, French and Canadian peacekeepers in UNPROFOR used deadly military force to establish a buffer zone between fighting Serb and Croat soldiers in UN-protected areas and "pink zones" (Findlay, 2002: 134–135).

Reflecting on the difficult experiences of UN peacekeepers deployed in hostile environments, Secretary-General Kofi Annan concluded that "inducement operations should be deployed with the mandate and capacity to conduct, if necessary, offensive operations against recalcitrant[s]" (Annan, 1998: 174).

The Council also sought to neutralize spoiler groups intermittently during the 2000s. In 2000, UNAMSIL peacekeepers in Sierra Leone undertook a large and successful offensive operation to rescue a contingent of Indian peacekeepers who were besieged by Revolutionary United Front rebels. In Haiti, between 2004 and 2007, MINUSTAH engaged in offensive operations to degrade the power of various "armed gangs" in the capital, Port-au-Prince. These operations were partnered with local Haitian police and supported by Brazilian paratroopers – see resolutions 1542 (2004), 1702 (2006), 1743 (2007).

Ironically, it was back in the Democratic Republic of the Congo (DRC) that UN peacekeepers have engaged in the most anti-spoiler offensive operations in the twenty-first century. This started under MONUC (1999–2010) but continued under MONUSCO (2010–). In January 2006, for example, MONUC undertook an offensive operation to capture or kill a senior commander of the Lord's Resistance Army, Vincent Otti, who had recently been indicted by the International Criminal Court. MONUC's Operation Paper Tiger deployed special forces to try and capture him. The operation failed and resulted in the death of eight UN peacekeepers. MONUC also carried out some offensive operations to defend its partners in the Congolese Army (FARDC). In March 2006, for example, as part of Operation Ituri Engraver, MONUC troops executed a successful ambush killing a significant number of a group of about 200 armed militia who were moving to attack an FARDC position.

In MONUSCO, the most sustained use of targeted offensive operations came with the establishment of the Force Intervention Brigade (FIB), in resolution 2098 (2013). The FIB was authorized to "neutralize armed groups" and conduct "targeted offensive operations", which it used to attack the M-23 and ADF rebels. The FIB's operations have included the use of artillery, helicopter gunships and sniper teams, as well as ground assaults. Most of these operations were conducted in partnership with FARDC units.

Elsewhere, in April 2011, peacekeepers from the UN Operation in Côte d'Ivoire (UNOCI) together with French troops launched offensive operations against the forces of the illegitimate incumbent ruler of Côte d'Ivoire, Laurent Gbagbo, after they had repeatedly attacked peacekeepers and civilians.

In Mali, the Council authorized its peacekeepers to use force in proactive ways against several spoiler groups, usually referred to as "terrorists" in the relevant resolutions. For example, in 2016, resolution 2295 authorized MINUSMA to adopt "a more proactive and robust posture to carry out its mandate", including "to anticipate and deter threats". Yet even before this resolution, MINUSMA had used its attack helicopters to conduct

offensive operations against armed groups, as at Tabankort in 2015. In 2017, resolution 2364 authorized MINUSMA to use force proactively to anticipate and counter "asymmetric threats" and "prevent the return of armed elements" to key population centres, notably in the north and centre of Mali.

In the Central African Republic, MINUSCA peacekeepers, notably the Portuguese Quick Reaction Force (QRF), have used offensive operations on several occasions. In April 2018, Operation Sukula saw these UN peacekeepers work with host State security forces to target predatory criminal groups operating in the capital, Bangui. And in 2019, the QRF conducted an offensive operation against armed groups in the town of Bambari in order to protect civilians and restore order.

Conditions for success

There have been relatively few cases of UN peacekeepers using targeted offensive operations to neutralize spoilers. Since the cases have tended to be rather idiosyncratic, identifying general conditions for success and failure is difficult. Nevertheless, certain key themes emerge, some of which broadly echo the lessons on best practice for UN operations more generally:

- First, it is often difficult to distinguish between the use of force in proactive self-defence and offensive action. What might appear offensive at the tactical level may be in response to earlier events at the strategic level. "Cordon and search operations", for example, are tactical offence but have been justified in terms of proactive self-defence and protection of civilians. The blurring of categories has been encouraged by the Security Council's use of vague language to authorize force, and the fact that many troop-contributing countries might be less willing to deploy if offensive operations against spoilers were expected.

- Like all UN peacekeeping missions, targeted offensive operations require the consent and ideally the active cooperation of the host Government. UN peacekeepers using force will often work in tandem with some elements of the host State security forces.

- Military operations alone will rarely deliver political goals. Targeted offensive operations against spoilers should therefore be harnessed to a viable political strategy for conflict management.

- It is crucial to have clarity about the military tasks and the political objectives of the targeted operations and how they relate to a broader coercive strategy against the spoiler group in question.

- The UN force headquarters, relevant sector headquarters, and national contingents must have the requisite political will to undertake offensive

operations and be prepared to respond to any unintended consequences.

- The UN force headquarters, relevant sector headquarters, and national contingents must ensure they have appropriate capabilities, clear and unified command and control procedures, viable plans and contingency plans, and options for rapid casualty and medical evacuation. Intelligence-gathering capabilities, night operating equipment, protected mobility, rapid casualty evacuation and aviation assets are also key but not available to all troop-contributing countries.

- Some former UN officials have also argued that success hinges on UN peacekeeping operations preparing to use military force more effectively, including their ability to "project strength", "take the initiative" and "go where the threat is, in order to neutralise it" (Dos Santos Cruz et al, 2017).

- For military operations involving more than one troop-contributing country, effective interoperability between their forces will be very important.

- Air power can often play a decisive role in targeted offensive operations. In which case, the relevant Letters of Assist for military aviation assets should be appropriate for conducting such operations, including on short notice and during both day and night.

- The use of outreach activities with the local community can help plan targeted offensive operations but it may also raise the risk of those local communities being targeted by the spoiler groups concerned.

Risks/ benefits

Benefits

- In certain situations, targeted offensive operations against spoilers can fulfil a variety of important functions, including restoring order, disarming belligerents, weakening predatory armed groups, as well as protecting civilians and UN personnel. Used effectively, offensive military force can generate deterrent and coercive effects that solely reactionary, defensive endeavours cannot.

- The Council could point to targeted offensive operations as taking decisive action in response to extraordinary circumstances in cooperation with the host State. Such operations would also signal the UN is willing to use "all necessary means" to achieve its mandated objectives.

Risks

- The operation could fail to achieve its objectives for a variety of reasons, it may suffer significant casualties, and it could contribute to a

spiral of intensifying violence in the area. The historical record of UN peacekeeping includes several failed offensive operations. More failed offensive actions are likely to damage the UN's reputation for using this tool and make it more difficult to generate the political will to undertake subsequent offensive operations.

- There is a risk that UN peacekeepers might harm civilians during such operations, and also engage in violations of international humanitarian law causing civilian casualties.

- There is a risk that the UN force could sustain casualties.

- Targeted offensive operations against spoilers can undermine the UN's claims to impartiality if their justification is not communicated clearly and consistently to key local and international audiences. Such operations may have unintended consequences both for the mission itself but also for the wider enterprise of UN peacekeeping. Since political objectives require more than military means, bringing offensive operations to an effective conclusion may prove difficult. And the longer such operations are required, the risk grows of the relevant contributing countries and the Security Council becoming divided over them.

Legal considerations

Peacekeeping operations with a mandate to neutralize identified armed groups raise a number of important legal considerations, many of which are common to multidimensional peacekeeping operations, but some of which are particularly complicated or controversial in this context:

- The Concept of Operations (ConOps) and Rules of Engagement (RoE) documents may be different across two parts of components of the same peacekeeping operation, where there are different mandates applying to different parts of the mission. This was the case with MONUSCO, its Force Intervention Brigade (FIB), and the broader peacekeeping operation.

- A peacekeeping operation, or component of a peacekeeping operation, with a mandate to neutralize identified armed groups will become a party to the conflict within the meaning of international humanitarian law (IHL) (such as for the MONUSCO Force Intervention Brigade). Members of the peacekeeping operation's military component concerned, and potentially all military members of the peacekeeping operation, will lose their protected status and become legitimate military targets under IHL for the armed groups which they are targeting.

- The fact that peacekeeping operation members become legitimate military targets under IHL gives rise to two main problems. First, the obligations of IHL may be in tension with other obligations, for example,

if the Council still imposes sanctions on those involved in attacks against UN peacekeepers or other UN personnel (as it did for MONUSCO). In addition, the Rome Statute of the ICC prohibits and criminalizes attacks on UN peacekeepers under Article 8(2)(b)(iii), as does the 1994 Convention on the Safety of UN Peacekeepers (that is, if due to application in respect of the relevant State Parties, or as simply deemed applicable by the Council acting under Chapter VII). Second, there is likely to be dispute as to whether the entire UN peacekeeping operation, or simply the component with the mandate to neutralize identified armed groups, is the legitimate target under IHL. Even if it is only the component with the mandate to neutralize identified armed groups that may be targeted, there are many significant practical challenges in determining how to categorize and distinguish the two different components of the peacekeeping operation.

UNSC procedure

- The Security Council adopts a resolution identifying the spoilers, authorizing offensive operations, and providing clarity about the tasks and wider political objectives.
- The Secretary-General reports regularly to the Council on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council.
- Subsequent Council resolutions may be required to revise the mission's mandate and implement its eventual drawdown, exit and liquidation. Pursuant to UN policy, an After Action Review should be conducted by the mission following each offensive operation, and if UN personnel are killed or seriously injured, a UN Board of Inquiry should investigate the details of the event. The conclusions of these processes should be used to inform the Council's deliberations.

Further reading

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OPERATIONAL TOOLS: OTHER UN OPERATIONS

39. CROSS-BORDER HUMANITARIAN RELIEF OPERATIONS IN CONTESTED ENVIRONMENTS

Summary

On several occasions, the Security Council has used its authority to establish mechanisms for the delivery of humanitarian relief in contested environments. These mechanisms fall somewhere between normal humanitarian relief activities (either as part of a peace operation or stand-alone) and coercive "humanitarian intervention". They are needed in situations when the host Government or other parties to the conflict are withholding consent to the delivery of humanitarian relief or are actively obstructing access to vulnerable populations, and where without sufficient and predictable access, the humanitarian situation would deteriorate considerably.

Examples: The most well-known mechanism of this sort has been employed for cross-border relief in Syria (2014–). Other cases of the Council demanding access either for cross-border or within country relief operations include Northern Iraq in 1991 (simultaneous to Operation Provide Comfort) and Somalia in 1991–1992 (before UNOSOM I was established). In Security Council resolutions on COVID-19, the Council demanded that all parties to armed conflicts around the world commit to a humanitarian pause to facilitate safe and unhindered distribution of COVID-19 vaccines.

Legal basis

The legal basis for these mechanisms can be Chapter VI and Article 25 or Chapter VII of the UN Charter. The Council cited Article 25 in respect of Syria in resolution 2165 (2014) and resolution 2642 (2022), to provide the basis for humanitarian access without any violation of the sovereignty or territorial integrity, regardless of the receiving State's consent. In that resolution, the Council determined a threat to international peace and security, but did not explicitly invoke Chapter VII or any of the Articles thereunder.

Description

Other sections of this *Handbook* cover the delivery of humanitarian relief by peacekeeping operations (see Tool 31 "Multidimensional peacekeeping operations", Tool 32 "Stabilization operations" and Tool 37 "Civilian protection") and Security Council-authorized enforcement action for humanitarian purposes (see Tool 46 "Military enforcement for humanitarian or human rights purposes").

This tool covers a different situation: when the Security Council calls for or demands that parties to an armed conflict allow the delivery of relief by humanitarian organizations. It arises when those parties are either withholding consent to those organizations or in some other way obstructing their access to people in desperate need. The Council does not act in all protracted access challenges, but only when lack of sufficient and predictable access would cause a drastic deterioration in the humanitarian situation. Short of authorizing enforcement action under Chapter VII of the UN Charter to create the security conditions for the delivery of humanitarian relief, the Council brings political pressure to bear on recalcitrant actors by insisting that they provide humanitarian access, cooperate with UN and other humanitarian organizations, and respect the safety of humanitarian personnel. The "operational" aspect of this tool may involve the creation of a new mechanism for monitoring the delivery of relief (as in Syria), or may simply involve Security Council backing for existing humanitarian actors, whether UN or non-governmental, empowering them to do their work in a contested environment.

The precise language used in Security Council resolutions varies. In some, the Council "calls upon" or "urges" cooperation and access. In others it "demands". The Council may bring additional pressure to bear by threatening further measures should the parties not respond. Or it can use a softer approach, for example, by asking the Secretary-General to use good offices to persuade the parties to provide access.

Operational features of these mechanisms may include:

- **Identification of specific border crossings.** The delivery of foodstuffs and other essential needs are to occur at these crossings alone. A monitoring mechanism can be established to ensure the humanitarian nature of the shipments. In Syria, the host Government and other actors were to be notified of the shipments, although their permission was not sought.

- **Coordination of humanitarian relief efforts.** When multiple actors are involved in an emergency situation, the UN may appoint a humanitarian coordinator to maximize the efficiency of the operations.

- **Partnering with local NGOs**. Typically, UN agencies, bilateral donors and international NGOs partner with local NGOs to distribute the humanitarian relief. Bilateral and pooled funding may also be provided to local NGO partners.

- **Ground delivery of foodstuffs and essential civilians needs.** Ideally this would occur without military protection. However, in some circumstances convoys may require military escorts. In Somalia, some

NGOs relied on local militias with light weaponry mounted on the back of civilian pick-up trucks (so-called "technicals").

These mechanisms are designed by the Security Council in close consultation with the humanitarian agencies that deliver the relief. Financing for the relief comes from voluntary contributions.

For Syria, the UN Office for the Coordination of Humanitarian Affairs (OCHA) created a Syria Cross-Border Humanitarian Fund, led by a Regional Humanitarian Coordinator (separate from the humanitarian coordinator in Damascus), to support Syrian and international NGOs, the Red Cross and Red Crescent Movements, and UN agencies. One of the Fund's key objectives was to maximize engagement with Syrian NGOs (local, national and diaspora NGOs) to ensure better access to the people in need. The United Nations Monitoring Mechanism (UNMM) was established by the Secretary-General pursuant to Security Council resolution 2165. It is headed by a Chief who works closely with the Regional Humanitarian Coordinator, who provides strategic direction. It is staffed by team leaders and monitors at each border crossing. Funded out of the regular budget of the UN, it is administered by OCHA.

History

In the early post-Cold War period, the Security Council became more active in addressing humanitarian challenges in conflict-affected States such as Iraq, Somalia, Bosnia and Herzegovina, Croatia, Rwanda, Haiti, Sierra Leone and the Democratic Republic of the Congo. Facilitating or providing protection for the delivery of humanitarian relief became a regular feature of the mandates of peacekeeping operations, often with a Chapter VII mandate.

More recently, the Council has become involved in humanitarian crises where there is no peacekeeping operation. These are usually conflict-affected States where a special political mission is deployed (such as Libya and Afghanistan) or the Secretary-General has appointed a Special Envoy to help facilitate a political solution (such as Syria and Yemen). In these situations, the authority of the Council can help to open "humanitarian space", defined as a "conducive humanitarian operating environment" (OCHA, "Glossary of Humanitarian Terms"). Humanitarian organizations adhere to the principles of independence and neutrality, and therefore prefer not to engage too closely with political and military actors, but when the host Government or other conflict parties make it impossible for them to deliver relief, Council involvement is appropriate.

Below are precedents for Security Council involvement when there is no peacekeeping operation nor is Chapter VII explicitly invoked to authorize forcible intervention, yet the action is without clear host State consent.

Northern Iraq (1991)

After the 1991 Gulf War in Iraq, the Council insisted that "Iraq allow immediate access by international humanitarian organizations to all those in need of assistance", requested the Secretary-General to pursue humanitarian efforts in the country, and "demanded that Iraq cooperate with the Secretary-General" to that end (S/RES/688 (1991)). The UN's humanitarian effort in Northern Iraq operated in parallel to Operation Provide Comfort, a military humanitarian intervention that the United States, the United Kingdom and France claimed was authorized by resolution 688. Others questioned that interpretation of the resolution.

Somalia (1991–1992)

Similarly, the first Security Council resolution on Somalia, before a peacekeeping mission was established, "call[ed] upon all parties to cooperate with the Secretary-General … to facilitate the delivery of … humanitarian assistance" (S/RES/733 (1992)). Because there was no central government in Somalia at the time, the delivery of aid was in the absence of host State consent, not against it. That resolution also requested the Secretary-General to appoint a humanitarian coordinator to oversee the aid programme. The ongoing civil war meant the humanitarian effort in Somalia had no success until the UN Operation in Somalia (UNOSOM I) was deployed. Even then, little progress was made until the Unified Task Force in Somalia (UNITAF) (a United States-led enforcement operation) was authorized in Security Council resolution 794 (1992) under Chapter VII to use "all necessary means" to create a secure environment for the delivery of humanitarian relief (see Tool 46 "Military enforcement for humanitarian or human rights purposes").

Syria (2014–)

Beginning in July 2014, the Security Council authorized UN agencies and partners to use four specified border crossings and established a "cross-border" monitoring mechanism (S/RES/2165 (2014)). The UN Monitoring Mechanism monitors "with the consent of the relevant neighbouring countries of Syria, the loading of all humanitarian relief consignments of the United Nations humanitarian agencies and their implementing partners at the relevant United Nations facilities, and any subsequent opening of the consignments by the customs authorities of the relevant neighbouring countries, for passage into Syria [at the designated border crossings] … in order to confirm the humanitarian nature of these relief consignments".

The mechanism requires notification to the Syrian Government of the shipments but not its permission. The Monitoring Mechanism does not monitor delivery of the assistance within Syria. In December 2019, renewal of the arrangement was vetoed but not shut down given that the existing authorization extended to 10 January 2022. In January 2020, it was

renewed for two border crossings for period of six months; in July 2020, it was renewed for one border crossing for a period of one year; in July 2021, it was renewed for one border crossing "for a period of six months … with an extension of an additional six months" subject to the issuance of a report by the Secretary-General on transparency in the operations, and progress on cross-line access. In 2022, the authorization was extended for six months until January 2023 and subsequently until July 2023.

Conditions for success

- Given the controversial nature of delivering humanitarian relief without the consent of the host Government, such mechanisms benefit from a unified Security Council and the collective willingness to bring unified pressure to bear on the resistant parties.

- Security Council unanimity may be enabled by establishing: i) the grave humanitarian needs of the civilian population in affected areas; ii) real potential for these needs to deteriorate further without immediate assistance; iii) exhaustion of all alternative ways to assist the population; and iv) the host Government has denied and will continue to deny consent for cross-border movements. All four elements were paramount in consideration of the situation in Syria in 2014.

- It is helpful to frame humanitarian demands on the conflict parties as a binding legal obligation (consistent with human rights and humanitarian law), but sometimes softer language is all that is politically feasible.

- An impartial monitoring mechanism can provide assurance to the conflict parties, neighbouring countries and Council Members about the humanitarian nature of the provided assistance. In addition to monitoring the shipment of aid across a border, such a mechanism could also monitor its delivery within the contested area to ensure it goes to people in need.

- While military escorts should not be standard practice, they may be necessary in some circumstances.

- Humanitarian action cannot be allowed to become a substitute for political action.

- Humanitarian actors and their delivery of assistance should not be politicized.

- The roles and vulnerabilities of NGO partners – both international and national – must be factored into the planning and implementation of these initiatives.

- In some situations, non-coercive mechanisms must be backed by a credible threat of "other measures".

Risks/ benefits

Benefits

- Ensuring the delivery of humanitarian assistance in front-line and contested environments can save lives in the most dire circumstances, helping to ensure the humanitarian needs of the population are met while difficult political issues are resolved.
- These mechanisms are a way of putting pressure on a host Government and other parties, short of coercive military action, to provide security for humanitarian relief.
- Security Council engagement in humanitarian action and support to humanitarian actors sends a valuable signal to recalcitrant parties.
- It is a way of operationalizing the humanitarian principle that consent to humanitarian assistance shall not be arbitrarily withheld.
- It is a useful addition to the repertoire of tools for the "protection of civilians".

Risks

- The humanitarian principles of impartiality, neutrality, humanity and independence may be compromised if the humanitarian actors are perceived as too intertwined with political and security actors.
- The safety of humanitarian personnel when trying to deliver relief in front-line areas is a concern. Military protection can mitigate that concern but exacerbates the risk of humanitarian principles being compromised.
- The "humanitarian trap" is another concern. The pressure to "do something" in a humanitarian crisis (such as facilitating the delivery of relief) can become an excuse for not doing more.

Legal considerations

While the principle that one cannot arbitrarily withhold consent to humanitarian relief is a part of international humanitarian law, its precise contours are not agreed. The International Committee of the Red Cross (ICRC) has interpreted the relevant articles in the Additional Protocols to the Geneva Conventions that way, and also stated that these treaty rules are mirrored in customary law applicable in both types of conflict (see ICRC, 2005).

In resolutions 2165 (2014) and 2642 (2022) on Syria, the Council made a binding decision (using the language "decides") to authorize

humanitarian access without the receiving State's consent. It determined a threat to international peace and security, but did not expressly invoke Chapter VII of the UN Charter. As such, the resolution could be seen as legally based on either Article 25 or implicitly on Chapter VII.

UNSC procedure

- The Security Council adopts a resolution that either demands humanitarian access, or calls for it in non-obligatory terms. If the programme requires a monitoring or coordinating mechanism, the Council requests the Secretary-General to set that up.
- The Secretary-General reports to the Council on the mechanism on a regular basis.
- The Council may be required to adopt further resolutions altering, extending and finally terminating the mechanism.

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OPERATIONAL TOOLS: OTHER UN OPERATIONS

40. HEALTH EMERGENCY RESPONSE OPERATIONS

Summary

The first time the Security Council discussed a health crisis was in 2000, prompted by concern that the socioeconomic consequences of the HIV/AIDs epidemic in Africa could lead to conflict. But it was not until 2014, in response to the Ebola outbreak in Africa, that the Council explicitly determined that an epidemic constituted a threat to international peace and security.

UN health emergency operations have come in two forms: mandates for peacekeeping operations and special political missions to support host country authorities and external actors; and mechanisms to coordinate UN entities that are providing support for health emergency responses.

Examples: In the context of both the Ebola outbreak in West Africa (2014) and in the Democratic Republic of the Congo (DRC) (2018) the Council tasked UN peacekeepers and special political missions with a support role. In both cases, it also welcomed the establishment of a coordination structure: the United Nations Mission for Ebola Emergency Response (UNMEER in West Africa) and the office of the United Nations Emergency Ebola Response Coordinator (UNEERO for the DRC).

Legal basis

The Security Council has an implied power to address health crises that affect international peace and security (on implied powers, see the ICJ's *Certain Expenses* advisory opinion). This is consistent with the interconnected purposes of the UN to both take collective measures for the prevention of threats to the peace, and to achieve international cooperation in solving international economic, social, cultural, or humanitarian problems.

If peacekeeping operations are empowered to act in such situations, the mandate must come from the Council, typically as a component of an existing peacekeeping mandate. Thus, the Council tends to "request", "welcome" or "express appreciation for" such support, implicitly under Chapter VI and in support of local authorities. On one occasion the Council tied support for a health response to a peacekeeping operation's Chapter VII protection of civilians mandate (resolution 2439 on MONUSCO).

Coordination mechanisms can be established by the General Assembly or Secretary-General and do not require a Council mandate, but if they are expected to coordinate peacekeeping operations or special political missions then it is appropriate for the Council to take note of the mechanism.

Description

The UN has established health emergency operations in two forms: mandates for peacekeeping operations and special political missions to support host country authorities and external actors; and mechanisms to coordinate the World Health Organization (WHO) and other UN entities that are providing support for health emergency responses.

Peacekeeping operations

Several peacekeeping operations have been tasked with supporting the response to an infectious disease outbreak. These have been situations when peacekeepers were already deployed when the health emergency occurred. Peacekeepers have never been deployed for the sole purpose of addressing an outbreak. The mandates were typically quite open-ended, for example "contribut[e] to an integrated response to HIV and AIDS" (S/RES/1983 (2011)) or "provide support … to host country authorities in their efforts to contain the pandemic" (resolution 2532 on COVID-19).

In addition, specific tasks may include:

- Logistics, transportation and communication.
- Engineering work, for example, to build treatment centres.
- Facilitating humanitarian access and allowing for medical evacuation.
- Community engagement to build trust in the response.
- Helping to prevent cross-border transmissions of the disease.
- Active patrolling to deter attacks against health-care workers.
- Providing security at strategic locations.

For further information on how UN peacekeeping missions are designed, planned, staffed, supported and funded, see the introduction to UN operations.

Special political missions

Like peacekeeping operations, special political missions have been given broad mandates by the Security Council. S/PRST/2014/4 on West Africa expressed the "need for … peacekeeping operations and special political missions to provide immediate assistance to governments of most affected countries". One of the resolutions on COVID-19 requested "that Special Representatives and Special Envoys of the Secretary-General … use their good offices and mediation with parties to armed conflicts to facilitate the COVID-19 response including vaccination in situations of armed conflict" (S/RES/2565).

For further information on how special political missions are designed, planned, staffed, supported and funded, see the introduction to UN operations.

Coordinating mechanisms

On two occasions, the UN has established coordination mechanisms to ensure coherence among actors responding to a health emergency, including peacekeepers, the World Health Organization and other UN entities. In addition, these operations also created mechanisms for coordinating with local authorities. Thus, the UN Mission for Ebola Emergency Response (UNMEER, 2014–2015) in West Africa was tasked with coordinating the operational activities of UN agencies, funds and programmes to ensure they aligned with an overall strategy and national action plans. It was also tasked with scaling up technical, material and human capacity, in part through high-level engagement to mobilize financial and political support. The UN Ebola Emergency Response Coordinator (UNEERO, 2019–2020) for the DRC had a different structure but similar mandate, namely, to coordinate the external actors, in partnership with local authorities, to create an "enabling environment" for the response.

UNMEER was designed and planned in UN Headquarters. Working closely with the Secretary-General's Special Envoy on Ebola, it provided strategic direction for the response and coordinated the activities of agencies present in the affected countries. Headquartered in Ghana, away from the affected countries (for which it was criticized), UNMEER was led by a Special Representative of the Secretary-General (SRSG) and staffed mainly by Secretariat officials and seconded officers from UN-system agencies. WHO retained its leadership on health issues within the mission across several operational areas. UNMEER was funded out of UN assessed contributions, and borrowed some assets (vehicles, equipment and supplies) from peacekeeping operations, the UN Humanitarian Air Service, and UN Country Teams.

UNEERO was a lighter structure than UNMEER. It was headed by the Deputy SRSG for MONUSCO (the UN peacekeeping mission in the Democratic Republic of the Congo) and staffed mainly by UN-system officials already on the ground.

History

At the inaugural Security Council Summit in 1992, the Council acknowledged that in the post-Cold War era "non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security". This opened the door to a conception of peace and security that could include health crises.

In 2000, the Security Council met to discuss the HIV/AIDS crisis, originally motivated by concern that the socioeconomic consequences of

the epidemic in Africa could lead to armed conflict. Because some Council Members objected to addressing this "non-traditional" security threat, later resolutions and Presidential Statements focused more narrowly on the impact of HIV/AIDS on peacekeepers.

Security Council resolution 2177 (2014) was the first explicit recognition by the Council that an epidemic posed a threat to international peace and security. The resolution, cosponsored by 134 States (the most ever cosponsors for a Security Council resolution), determined that "the unprecedented extent of the Ebola outbreak in Africa constitute[ed] a threat to international peace and security". When Ebola broke out in the DRC in 2018, the Council expressed concern about the security situation in areas affected by outbreak; condemned attacks on responders; demanded respect for international humanitarian law; and noted "the important positive role of MONUSCO […] in supporting the efforts of the government of the DRC, the WHO and other actors to bring the Ebola outbreak successfully under control" (S/RES/2439 (2018)).

When it came to COVID-19, the connection between the pandemic and international peace and security was less direct. The Council was slow to respond, and it took members a long time to agree language. But eventually the Council adopted Security Council resolutions 2532 (2020) and 2565 (2021) that, among other things, sought to operationalize a response from peacekeepers, special political missions, humanitarian organizations and other actors.

UNMIL (Liberia 2014–2015)

The peacekeeping operation in Liberia – UNMIL – supported the Government in an awareness-raising campaign through "UNMIL Radio". It supported the mobilization of civil society organizations and community leaders in their localized incident management mechanisms to change hygiene and traditional burial practices. It led an inter-agency logistics team, transporting tons of medical supplies, and helping to build treatment centres. It also supported a regional health strategy to prevent the cross-border transmission of the disease and later used its good offices to encourage reopening the border with Guinea.

UNMEER (West Africa 2014–2015)

Having been established by the Secretary-General in 2014, the UN Mission for Ebola Emergency Response – UNMEER – was not a tool of the Security Council per se, but it was "welcomed" by the Council (S/PRST/2014) as well as the General Assembly. The first-ever UN emergency health mission, its objective was to scale up the response and establish "unity of purpose in support of nationally led efforts". It did so by consolidating the operational work of the UN system, NGOs and other partners, and through high-level strategic engagement in collaboration with

the Secretary-General's Special Envoy on Ebola. When UNMEER was terminated in July 2015, it handed over residual responsibilities to the UN Country Team.

UNOWA (West Africa 2020–2016)
The UN Office in West Africa – UNOWA – provided a regular flow of information on the effects of the Ebola outbreak to the Mano River Union secretariat, regional institutions and peace missions, as well as UN representatives in the region. It highlighted the consequences of the outbreak on peace, security, stability and regional integration. And it drew international attention to the peacebuilding-related implications of the Ebola outbreak.

MONUSCO (DRC 2018–2020)
The peacekeeping operation in the Democratic Republic of the Congo – MONUSCO – deployed troops and police to volatile areas to address threats to Ebola response teams through daily patrols and by providing security at strategic locations. It also supported national investigations into attacks on Ebola treatment centres. MONUSCO engaged with national and local authorities to promote a more conducive environment for humanitarian actors, with a specific emphasis on sensitizing the local population to prevention measures. It also facilitated meetings of civil society, religious leaders, business representatives and local authorities to raise awareness of the re-emergence of Ebola.

UNEERO (DRC 2019–2020)
To bolster the UN response to the Ebola outbreak in the DRC, the Secretary-General appointed a UN Ebola Emergency Response Coordinator – UNEERO – in 2019. Based in the affected areas, the job of the office of the Coordinator was to ensure an enabling environment for the public health response, including appropriate security, logistics, political and community engagement, and action to address the concerns of affected communities. It aimed to strengthen multisectoral humanitarian coordination and to ensure timely and sustainable financing, monitoring and reporting on the use of funds in collaboration with the World Bank and key donors.

Conditions for success

Several lessons have emerged from the UN's health emergency response operations to date:

- Because health emergencies are a relatively new item on the agenda of the Security Council, the connections between health and security must be clear in order to ensure unified Council support. In some situations, the connections are obvious, for example, when an ongoing armed conflict makes it difficult to provide treatment or deliver vaccines because humanitarian and medical personnel come under attack. The

possibility of a health crisis spreading across borders is more likely to draw the attention of the Security Council than those confined to a single country. Less obvious connections are when a conflict affects health-care systems, including infrastructure and community health programmes. Health crises can also add to instability, increase government crackdowns on protesters, and complicate peacebuilding efforts. And they can have a direct effect on the conduct of peacekeeping operations by affecting the health of the peacekeepers themselves, or by inhibiting the willingness of peacekeepers and peacebuilders to engage with local communities.

- Peacekeepers can provide logistics and communications support, and perhaps even area security, but they should not be on the front lines of the response. An effective response to a health emergency such as an infectious disease outbreak depends on winning the trust and acceptance of the local population. In conflict-affected territories, security forces (including international peacekeepers) are often viewed with suspicion. Military and police peacekeepers can provide valuable support, but care must be taken to avoid excessive "securitization" of the response.

- Coordination is essential. Health emergencies in which the Security Council is likely to become involved are multisectoral, encompassing health, security, political, humanitarian, development and legal dimensions. Moreover, action by any one sector is likely to affect all others. The key to effective coordination is a division of labour among the various actors based on comparative advantage, with clear leadership and minimal bureaucracy. It is also important to put structures and personnel in place to coordinate with authorities and stakeholders at the national, district and local levels. The form of that structure may vary depending on the circumstances: form should follow function.

- Strategic direction and operational leadership are more important than direct (and overly directive) coordination of the multiplicity of actors involved in responding to a health emergency. That kind of strategic leadership is also valuable in mobilizing international political will and resources, as well as managing those resources. However, it is important for the leader and the headquarters of the coordinating mechanism to be close to the front line of a response.

- International law can provide guidance in responding to a health emergency. International humanitarian law imposes clear prohibitions against attacks on medical personnel and facilities, as well as rules about access to vulnerable populations. Human rights law – especially the rights to life and health, but also civil and political rights – sets out the parameters within which operational activities must be conducted.

Risks/ benefits	**Benefits** • Security Council involvement in health crises brings high-level attention and political will to the response. It can mobilize global action and resources that might not otherwise be made available. • Health emergency operations or mandates can foster a holistic approach to the multisectoral challenges of responding to the emergency in conflict settings. Specifically, they can help to create the political and security conditions that make health, humanitarian and development interventions possible. Ideally, this holistic approach will carry over into the post-crisis phase. For example, strengthening health-care systems may come to be seen as a peacebuilding priority. • Security Council involvement can be useful in generating pressure for UN system wide coordination, which is always a challenge. • The UN has significant convening power and can act as a point of coalescence. This tool can facilitate effective collaboration between external actors, national and local authorities. It can also provide resources and leadership in contexts where national authorities are weak or not present. **Risks:** • The "securitization" of health can bring attention and resources to bear on a particular crisis, but in so doing may divert attention and resources away from health concerns that are not seen as security threats. It may also encourage an overly heavy military response. Moreover, the "emergency" mindset can mobilize a rapid response, but may have the effect of de-prioritizing longer-term structural interventions (for example, strengthening health system governance and infrastructure). • Health emergency operations conducted by external actors can generate mistrust and resentment from local populations, especially those who feel their security and development concerns have been ignored in the past. • An overly intrusive and directive heath intervention by external actors can undermine the credibility and legitimacy of national authorities. Yet when those national authorities are weak or mistrusted, bypassing them and working with local communities may be the only option.
Legal considerations	If the Security Council is involved, the health crisis could be in the context of a conflict or may constitute a threat to security in a much more general sense (such as during the early stages of a pandemic outbreak, whether properly identified or not). Council action in respect of the latter situation may lead to questions from Council Members about whether

the issue belongs on the agenda of the Council or should be dealt with by other UN organs and institutions (such as the Economic and Social Council (ECOSOC) and WHO).

International human rights law may permit the restriction of rights in a public health emergency, but only to the extent necessary to meet the public health objective and in a non-discriminatory manner or to the extent a formal "derogation" is made to the applicable human rights treaties (such as the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights) and notified to the human rights treaty body. Such derogations must be prescribed by law, necessary, proportionate and limited in time. UN operations engaged in health emergency responses must be attentive to the risk of governments imposing restrictions that may not be necessary, and not lifting restrictions when the crisis is over.

UNSC procedure

- The Security Council adopts a resolution mandating or requesting a peacekeeping or special political mission to use their resources to support the health emergency response.
- The Security Council need not authorize a coordination mechanism, but it may welcome or in some other way express support for a decision by the General Assembly or the Secretary-General to do that.

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OPERATIONAL TOOLS: OTHER UN OPERATIONS

41. WEAPONS OF MASS DESTRUCTION INSPECTION AND DESTRUCTION OPERATIONS

Summary

The Security Council plays an important role in controlling the proliferation of weapons of mass destruction (WMD). In addition to political engagement and the imposition of sanctions, it has deployed tools to inspect WMD-related programmes and to destroy weapons and related materiel in target States. The tool takes one of two forms: a mandate to an existing international institution, such as the International Atomic Energy Agency (IAEA) or the Organization for the Prohibition of Chemical Weapons (OPCW) to undertake the task; or establishment of an ad hoc body to do so when no standing verification agency is available. Another tool that has never been used by the Security Council, but could be, is the Secretary-General's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons.

Examples: The weapons inspection regime in Iraq from 1991 to 2007 is an example of both types of tools: the IAEA was responsible for nuclear programmes; while the ad hoc United Nations Special Commission (UNSCOM), which was succeeded by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) in 1999, was responsible for chemical, biological and ballistic missile weapons. The IAEA inspection regime for Iran pursuant to the Joint Comprehensive Plan of Action (JCPOA) is another example of an existing agency being used as a tool by the Council. Syria saw two ad hoc mechanisms: the 2013 OPCW–UN Joint Mission for Eliminating Syria's Chemical weapons, and the 2015 UN–OPCW Joint Inspection Mission (JIM).

Legal basis

The Security Council has the power to take measures against any act of WMD proliferation that poses a threat to international peace and security. This is consistent with the principles and purposes of the UN.

The key WMD treaties – including the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the conventions on biological and chemical weapons (CBW and CCW) – envisage recourse to the Security Council as a means to enforce the obligations they impose. The Council may be engaged either through a referral by the verification agencies associated with the treaties (such as the IAEA Board of Governors or the OPCW), or by the States parties. The Statute of the IAEA, for example, provides for referral to the Security Council and the General Assembly where there is

a threat to international peace and security or a determination of non-compliance with safeguards. However, the Council need not wait for a referral: it can act on a WMD threat, including under Chapter VII, based on its responsibility to maintain international peace and security.

In addition, the statutes of the permanent inspection agencies (the IAEA and OPCW) enable them to undertake functions that go beyond their routine inspections when called upon by the Council. Ad hoc inspectorates (such as UNSCOM) are established as subsidiary organs of the Council based on Article 29 of the UN Charter. While the Security Council has never activated the Secretary-General's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons, doing so would clearly be within its authority.

Description

This tool describes tailored verification and inspection regimes established by the Security Council to deal with a particular WMD threat to international peace and security. It does not cover the routine verification and inspection activities undertaken by the agencies charged with overseeing implementation of WMD treaties.

The tool comes in two forms: mandates to existing agencies, and ad hoc verification mechanisms. The first arises in situations when an existing agency is mandated by the Council to engage in inspection and verification activities in a particular country. The second arises when there is no existing agency and so the Security Council must create a subsidiary organ to undertake the inspections. An example of the first is the mandate given to the International Atomic Energy Agency (IAEA) with respect to Iraq's nuclear programmes in 1991. An example of the second is the UN Special Commission (UNSCOM) created by the Council in 1991 to address Iraq's chemical, biological and ballistic missile programmes.

Permanent verification agencies

Two permanent WMD verification agencies currently exist: the IAEA and OPCW. The first was created in 1957 and took on new life in 1970 when it was tasked with administering safeguards to ensure compliance with the NPT. The second was created in 1997 to oversee implementation of the Chemical Weapons Convention (CWC). While both have ongoing verification functions unrelated to Security Council mandates, both can and have been employed by the Security Council to address particular threats. Typically, this will occur when the Council determines either that the inspection regime must go beyond the normal procedures employed by the agency, or the normal procedures are being resisted by the target State.

Article III of the NPT requires non-nuclear weapon State parties to accept safeguards on their nuclear energy programmes, as set forth in

an agreement to be concluded with the IAEA. The IAEA safeguards system is designed to provide assurance that any attempt to divert a "significant quantity" of nuclear material (defined as enough to make one crude bomb), is detected and publicly exposed before the bomb is built. The techniques used include on-site inspections, audits of plant records, physical inventories, tamper-proof seals, and camera and video surveillance systems. The Additional Protocol to the standard safeguards agreement is designed to ensure that a State's declaration of its nuclear facilities is complete as well as correct. By requiring a more expansive declaration of nuclear-related activities, and more intrusive inspections, it provides credible assurance not only about declared materials, but also about the absence of undeclared material.

Verification of the CWC is undertaken by the OPCW. The OPCW's intrusive verification system requires States to make declarations both on the status of the chemical weapons and production facilities they possess (as some did when the CWC was signed) as well as any chemical industry facilities that produce or use chemicals of concern to the convention. The OPCW seeks to monitor "dual use" activities to make sure chemicals are not diverted from the chemical industry to military purposes. The system includes reporting requirements, routine on-site inspections, and short-notice "challenge" inspections of any declared or undeclared facility – which can be requested by any State party to the CWC.

These agencies are funded out of assessed contributions provided by their members and staffed by multidisciplinary professional and support staff with scientific, technical, managerial and professional backgrounds. When the Security Council mandates them to take on responsibilities beyond their treaty-based functions, special funding arrangements must be made.

Ad hoc mechanisms

No verification agency exists for biological weapons (due to difficulties in negotiating a verification protocol to the Biological Weapons Convention (BWC)). The Secretary-General's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons could be called upon by the Security Council to investigate alleged uses of biological weapons, but that has not happened yet. There is no inspectorate for ballistic missiles either (nor, for that matter, is there a missile non-proliferation treaty). The OPCW was only created in 1997 when the CWC came into force. Because no inspectorate existed for chemical weapons systems in 1991, the Security Council created a new organization – the UN Special Commission (UNSCOM) – to deal with those programmes in Iraq. UNSCOM was established as a subsidiary organ of the Security Council under Article 29 of the UN Charter. It reported directly to the Security Council, not the Secretary-General. It functioned by receiving intelligence from countries that had intelligence on Iraq and gathered its own information through a

programme of inspections and technical devices. In 1999, the inspection regime was modified slightly and UNSCOM was replaced by the UN Monitoring, Verification and Inspection Commission (UNMOVIC).

UNSCOM was led by an Executive Chairman and 20 Commissioners from around the world. Member States and the UN Secretariat provided the Commission staff. Inspection teams consisted of personnel made available by Governments, members of the Commission, the UN Secretariat, and, in the nuclear field, inspectors and staff of the IAEA. UNMOVIC also had an Executive Chairman and a College of Commissioners of 16. UNMOVIC staff, unlike those of UNSCOM, were regarded as international civil servants subject to Article 100 of the UN Charter (S/RES/1284 (1999), para. 6). Both UNSCOM and UNMOVIC were financed from a portion of the revenue raised from the export of Iraqi oil (the Oil-for-Food Programme).

The Security Council established two mechanisms to address Syria's use of chemical weapons, the 2013 OPCW–UN Joint Mission for Eliminating Syria's Chemical weapons, and the 2015 UN–OPCW Joint Inspection Mission. The first was tasked with ridding Syria of its declared chemical weapons, which it had largely succeeded in doing when its mandate was terminated in September 2014. The second was tasked with identifying the perpetrators of chlorine attacks that had been confirmed by the OPCW Fact-Finding Mission. Renewal of its mandate was vetoed by Russia and China in November 2017.

The UN–OPCW Joint Inspection Mission was headed by a Special Coordinator appointed by the Secretary-General in close consultation with the Director-General of the OPCW. The Joint Inspection Mission had a leadership panel of three appointed by the Secretary-General in consultation with the Director-General of the OPCW. They were staffed by personnel from the UN and OPCW and financed out of a voluntary fund.

History

The Security Council is envisaged as a means to enforce the treaties that concern weapons of mass destruction. Its enforcement role stems in part from the treaties themselves, and in part from the Council's inherent authority to maintain international peace and security. Thus, the CWC requires that suspected violations be reported to the UN Security Council, as does the Statute of the IAEA for violations of safeguards agreements enacted pursuant to the NPT. However, for the Council to act it need not wait for a referral from a treaty body or member. Its competence is based on the general powers conferred in the UN Charter. An act of proliferation can readily be interpreted as a threat to international peace and security, justifying action under Chapter VII.

The crisis in Iraq pushed the Security Council into a more operational role, including by mandating WMD verification/inspection/destruction

regimes in three cases: Iraq, Iran and Syria. These regimes go beyond the inspections undertaken by the IAEA and OPCW to monitor compliance with the CWC and NPT respectively.

Iraq

In the aftermath of the Gulf War of 1991, following Iraq's invasion of Kuwait, Security Council resolution 687 authorized the destruction and long-term monitoring of Iraq's WMD programmes. The IAEA was assigned responsibility for Iraq's nuclear weapons, and UNSCOM was created to deal with chemical, biological and ballistic missile weapons. To compel Iraq's compliance, sanctions remained in place and force was used twice, in 1993 and 1998. In late 1998, UNSCOM was replaced by UNMOVIC, but both IAEA and UNMOVIC inspectors were barred from Iraq from that year until 2002. Following the adoption of resolution 1441 in 2002, the IAEA and UNMOVIC inspectors returned. But, unsatisfied with the level of Iraqi cooperation, the United States and United Kingdom led an invasion of Iraq in 2003, based on a contested interpretation of resolutions 678, 687 and 1441. After Iraq was occupied, the Iraq Survey Group (a 1400-person international team established by the United States), scoured the country and concluded that UNSCOM/UNMOVIC and the IAEA had discovered and eliminated most of Iraq's unconventional weapons and production facilities and destroyed most of its chemical and biological weapons agents (Central Intelligence Agency, 2004).

Iran

A party to the NPT, Iran signed a safeguards agreement with the IAEA in 1974. Amid concerns that it was building nuclear sites capable of producing highly enriched (weapons grade) uranium, Iran agreed in October 2003 to suspend enrichment, cooperate fully with the IAEA and to sign and ratify the Additional Protocol to the Safeguards Agreement. In August 2005, Iran resumed its nuclear enrichment activities, claiming it had a right to do so under the NPT. Shortly thereafter, the IAEA referred the matter to the Security Council. In 2006, sanctions were imposed and diplomatic efforts made to bring Iran back into compliance with its safeguards agreement. Nine years of pressure and diplomacy later, the P5 plus Germany signed the Joint Comprehensive Plan of Action (JCPOA) with Iran, endorsed by the Security Council (S/RES/2231 (2015)). International monitoring of Iran's nuclear programme under the JCPOA consists of three tiers: i) its original safeguards agreement with the IAEA; ii) the Additional Protocol to that agreement; and iii) additional verification measures that are unique to the JCPOA. In 2018, the United States withdrew from the JCPOA. A year later, Iran began to reduce its commitments under the Plan of Action incrementally. As of January 2023, the prospects for restoring the JCPOA seemed slim but had not been abandoned.

Syria

The 2013 OPCW–UN Joint Mission for Eliminating Syria's Chemical Weapons was established in response to Syria's use of sarin in August 2013, killing as many as 1400 people in Aleppo. A deal was struck with Syria, brokered by the United States and Russia together, requiring it to join the CWC and accept an expedited mechanism to rid it of chemical weapons. The mechanism succeeded in destroying most of Syria's declared weapons in a year, but lingering suspicions that it preserved some sarin and VX nerve agent – and its apparent use of chlorine gas as a weapon (a chemical that was not covered by the earlier mechanism) – prompted the dispatch of a new mission in 2015. The UN–OPCW Joint Inspection Mission was established to identify who was responsible for the use of chlorine and other toxic chemicals as determined by an OPCW Fact-Finding Mission – which had been set up by the OPCW in February 2015. The Joint Inspection Mission functioned until November 2017 when renewal of its mandate was vetoed. In June 2018, the Conference of the States Parties of the CWC established an Investigation and Identification Team to take over the work of the Joint Inspection Mission.

Conditions for success

- Eliminating weapons of mass destruction from a country or bringing it back into compliance with WMD-related obligations typically requires a combination of diplomacy and more coercive measures (either sanctions or the threat or use of force). To succeed, the diplomacy must be directed at achieving collective purposes, and not be seen as serving the agendas of particular States. If the diplomacy needs to be backed by the threat or use of enforcement action, those measures must be seen as legitimate.

- The experiences of Iraq, Iran and Syria all demonstrate that a unified Security Council is necessary for that combination of diplomacy and coercion to be credible. Divisions among the five permanent members can be exploited by the target State.

- WMD inspectorates used or created by the Council typically must have access to intelligence provided by Member States. For that, confidentiality is critically important. UN Members will not provide sensitive intelligence if they are concerned that their intelligence-gathering techniques will become public knowledge.

- For joint missions (such as the OPCW–UN mechanisms), the reporting entity and reporting lines must be clear.

- In addition to intelligence provided by outside sources, the inspectorates must have the ability to gather their own information. The expertise may reside in the inspectorates, but outside experts may also have to be drawn on. New technology (such as satellite monitoring) can enhance remote inspection capabilities. This requires a high level of technical competence.

- The effectiveness of these inspectorates depends not only on their technical capacity but also their perceived independence and ability to resist political pressure. As technical bodies, they should not be making political judgments or tailoring their activities and reports to serve purposes other than those described in their mandates.

Risks/ benefits

Benefits

- The principal benefit of these operations is to reinforce the WMD non-proliferation regimes. They are tools the Security Council can use to ensure States are meeting the obligations they have voluntarily accepted by signing WMD agreements, or that have been imposed upon them by the Council under Chapter VII of the UN Charter.

- For the permanent inspectorates (the IAEA and OPCW), a mandate from the Council can empower them to engage in a more intrusive type of inspection than provided for in the treaties. This is valuable when routine inspections are not adequate to manage a proliferation threat.

- The ad hoc mechanisms can fill gaps in the non-proliferation regimes when no permanent inspectorate can be called upon. This was the case for Iraq's biological weapons, chemical weapons and ballistic missiles. In the future, the tool may be useful for biological weapons and ballistic missiles, as no permanent agency exists for those weapons (although the Secretary-General's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons could be activated).

- Another benefit is that they provide a credible, third-party agent to help manage a highly contentious area of international peace and security. The stakes are high in the realm of WMD and, because States tend to be suspicious of each other's activities, there is much room for miscalculation. An independent agent can mitigate those suspicions.

Risks

- The converse of the first benefit noted above is that, if the Security Council becomes overly active in this area, it could undermine the existing regimes. The nuclear non-proliferation regime, for example, rests on a carefully calibrated and fragile bargain between the nuclear weapon and non-nuclear weapon States. If the P5, who are also the five declared nuclear weapon States, are seen to be overreaching or abusing their authority, that could disrupt the bargain.

- A related risk is that the credibility of the inspectorates may be compromised if they are seen to be the instruments of particular States as opposed to the Council as a whole.

- Experience teaches that a recalcitrant Government can engage in incremental obstruction of these operations. The obstructions may be

just enough to hinder the inspectorate's ability to do its job, but not so much to provoke a coercive response. The risk is that the unity of the Security Council will break down over time, making it impossible to keep the pressure on the target State.

- A more practical risk is the safety of the inspectors. The OPCW's early inspections in Syria demonstrated that its inspectors would likely come under live fire. After August 2013, all inspectors were fitted with bulletproof vests.

- Finally, new technologies and weapons (such as hypersonic glide missiles, drone swarms and biotechnology) can complicate the environment for WMD non-proliferation and disarmament.

Legal considerations

WMD inspection and destruction operations are likely to be established when the Security Council has determined that a situation constitutes a threat to international peace and security, and therefore, under Chapter VII of the UN Charter (see resolution 1441 (2002)). However, if the Council is unable to agree on a Chapter VII mandate and the host State consents, then a Chapter VII mandate is not technically required (such as in Syria).

The members of UN inspection and destruction operations may include external technical experts. The legal status, especially privileges and immunities, and independence of such members was an issue for UNSCOM and UNMOVIC. Due to questions about the independence of staff of UNSCOM, the resolution establishing UNMOVIC specified that they were subject to Article 100 of the UN Charter (which addresses the independence of UN officials).

UNSC procedure

- Establishment of WMD inspection and destruction regimes is a complex process that requires consultation among Security Council Members, the IAEA and/or OPCW as the case may be, States that have relevant intelligence gathering capabilities, the UN Secretariat, and other experts. Following those consultations the Secretary-General can propose a regime for Security Council approval.
- Typically the Security Council will request regular reporting (as often as once per month).
- The regime may have to be redesigned as circumstances change.

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OPERATIONAL TOOLS: UN OPERATIONAL SUPPORT TO NON-UN OPERATIONS

42. HYBRID OPERATIONS

Summary

A hybrid peace operation is deployed by the UN in partnership with another organization, most likely a regional organization. The mission operates with a jointly authorized mandate, integrated leadership, and shared command and control structures. These joint structures distinguish hybrid operations from other forms of UN partnership and support to regional missions. Ideally, hybrid missions draw on the legitimacy, political and material capabilities of the partnering international organizations concerned within a particular context. They can also be employed to overcome political and operational challenges faced by a solely UN deployment.

Examples: UN–AU Hybrid Operation in Darfur (UNAMID); UN–OAS International Civilian Mission in Haiti (MICIVIH); UN–EU–OSCE Mission in Kosovo (UNMIK).

Legal basis

Hybrid operations are typically authorized acting under Chapter VII of the UN Charter, as the operations often have a mandate for the use of force.

In an effort to share the burden of the maintenance of international peace and security, Chapter VIII of the Charter encourages the settlement of local disputes through regional arrangements and empowers the Council to "utilize" regional arrangements for enforcement action under its authority.

A hybrid mission should be authorized by both the UN and the partner regional arrangement (such as the African Union Peace and Security Council). A document setting out the relationship between the UN and its partner organization(s) usually needs to be concluded.

For information on the legal basis of PKOs generally, see the introduction to UN operations.

Description

The Council may establish a hybrid peace operation in partnership with another international organization, most likely a regional arrangement. Hybrid operations with military components involve joint command and control arrangements, unlike UN support to regional missions. This is why some analysts initially called them "integrated" missions

(for example, Jones, 2004). A hybrid mission's mandate is tailored to the relevant crisis and determined in consultation between the Council and the partner organization. They can deploy at any point in the conflict cycle but are most likely after a ceasefire or peace agreement.

Hybrid missions are not managed solely by one institution, "they are the result of the interaction of at least two different conflict management policies or cultures" (Tardy, 2014: 97). They are therefore likely to face some particular challenges related to overcoming differences in bureaucratic and organizational culture, as well as management practices. In this context, a unified strategic vision and political support across both/all partner organizations is very important.

Some hybrid operations have been entirely civilian. Those that involve a military component are likely to be multidimensional, also involving police and civilians. They can come in any size, although the main example of a hybrid UN peacekeeping mission, UNAMID, was a very large operation, involving over 20,000 uniformed personnel and at its peak costing over $1.8 billion per year.

The mission mandate is authorized by the Security Council in concert with the partner organization. The mandate can include any tasks on the usual UN peace operations spectrum.

Together, the UN and the partner organization determine the mission's size, composition and posture, as well as the leadership and management arrangements. UNAMID, for instance, was led by a Joint Special Representative (and Deputy JSR) who reported both to the UN and the African Union (AU) while the legal terms of the UN–AU partnership were set out in an exchange of letters "in order to ensure the application of United Nations rules, regulations and procedures" (S/2007/596, para. 13).

Management and support structures for a hybrid peace operation will vary depending on the specific configuration of the mission, and the character and capabilities of the partner organization. Ideally, such missions are jointly planned, managed and overseen. In UNAMID's case, for logistics and mission support functions, it operated to all practical intents and purposes as a UN peacekeeping operation. In terms of force generation, UNAMID's vanguard personnel were "re-hatted" peacekeepers from the African Union Mission in Sudan (AMIS) who were subsequently supplemented by additional UN personnel.

There are three main options for funding a hybrid peace operation. One is entirely through the UN assessed contribution system for UN peacekeeping operations, which would ensure predictable and sustainable financing. Alternatively, UN assessed contributions can be supplemented

by funds from the partner organization. For example, the UN and AU have debated the pros and cons of using a 75:25 financing option for hybrid operations and other AU missions authorized by the UN Security Council. Finally, UN assessed contributions can also be supplemented by voluntary contributions to a trust fund established to support the mission.

For further information on how UN peace operations are designed, planned, staffed, supported and funded, see the introduction to UN operations.

History

The impetus to deploy a hybrid operation will likely stem from political or operational challenges that render the deployment of either a UN-led or regional mission suboptimal and make some form of hybrid operation more desirable. Potential rationales for a hybrid mission include political, financial and operational burden-sharing among organizations, a political strategy to overcome a particular obstacle, and to enable a degree of flexibility and selectivity in the response to a particular crisis (Tardy, 2014).

Although there have been many forms of partnership between the UN and other actors and organizations conducting peace operations, the deployment of joint, hybrid operations has been very rare.

During the 1990s, there were two examples of organizations deploying hybrid civilian peace operations but none involving military components. The first was in 1993 when the UN and the Organization of American States (OAS) established the International Civilian Mission in Haiti (MICIVIH), which had a dual-hatted Special Representative. It was authorized to monitor the human rights situation and violations of the Governor's Island Agreement, and to encourage the junta to negotiate after the September 1991 military coup in Haiti. At its peak in October 1993, MICIVIH had about 230 staff with 13 offices for its observers spread throughout Haiti. It operated in parallel with the UN's peace operation (UNMIH, 1993–1996). MICIVIH was superseded in 2000 when the UN General Assembly created a new peacebuilding mission, the International Civilian Support Mission in Haiti (MICAH).

The second hybrid operation was in 1999 when the Council authorized the UN Mission in Kosovo – UNMIK – (S/RES/1244 (1999)) to fuse the civilian capabilities of four different organizations – the UN Secretariat, the UN High Commissioner for Refugees (UNHCR), the European Union, and the Organization for Security and Cooperation in Europe – into a single operational structure led by a UN Special Representative. UNMIK is also an example of an international transitional administration.

The Council's only example of a hybrid peace operation with a military component is UNAMID, deployed to Darfur, Sudan, between 2007

and 2021. UNAMID came about during 2007 as a result of a political compromise between the UN, AU and the Government of Sudan. The AU couldn't continue to staff and sustain its large mission in Darfur (AMIS), yet the Sudanese Government would not consent to the deployment of a UN mission in the area. A political compromise was forged whereby a UN–AU hybrid mission would retain the "predominantly African character" of AMIS, but would use the operational standards and financial system of a UN peacekeeping operation.

UNAMID was deployed to bolster the international response to the civil war and mass atrocities in Darfur. Resolution 1769 (2007) authorized UNAMID to protect civilians and humanitarian workers, facilitate humanitarian relief, and support implementation of the Darfur Peace Agreement. The logistics of UNAMID's deployment were facilitated by the UN's existing engagement in Sudan, both through the UN Mission in Sudan (UNMIS) and the provision of "light" and "heavy" assistance packages to AMIS.

UNAMID's mandate to support the Darfur Peace Agreement was problematic since the warring factions ignored the deal shortly after it was signed. UNAMID's practical focus was thus limited to protecting civilians and facilitating humanitarian relief. It was only in early 2009 that UNAMID could play a role in implementing a peace process when talks began in Doha. After the Doha peace process and document, UNAMID was mandated to protect civilians; facilitate humanitarian assistance, including by ensuring the safety of humanitarian personnel; mediate between the Government of Sudan and the non-signatory armed movements to the Doha document; and support mediation of inter-communal conflicts in the region.

After several years of reducing its personnel levels, UNAMID operations ended on 31 December 2020 and UNAMID withdrew by July 2021. In its place, the UN deployed a special political mission, UNITAMS, to support Sudan's transition after former President Omar al-Bashir's regime was toppled in 2019.

Several expert panels (formed by the AU in 2013 and 2021, and by the UN in 2020) raised the option of deploying a hybrid AU–UN mission in Somalia to replace the existing AU mission there (AMISOM). Instead, in March 2022, the AU Peace and Security Council and UN Security Council authorized the replacement of AMISOM with the AU Transition Mission in Somalia (ATMIS), to undertake a phased transfer of security responsibilities to the Somali security forces.

Conditions for success

The rarity of hybrid peace operations makes it difficult to draw general lessons. Nevertheless, certain key themes emerge, some of which broadly echo the lessons on best practice for UN operations more generally:

- Like all UN peacekeeping operations, hybrid missions require the political and legal consent and ideally the active cooperation of the host Government. In UNAMID's case, while the Sudanese Government grudgingly gave its consent, it did not provide much practical support to UNAMID and engaged in tactics to undermine its deployment and operations. In the case of UNMIK, the mission arrived after NATO's intervention in Serbia and there was no international consensus over Kosovo's future political status.

- Like other UN operations, hybrid missions should be harnessed to a viable political strategy for conflict management, agreed to by all the organizations involved. Having a peace to keep would be ideal, although this was not the case in Darfur or Haiti.

- Hybrid missions are more challenging than UN-led operations inasmuch as they need to retain unified political support from the Council and the partner organization(s). If unified political support breaks down, it will undermine the mission and could lead to its premature termination. While hybrid operations can facilitate joint analysis and joint planning between the UN and its partner organization, political differences need to be reduced to a minimum or they can undermine the mission's effectiveness.

- Since differences in bureaucratic culture, systems and procedures can lead to practical problems for hybrid operations, it is important that shared procedures are clarified and adopted to overcome such problems before they undermine the mission's effectiveness. Issues of leadership reporting lines, oversight, and command and control arrangements are especially important to get right.

- A hybrid peace operation must operate with agreed equipment and disciplinary standards, acceptable to the UN. It is especially important that hybrid missions involving uniformed components agree on shared standards for operational details such as Contingent Owned Equipment, accommodation infrastructure, personnel allowances etc.

- A hybrid operation could operate in parallel with other UN and non-UN peace operations with military components. For example, MICIVIH operated in parallel with the Multinational Force in Haiti and UNMIH, while UNAMID was facilitated by the presence of UN and AU peacekeepers already in the region. While the transition of some AMIS personnel facilitated UNAMID's start-up phase, the presence of UNMIS

gave the UN some established logistical and mission support elements upon which UNAMID could build.

- A hybrid peace operation could be combined with the Secretary-General's good offices powers, and those of other organizations.

Risks/ benefits

Benefits

- Deploying a hybrid operation could have numerous practical benefits, including helping to keep the peace, discouraging hostilities, protecting civilians, and facilitating humanitarian relief. The extent of such potential benefits will depend on the size and configuration of the mission as well as its mandate.

- A joint command and control structure should be able to facilitate joint analysis, planning and assessment of the mission and its area of responsibility.

- A hybrid operation may enjoy greater legitimacy than a UN mission, and may benefit from the partner's legitimacy, political capabilities and local knowledge.

- A hybrid operation can help share the burden of maintaining international peace and security.

- The UN and its potential partners can design and use hybrid operations in flexible ways. "The single most important reality of hybrid operations is precisely that they are sui generis" (Jones, 2004: 17).

- A hybrid operation would typically be deployed to overcome some form of political obstacle or challenge prohibiting the deployment of a regional or UN-led mission. The very existence of a hybrid mission might therefore represent a successful bargain to deploy a peace operation between the UN, partner organization, and the host State.

- Hybrid missions with a military component could also be combined with political conflict management mechanisms. If the UN plays a leading political role this could include mediation and the Secretary-General's good offices function. Alternatively, if the regional organization assumes the political lead, as the EU does in Kosovo, the UN may play supporting roles.

- For the partner organization, a hybrid operation can guarantee predictable and sustainable financing from the UN.

Risks

- Like other types of peace operations, the mission could fail to achieve its mandated tasks for a variety of reasons. There may be difficulties related to interoperability or confusion over standards and operational guidelines, potentially stemming from different doctrine and guidance used by the UN and the partner organization(s). There could also be a lack of clarity regarding command and control and who is really in charge on the ground.

- Like other types of missions, there is a risk that the peacekeepers might engage in violations of international humanitarian law, including sexual exploitation and abuse. This is particularly pertinent in the case of uniformed personnel where the UN does not have control over the conduct and discipline of mission personnel. The UN only has control over its civilian personnel in this regard.

- It is especially important that the UN and partner organization(s) agree on the strategic vision of the mission and the terms for a successful exit strategy. Political disagreements among the partners could undermine the operation. Moreover, shared command and control arrangements during a hybrid operation mean that the UN and its partner organization(s) must ensure a high level of coordination. If partner forces are not well integrated and engage in counterproductive or abusive behaviour, the UN's reputation will be damaged.

Legal considerations

Hybrid operations would require a Status of Forces Agreement (SOFA)/ Status of Mission Agreement (SOMA) concluded between all partner organizations and the host Government (such as between the UN, AU and Sudan for UNAMID).

The UN and its partner organization(s) would need to agree on the Concept of Operations (ConOps), Rules of Engagement (RoE) for armed personnel, and any Directive for Use of Force (DUF) for Formed Police Units and armed police. These documents would need to be aligned across all partner organizations involved. Contributing country MOUs, which are normally just between the UN and troop- and police-contributing countries, could present some complications in hybrid operations. It would need to be confirmed if contributing countries that are members of both organizations need an MOU with each, while contributing countries that are members only of the UN would complete an MOU only with the UN Secretariat.

Issues can arise where the two organizations (such as the AU and UN) have different views on interpretation and application of the mandate which has been jointly agreed, including through reporting and decision-making by the operation's leadership, and the command and control

of forces within the mission. While the secretariats of the relevant organizations can resolve management disputes, mandate issues can only be resolved by the UN Security Council and the corresponding organ or body of the partner organization.

UNSC procedure

- The Security Council adopts a resolution establishing the hybrid operation, clarifying the mission's mandated tasks, command arrangements, force composition and posture, financing, and assumed exit strategy.
- A similar decision is made by the partner organization(s).
- The Secretary-General reports regularly to the Council on the hybrid mission's progress as well as mandate renewal meetings involving the partner organization(s), contributing countries, and the Council.
- Subsequent Council and partner organization resolutions may be required to extend and revise the mission's mandate.

Further reading

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OPERATIONAL TOOLS: UN OPERATIONAL SUPPORT TO NON-UN OPERATIONS

43. SUPPORT TO REGIONAL PEACE OPERATIONS

Summary

The UN can provide support to peace processes either alongside or in direct support of operations carried out by regional organizations. In the past this has included:

- Sending UN personnel to observe a regional mission.
- Deploying a separate but parallel UN mission.
- Providing equipment, logistical and technical support to the regional force.
- Supporting the transition ("re-hatting") of a regional mission into a UN peace operation.

The support mechanisms have usually been designed to help a regional mission fill significant capability gaps and/or meet the Council's desire to closely observe the regional operation's activities in the field.

The UN creates its own dedicated mechanism to provide such support or monitoring, which remains distinct from the regional organization's command and control arrangements.

Examples: UN Observer Mission in Georgia (UNOMIG); UN Observer Mission in Liberia (UNOMIL); UN Observer Mission in Sierra Leone (UNOMSIL); UN Support Office for AMISOM/Somalia (UNSOA/UNSOS); UN Mission in Sudan (UNMIS); UN Assistance Mission in Somalia (UNSOM).

Legal basis

UN operational support missions are typically established under Chapter VI of the UN Charter.

In an effort to share the burden of maintaining international peace and security, Chapter VIII of the Charter encourages the settlement of local disputes through regional organizations and empowers the Council to "utilize" regional organizations for enforcement action under its authority.

Although the UN mission does not require authorization by the regional organization, a document setting out the practical relationship between the UN and its partner organization(s) may be needed.

For information on the legal basis of UN operations generally, see the introduction to UN operations.

Description

The Council may offer support to a peace operation carried out by a regional organization, most likely political, logistical, and technical assistance, or helping it transition to a UN-led mission. UN support would most likely be to regional organizations struggling with some aspect of operations or capability gaps. This flexible tool could be employed by the Council in a wide variety of configurations.

The most common mechanisms include:

- Deploying a small mission to assist a regional peace operation and monitor the security situation, including ceasefire and international humanitarian law violations and disarmament processes (for example, UNOMIL–ECOMOG I in Liberia; UNOMSIL–ECOMOG II in Sierra Leone; UNOMIG–CISPKF in Georgia).

- Establishing a UN political mission alongside the regional operation (for example, UNSOM–AMISOM in Somalia).

- Providing equipment as well as logistical and/or technical mission support (for example, UNMIS–AMIS in Sudan, UNSOA/S–AMISOM in Somalia).

- Overseeing the transition of a regional peace operation into a UN-led mission (for example, AMIB-ONUB in Burundi; AFISMA–MINUSMA in Mali; MISCA to MINUSCA in the Central African Republic).

The UN creates its own dedicated mechanism to provide such support, which remains distinct from the regional organization's command and control arrangements. While these UN support mechanisms have their own specific mandates, they are designed to support the regional operation's mandate and hence require explicit cooperation and coordination between the two organizations.

Working with the consent of the host Government, the UN mechanism and regional peace operation carry out the mandated tasks authorized by the Security Council in consultation with the regional organization. The Secretary-General and troop- and police-contributing countries regularly report on the mission's progress.

The way in which the UN support mechanism is designed, planned, staffed, supported and funded will vary depending on the type of assistance and method of delivery. Planning, staffing and deployment of UN personnel and assets would likely take place in line with the usual UN procedures (see the introduction to UN operations), and in coordination with the regional organization. Technical support could be provided via the UN Secretariat or existing peacekeeping or political missions.

Support for "re-hatting" could be provided by the UN Secretariat and the vanguard elements of the new UN mission.

There are three main options for funding UN support to a regional peace operation: assessed peacekeeping contributions, the UN's programme/regular budget, and voluntary contributions to a trust fund established to finance specific forms of assistance. The funding stream and configuration will depend on the type of assistance being provided. UN observer missions will be entirely financed by UN assessed peacekeeping contributions, while UN political missions will be funded from the UN's programme/regular budget. Equipment and logistical support has been provided by the UN either through existing UN peacekeeping operations (for example, UNMIS to AMIS) or a dedicated mechanism funded through peacekeeping assessed contributions (for example, UNSOA/S to AMISOM).

History

The impetus for the UN to support or monitor a regional peace operation has stemmed from a variety of factors, including the desire to take advantage of complementary capabilities; help fill significant capability gaps; gain detailed insight about the regional mission's activities; ensure the regional mission adhered to international standards as embodied in the UN Charter and other international law; or assist with transitioning the regional mission into a UN peacekeeping operation.

There have been many cases where the UN has deployed observers, established political missions, and provided various forms of operational support to regional missions. Most cases have been in Africa since the 1990s.

One of the earliest UN observer missions designed to monitor a regional peace operation came in 1993 in the disputed territory of Abkhazia, Georgia. In that case, the UN deployed UNOMIG comprising fewer than 200 military observers, part of their mandate being to observe peacekeepers from the Commonwealth of Independent States to ensure compliance with the ceasefire agreement (S/RES/937 (1994)). After war resumed in 2008, UNOMIG was shut down the following year without completing its mandated tasks, due to a veto by Russia.

In the mid-1990s, the other main examples came in West Africa when the UN observed operations undertaken by ECOWAS troops in Liberia and then Sierra Leone. In the latter case, in 1999, the UN observers (UNOMSIL) monitoring the ECOWAS Monitoring Group (ECOMOG) were transitioned into a larger UN peacekeeping operation (UNAMSIL), which included the "re-hatting" of some ECOMOG troops.

Several regions have witnessed the creation of UN political missions operating in parallel and in concert with a regional peace operation,

perhaps most notably in Afghanistan where UNAMA helped NATO-led ISAF forces implement the Bonn Agreement (December 2001), and in Somalia where first UNPOS and then UNSOM worked alongside AMISOM, focused on supporting the political elements of international efforts to stabilize Somalia.

The main examples of UN logistical support to regional peace operations are in East Africa, specifically Darfur, Sudan, and Somalia. In Darfur, from 2007, the UN provided "light" and "heavy" support packages to assist the struggling AU mission (AMIS) (see resolution 1769). These packages were developed as part of the ongoing debate about whether and how AMIS would transition into a UN-led peacekeeping operation, although it eventually transitioned into the UN–AU Hybrid Operation in Darfur (UNAMID). The "light" package involved the UN deploying 105 military staff officers, 34 police advisers and 48 civilians who supported AMIS in the field, as well as equipment at a cost of $21 million. The "heavy" package involved 2250 military, 721 police and 1136 civilians at a cost of nearly $290 million. Both support packages were financed from the existing UNMIS budget. During the same period, AMIS also received support from the European Union via its African Peace Facility and several bilateral partners, notably the United States and Canada.

Unlike the Darfur case, in Somalia, in 2009, Security Council resolution 1863 established a new mechanism to provide logistical and other forms of operational support to AMISOM: the UN Support Office for AMISOM (UNSOA). UNSOA's initial support package covered "accommodation, rations, water, fuel, armoured vehicles [for AMISOM's police officers], helicopters, vehicle maintenance, communications, some enhancement of key logistics facilities, medical treatment and evacuation services" (Williams, 2017a: 2). Since 2009/10, UNSOA – and then its successor since 2015, UNSOS – cost between roughly $200–$600 million per year, paid for mainly by the UN's assessed peacekeeping contributions although some specific activities received additional financing via voluntary trust funds. In addition, UNSOA/S operated a voluntary trust fund for the provision of logistical support to the Somali security forces.

The UN also has quite a long history of supporting mission transitions involving regional organizations. In 1995, the UN Protection Force (UNPROFOR) in Bosnia and Herzegovina transitioned into multiple follow-on missions led by European and transatlantic organizations; in 1999, in Sierra Leone, some of the ECOMOG forces were "re-hatted" into the new UN mission (UNAMSIL); while in East Timor some troops from the INTERFET force were integrated into the UN Transitional Administration (UNTAET). In the 2000s, another round of transitions saw the UN support the "re-hatting" of peacekeepers from ECOWAS missions in Liberia and Côte d'Ivoire as well as the

African Union mission in Burundi into UN "blue helmets" (UNMIL, UNOCI and ONUB). In 2009, parts of an EU Force in Chad transitioned into MINURCAT, the UN's mission in Chad and the Central African Republic. Most recently, in Mali (2013) and the Central African Republic (2014), the UN supported the process of "re-hatting" most of the uniformed personnel from the respective African Union missions (AFISMA and MISCA) into the UN stabilization operations (MINUSMA and MINUSCA). In these two missions, 12,163 uniformed personnel (roughly 50 per cent) of the initially authorized strength of 24,440 for MINUSMA and MINUSCA combined were "re-hatted" from 17 African contributing countries (UN OIOS 2018: 12).

Conditions for success

UN support to regional peace operations has assumed various forms, and the conditions for success vary accordingly:

- Cases where the UN supports a regional peace operation require the consent and ideally the active cooperation of the host Government.
- The UN and regional organization must agree upon a viable political strategy for conflict management, probably involving the implementation of a ceasefire, peace process, or peace agreement.
- When deploying a small observer mission in parallel with a regional operation, the UN must ensure there are sufficient numbers of personnel and appropriate guarantees for access and monitoring field activities.
- When the UN deploys a political mission in support of a peace process alongside a regional peace operation, both organizations need to agree on a complementary division of labour in terms of the missions' respective mandated tasks.
- Since differences in bureaucratic culture, systems and procedures can lead to practical problems, explicit mechanisms for operational coordination related to planning, analysis, assessment and reporting should be agreed between the UN and the regional arrangement.
- When providing equipment or logistical and technical assistance, the UN must ensure that its support package is able to fill the relevant capability gaps inhibiting the regional operation. This will require agreed procedures for dealing with support to kinetic operations; equipment use, maintenance and repair; and on logistical timetables and distribution hubs. Such activities can stretch the UN's usual systems and procedures which are designed specifically for support to UN-led operations.
- When supporting non-UN entities through the provision of logistical assistance, the UN must ensure compliance with its Human Rights Due

Diligence Policy (HRDDP).

- When "re-hatting" non-UN forces into a UN operation, the UN must also ensure compliance with its Human Rights Screening of Personnel procedures.

Risks/ benefits

Benefits

- Supporting regional organizations enables the burden-sharing for the maintenance of international peace and security envisaged in Chapter VIII of the UN Charter. It also allows the UN to support operational crisis management in situations where Member States might be unwilling to deploy a UN operation, including because of the absence of a peace agreement, intensity of the conflict and/or level of danger posed to troops.

- Supporting a regional peace operation can improve its effectiveness and hence have numerous practical benefits, including helping to keep the peace, discouraging hostilities, protecting civilians, and facilitating humanitarian relief.

- Support mechanisms can also give the Council greater visibility on what transpires in the relevant theatre of operations. Most forms of UN support will not require as many personnel or cost as much money as deploying a UN-led peacekeeping operation, yet they can often facilitate joint analysis, planning, assessment and reporting about the mission.

- Support for "re-hatting" a regional force offers a short-term solution to one of the UN's force generation problems. "Re-hatting" gets "boots on the ground" quickly, enabling UN missions to start immediately, avoiding security vacuums and spiralling violence.

- There is considerable flexibility in how the UN can design its support packages, which means it can assist regional organizations in a wide variety of ways and circumstances. Support mechanisms help share the burden of crisis management and are generally less costly than deploying a UN-led operation. Over time, they can help build effective partnerships between the UN and regional arrangements, in some cases leading to a degree of institutionalization of cooperation (for example, with the African Union).

Risks

- It is important that the UN and partner organizations agree on the strategic vision of the mission, the division of labour, and the conditions for a successful exit strategy. Political disagreements among the partners and lack of clarity about procedures for practical coordination can undermine the mission. There may also be confusion over standards and

operational guidelines, potentially stemming from different cultures, doctrine and guidance used by the UN and the regional organization concerned. This risks reduced effectiveness on the ground.

- The arrangements can become managerially and administratively complex, for example, when one organization provides troops, another provides the salaries for those troops, and yet a third provides logistical support, as was the case with AMISOM/ATMIS and the collaboration between the AU, the EU and the UN. These arrangements can come with attendant issues of ownership and influence over operations.

- The mission could fail to achieve its mandated tasks for a variety of reasons. UN observer missions might not always gain access to the details of regional field operations and can become dependent on the regional force for security.

- Equipment, logistical and technical support designed for UN systems and procedures might not be optimal for the regional mission concerned. A notable example was trying to provide logistical support for AMISOM's war-fighting operations with systems and procedures based on the norms of UN peacekeeping (Williams, 2017a).

- In the case of UN support for "re-hatting" regional forces, a UN Office of Internal Oversight Services (OIOS) report noted that some AU uniformed personnel did not comply with the HRDDP or the Policy on Human Rights Screening of UN Personnel; "re-hatted" troops were disproportionately involved in human rights violations; some "re-hatted" contingents did not have equipment, training or accommodation that met UN standards; and "re-hatting" peacekeepers from neighbouring States that subsequently deployed in areas bordering their home country led to local civilians accusing the UN of partiality. Reflecting on the AU to UN transitions in Mali and the Central African Republic, the report concluded "re-hatting" should not be automatic and when the risks are too high the UN should be willing to refuse "re-hatting" (OIOS, 2018).

- If the regional forces engage in counterproductive or abusive behaviour towards local civilians, the UN's reputation will be damaged.

- As with all peace operations, there is a risk that the peacekeepers might engage in violations of international humanitarian law and in other forms of sexual exploitation and abuse.

Legal considerations

UN support operations for regional peace operations would require Council authorization as well as the consent of the host State and are typically established under Chapter VI of the UN Charter. However, the

regional peace operation being supported – for example, an AU operation – may have a separate mandate from the Council which is under Chapter VII.

In cases where the UN support operation is directly supporting military field activities (such as logistics support), the UN Secretariat would need to ensure the recipients of support complied with the UN's HRDDP and agree on Rules of Engagement (RoE) for armed personnel. From the UN's perspective, persistent actions which are contrary to the HRDDP could lead to withdrawal of UN support operations from the relevant forces.

Contributing country Memoranda of Understanding (MOUs) could present some complications, given the interconnected relationship between, for example, the UN, AU and troop- and police-contributing countries. In Somalia, the UN has, for the first time, used trilateral MOUs concluded between the AMISOM troop contributing countries, the UN and the AU.

Important operational details for the regional peace operation, such as the Concept of Operations (ConOps), Force Requirements, Rules of Engagement (RoE), and the Directive on Use of Force (DUF), will be found in non-UN documents. The Council may wish to review these documents before establishing a UN support operation, as such establishment will likely expressly or implicitly engage UN endorsement of the regional peace operation's mandate and directives.

UNSC procedure

- Where UN engagement involves direct interaction with a regional peace operation – including logistical, technical and transition support – the Security Council has tended to prefer that the regional organization's operation is established first, then either authorized, endorsed or welcomed by the Council.
- Then the Security Council adopts a resolution establishing the UN mechanism. This should clarify the mechanism's relationship to the regional mission, including its scope, mandated tasks, command arrangements, composition, financing and assumed exit strategy.
- The regional organization should also pass a formal decision explicitly welcoming the UN support mechanism and agree to its terms.
- The Secretary-General reports regularly to the Council on the progress of the UN mechanism and the regional operation. The regional mission should also regularly inform the Security Council of its activities.
- Subsequent resolutions from the Council and regional organization may be required to extend and revise the mandate of the UN support mechanism and the regional mission.

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OPERATIONAL TOOLS: UN OPERATIONAL SUPPORT TO NON-UN OPERATIONS

44. SUPPORT TO COALITION MILITARY DEPLOYMENTS

Summary	The UN can provide support to an ad hoc coalition of States engaged in regional counter-insurgency and/or counter-terrorism activities. These ad hoc security coalitions operate across multiple countries, but unlike peace operations mainly comprise a group of domestic security forces operating on their home territories (sometimes with a right of hot pursuit across national borders), which erases the crucial distinction between troop-contributing country (TCC) and host State. The UN's support mechanisms have been designed to help these ad hoc forces fill significant capability gaps and better understand their activities in the field. UN support to such ad hoc forces has been rare. It has only happened twice, and to date it has involved political endorsement and the provision of equipment, logistical and technical assistance via existing UN peacekeeping operations. In both cases the UN has supported coalition forces undertaking combat campaigns in hostile environments. **Examples:** The UN has provided political and material support to two ad hoc security coalitions in Africa: the African Union (AU)-authorized Regional Task Force for the elimination of the Lord's Resistance Army (RTF-LRA) and G5 Sahel Joint Force. It is worth noting that the UN's special political missions UNAMA and UNAMI provided *political* support to multinational forces in Afghanistan (ISAF) and Iraq (MNF I) respectively, but unlike the mechanism described here, were not mandated to provide *material* support to those forces.
Legal basis	The legal basis for an ad hoc coalition military operation is generally considered as collective self-defence of several States against transnational non-State armed groups. Alternatively, the Security Council could authorize a coalition deployment on the basis of Chapter VII. The legal basis for UN support to that ad hoc coalition force would typically involve Council authorization with reference to Chapters VI, VII and VIII of the UN Charter (depending on the activities involved), including with the consent or even invitation of the host States.
Description	The Council can support a single actor or ad hoc coalition of States engaged in (most likely regional) counter-insurgency and/or counter-

terrorism campaigns. Such support would likely involve equipment or logistical and technical assistance, including information-sharing with the multinational force headquarters. Because these operations are explicitly designed to fight designated spoilers, TCCs prefer to retain unilateral command of their troops. Moreover, such situations are not appropriate for a UN peacekeeping operation.

Although these ad hoc coalitions have the consent of the multiple host Governments involved, they are essentially war-fighting operations carried out in a hostile environment where coalition forces could be targeted by multiple non-State armed groups.

Ad hoc security coalitions differ from regional peace operations in several important respects. They do not require a peace process, they operate across the territory of multiple countries, but the majority of troops operate on domestic rather than foreign territory, albeit with a mandate to engage in specific types of cross-border activities if the need arises. This effectively erases the distinction between host State and TCC – which are usually assumed to be different countries – that is fundamental to the definition of peace operations.

The UN establishes a dedicated mechanism to provide support, which remains distinct from the ad hoc coalition's command and control arrangements. While the UN support mechanism has its own specific mandate authorized by the Security Council, it requires explicit cooperation and coordination with all the coalition's contributing countries.

A UN support mechanism should aim to fill identified capability gaps, and would vary depending on the type of assistance and method of delivery. Operational and logistical support could be provided via existing UN peacekeeping missions operating in the relevant area. Alternatively, other UN institutions may provide political and technical forms of assistance, for example, the UN Regional Office for Central Africa (UNOCA) and UN Office to the African Union (UNOAU) support to the RTF-LRA. The UN Secretariat could also deliver some types of technical support, notably planning and analysis.

Ad hoc coalition forces are financed first and foremost by the contributing countries. So far, most UN support for ad hoc coalition forces has been financed through existing institutions or peacekeeping operations. For example, the RTF-LRA was supported by UNOCA, UNOAU and peacekeeping missions in the region, notably MONUSCO, MINUSCA and UNMISS. The ad hoc coalitions will likely also be receiving various forms of support from other bilateral actors and regional organizations.

History

UN support to ad hoc coalitions engaged in counter-insurgency and counter-terrorism is a relatively recent phenomenon, starting only in the 2010s. It came about in response to African initiatives to combat various transnational insurgent groups in areas where UN peacekeeping operations were already established, notably central Africa and the Sahel. UN support has been relatively minor but designed to help fill significant capability gaps and to gain more detailed insight about the coalition's activities.

The first example came after the AU authorized a Regional Task Force (RTF) in November 2011 to combat the Lord's Resistance Army (RTF-LRA), which was marauding across central Africa. Comprised of four troop-contributing countries (Uganda, the Democratic Republic of the Congo (DRC), South Sudan and the Central African Republic (CAR)), the RTF started operations in 2012 and was wound down by 2018.

UN support to the RTF-LRA took several forms. First, the Security Council requested the UN Regional Office for Central Africa (UNOCA) to develop a UN regional strategy to help LRA-affected populations (which it approved in mid-2012). This mainly focused on the humanitarian and developmental challenges facing these populations. In addition, UNOCA and the UN Office to the AU (UNOAU) also supported the RTF's communications strategy. Second, the Council authorized the existing UN peace operations in the DRC, the CAR and South Sudan to support the RTF-LRA's activities. For example, in resolutions 2217 (2015) and 2301 (2016), the Council authorized MINUSCA to "enhance its operational coordination" and "share relevant information with the Regional Task Force". For its part, MONUSCO provided logistical support to Congolese army units involved in military actions against alleged LRA fighters in the DRC and established a Joint Information and Operations Cell to monitor and analyse information regarding LRA attacks and to coordinate operations. This cell also served as the hub for communicating operational information about LRA activities with UN peacekeeping operations in the CAR and South Sudan. Third, the disarmament, demobilization and reintegration efforts of UN missions in the DRC, the CAR and South Sudan were considered to support the RCI-LRA's overall objective.

The second key case was UN support to the G5 Sahel Joint Force. Established in 2017 to combat terrorism and transnational crime, the force comprises about 6000 security personnel from Burkina Faso, Chad, Mali, Mauritania and Niger. Like the RTF-LRA, most of these personnel spend the majority of their time operating in their domestic territory but their Joint Force mandate allows them to engage in certain cross-border activities as well. In late 2020, a Chadian contingent deployed to Sector Central (in Mali and Niger), meaning that it was operating entirely on foreign soil. The Council "welcomed" the establishment of the G5 Sahel

Joint Force in resolution 2359 (2017). It also authorized MINUSMA to provide logistical, medical, technical and engineering assistance to the Joint Force. However, in this case, MINUSMA support is only to G5 forces "operating on Malian territory in the framework of the joint force" (S/RES/2391 (2017)). Moreover, although MINUSMA has delivered this material support, it is the European Union (EU) that has paid for it by reimbursing the UN. In addition to UN support, the G5 Sahel Joint Force received training, logistical and technical assistance from the EU and a range of bilateral partners, most notably France and the United States. There has been considerable debate over whether the Council should authorize the use of UN assessed peacekeeping contributions to finance the G5 Sahel Joint Force (see de Coning and Karlsrud, 2021, in support of the idea, and Williams, 2021, against it).

In contrast, it is worth noting that the UN has not provided logistical support to the ad hoc coalition force fighting against Boko Haram in the Lake Chad Basin region. Although the UN Security Council "welcomed" the establishment of the Multinational Joint Task Force (MNJTF) in mid-2015, it has not authorized financial or material support, either via a voluntary trust fund or UN assessed peacekeeping contributions.

Conditions for success

Although the UN has "welcomed" three ad hoc counter-terrorism and counter-insurgency coalitions in Africa since 2011, material support to them has been relatively rare and limited. General conditions for success are hence difficult to identify. Nevertheless, several tentative lessons have emerged from the UN's experiences in central Africa and the Sahel:

- UN support to ad hoc coalition forces requires the consent of multiple host States because these missions span several different countries. Ideally, the host States will also give the UN their active cooperation.
- UN support mechanisms for ad hoc coalition forces must be designed to withstand operating in a hostile environment where counter-insurgency and counter-terrorism operations are likely to be the norm.
- The UN and members of the ad hoc coalition should consult about a viable political strategy for addressing the conflict in the region. This is likely to be challenging given the probable lack of a ceasefire, peace process, or peace agreement. The unwillingness of many States to negotiate with actors they label "terrorists" is also a complicating factor.
- Members of an ad hoc coalition whose forces are operating in their own territory pose a range of challenges for UN support because they do not count as peace operations by any standard definition, which involves foreign forces operating on foreign territory in support of a peace process.

- Since differences in bureaucratic culture, systems and procedures can lead to practical problems, explicit mechanisms for operational coordination related to planning, analysis, assessment and reporting should be agreed between the UN and the ad hoc coalition force.

- When providing equipment or logistical and technical assistance, the UN must ensure that its support package can fill the relevant capability gaps inhibiting the ad hoc coalition force. These often include logistical, bureaucratic, planning and intelligence-gathering gaps, and may also require training in particular skills. Agreed procedures for dealing with equipment maintenance and repair, and on logistical timetables and distribution hubs, will be particularly important.

Risks/ benefits

Benefits

- Support mechanisms help share the burden of crisis management and signal that the Council is taking practical measures to respond to the crisis. Supporting an ad hoc coalition force allows the UN to support counter-terrorism and counter-insurgency efforts in situations where Member States might be unwilling to deploy a UN operation, including because of the level of danger posed to troops.

- Supporting an ad hoc coalition force can improve its effectiveness and encourage greater levels of transparency and compliance with international humanitarian law.

- Support mechanisms can facilitate joint analysis, planning, assessment and reporting about the mission, giving the Council greater visibility of what transpires in the relevant theatre of operations. Most forms of UN support will not require as many personnel or cost as much as deploying a UN-led peacekeeping or stabilization operation.

- There is considerable flexibility in how the UN can design its support packages, which means it can assist ad hoc coalition forces in a wide variety of circumstances.

Risks:

- The UN could become a party to the armed conflict. And UN support to a counter-insurgency and/or counter-terrorism campaign would risk undermining its claims to be an impartial actor in the region.

- It is important that the UN and the ad hoc coalition members agree on the strategic vision underpinning the mission, the division of labour, and the conditions for a successful exit strategy. Political disagreements among the partners and lack of clarity about procedures for practical coordination could undermine the mission. In addition, there may be confusion over standards and operational guidelines, potentially

stemming from different doctrine and guidance used by the UN and the countries contributing to the coalition force.

- The ad hoc coalition force could fail to achieve its mandated tasks for a variety of reasons, and the UN could be implicated in that failure despite having little control over the mission outcome.

- UN support mechanisms might not always gain access to the details of field operations, causing concerns about international humanitarian law and HRDDP compliance, and placing greater emphasis on the need for timely, accurate and comprehensive reporting of the coalition's activities to the Council.

- Equipment, logistical and technical support designed for UN peacekeeping systems, procedures and norms might not be optimal for a coalition force conducting counter-insurgency and/or counter-terrorism activities.

- Like other types of missions, there is a risk that members of the ad hoc coalition force might engage in counterproductive or abusive behaviour or violations of international humanitarian law and international human rights law, which could implicate the UN. The UN would have little leverage to ensure compliance with international standards, or to ensure accountability for breaches that may occur. Such behaviour could damage the UN's reputation.

- UN support is likely to generate increased calls for the Council to finance the ad hoc coalition force. For example, G5 Sahel leaders have asked for the Security Council to authorize their Joint Force under a Chapter VII mandate. They appear to view this as a step towards accessing UN peacekeeping funds, as occurred in Somalia following the AMISOM–UNSOA model, but this does not automatically follow (Williams, 2017).

Legal considerations

UN operations to support an ad hoc coalition military force typically require both Council authorization and the consent of the host State(s) involved.

In cases where the UN operation directly supports enforcement activities (such as by logistics support), the UN may need to monitor and, to the extent possible, ensure compliance with its Human Rights Due Diligence Policy (HRDDP). Persistent actions that are contrary to the HRDDP could lead to withdrawal of UN support operations from the relevant forces.

Where there are allegations of internationally wrongful acts committed by an ad hoc coalition military force, there may be suggestions that a

UN operation has secondary responsibility for aiding and assisting the violations in question. The UN has little leverage to ensure compliance with UN and international standards, or to ensure accountability for breaches that may occur.

Where a coalition operation is operating in the territory of its contributing States, such as the G5 in the Sahel, this may give rise to complex issues for the UN Status of Forces Agreements (SOFAs)/Status of Mission Agreements (SOMAs) and Memoranda of Understanding.

Important operational details for the ad hoc coalition military operation, such as the Concept of Operations (ConOps), Force Requirements, and Rules of Engagement (RoE), will be found in non-UN documents. The Council would presumably want to review these documents before establishing a UN support operation, as such establishment will likely expressly or implicitly engage UN endorsement of the operation's mandate and directives.

UNSC procedure

- The Council adopts a resolution establishing the support mechanism to the ad hoc coalition force. This should clarify the mechanism's scope, mandated tasks, command arrangements, composition, financing, and assumed exit strategy.
- Where UN support involves direct interaction with the ad hoc coalition force – including logistical, technical, medical and engineering support – it would be wise to ensure the ad hoc coalition authority makes a formal declaration welcoming UN support and agreeing to its terms.
- The Secretary-General reports regularly on the progress of both the UN mechanism and the ad hoc coalition operation.
- The Council holds regular mandate renewal meetings for the UN support mechanism involving the Council and countries contributing to the ad hoc coalition.
- Subsequent resolutions from the Council may be required to renew and revise the mandate of the UN support mechanism.

Further reading

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OPERATIONAL TOOLS: UN-AUTHORIZED NON-UN OPERATIONS

45. NATIONAL, COALITION OR REGIONAL PEACE OPERATIONS

Summary

The Security Council may authorize the deployment of a peace operation carried out by a single State, a coalition of States, or a regional arrangement. Such operations are carried out with the consent of the host Government, but perhaps in the face of significant opposition from other actors. They are not under UN operational command and control.

Plans for such operations are often generated outside the Security Council. The Council retains the ultimate responsibility for the maintenance of international peace and security and in theory exercises an oversight role. However, in practice, once the Council has delegated its authority, it has very little control over most such missions.

Council-authorized peace operations carried out by a single State, coalition of States, or regional organization have often undertaken tasks considered beyond the usual capabilities of UN peacekeeping operations, sometimes as a preliminary step in anticipation of the mission transitioning into a UN-led operation or in parallel to existing UN missions.

Examples: There have been many examples of such missions since the mid-1990s. They include:

- UN-authorized missions conducting stabilization and/or enforcement tasks in the absence of a UN peacekeeping operation, for example, the Multinational Force in Haiti (1994); the Italian-led Operation Alba in Albania (1997); and the International Security Assistance Force in Afghanistan (ISAF) (2001).

- UN-authorized peace operations paving the way for the deployment of a follow-on UN peacekeeping operation, for example, the ECOWAS mission in Côte d'Ivoire (ECOMICI, 2003), which transitioned into UNOCI; the African-led International Support Mission to Mali (AFISMA, 2012), which transitioned into MINUSMA; and the African-led International Support Mission to Central African Republic (MISCA, 2013), which transitioned into MINUSCA.

- UN-authorized peace operations conducting stabilization and enforcement tasks in parallel with a UN peacekeeping operation, for

example, the NATO-led Kosovo Force in Kosovo (KFOR) with UNMIK (1999); the European Union (EU)-led Interim Emergency Multinational Force (IEMF) in the Democratic Republic of the Congo (DRC) with MONUC (2003); and French forces in Côte d'Ivoire (2004), Mali (2013), and the Central African Republic (CAR) (2014).

- UN-authorized operations conducting stabilization and enforcement tasks after a UN peacekeeping operation withdrew, for example, the NATO-led Implementation Force (IFOR) and Stabilisation Force (SFOR) after UNPROFOR in Bosnia; and the Australian-led International Force East Timor (INTERFET) after UNAMET in East Timor.

- Council-authorized training missions engaged in security sector reform for the host State's forces, for example, the EU missions in Somalia (2010), Mali (2013) and the CAR (2015).

Legal basis

There are distinct legal bases for the Council to authorize different types of non-UN peace operations. In cases where the operation's mandate did not anticipate the use of force beyond self-defence, the Council could refer to Chapter VI of the UN Charter. If the operation was given a mandate to use force beyond self-defence, it would also involve Chapter VII (Articles 39–42 and 48–51). Authorizing a peace operation by a regional arrangement would also involve reference to Chapter VIII (Articles 53 and 54).

Description

The Council may delegate its responsibility for the maintenance of international peace and security through authorizing the deployment of a peace operation carried out by a single State, a coalition of States, or a regional arrangement.

As peace operations, such missions require the consent of the host Government, and usually deploy either after a ceasefire or a peace agreement. Their mandate and composition could be determined by the Council in consultation with the delegated Member State/coalition/regional arrangement or directly by the Member State/coalition/regional arrangement, and then authorized by the Council. In practice, plans for the operation are often generated outside the Council and adopted with relatively little Council input.

Such missions vary significantly in size, although in most cases the military component is likely to be larger than any police and civilian components. The operations remain under the operational command and control of the executing Member State/coalition/regional arrangement, which should regularly report back to the Council on its activities.

Force generation, logistics and mission support are the responsibility of the relevant Member State/coalition/regional arrangement, albeit with

political support from the Council. Nevertheless, the Council may wish to support the creation of mechanisms to provide technical, logistical, or other forms of assistance to the operation, and has done so on a couple of occasions (see Tool 43 "Support to regional peace operations" and Tool 44 "Support to coalition military deployments").

The operations are financed by the contributing States and/or the authorizing regional organization. Nevertheless, the Security Council may wish to support the creation of mechanisms to provide financial assistance to the force, and has done so on a couple of occasions (see Tool 43 "Support to regional peace operations").

The Council has authorized such peace operations over two dozen times since the 1990s, initially mainly in the Balkans but subsequently spreading to most other world regions. Although such operations require the consent of the host Government, they have often faced varying degrees of resistance from other conflict parties. The Council has therefore frequently used this tool to authorize enforcement tasks that go beyond the usual capabilities of a UN peacekeeping operation. Examples include the NATO-led Implementation Force in Bosnia (1995–1996); the Australian-led INTERFET in East Timor (1999–2000); the ISAF in Afghanistan (2001–2014); and AMISOM in Somalia (2007–). On other occasions, the Council has temporarily authorized a non-UN peace operation in anticipation that it will transition into a UN-led operation, as occurred most recently in Mali (2013) and the CAR (2014).

History

Several factors contributed to the emergence and evolution of this tool. In addition to the UN Charter encouraging burden-sharing by regional arrangements, the standing force that was envisaged for the UN under Article 43 never came into being. While UN peacekeeping operations were able to fill this gap in some instances, they were not an appropriate or available tool in all circumstances, so the Council began authorizing other actors to deploy field missions to fill the remaining gaps.

National, coalition and regional peace operations started being established to address conflict, particularly in instances where swift deployment was necessary, where greater force than UN peacekeepers could provide was likely to be needed, where Member State Governments did not want their troops under UN command, or where certain States or a regional arrangements had a specific interest in a situation and wanted to retain control of the operation.

Since the early 1990s, the Council has authorized over two dozen non-UN peace operations carried out on its behalf by a Member State, a coalition, or a regional arrangement. In some cases, these missions came after the Council identified a threat to international peace and security but

decided that a UN peacekeeping operation was not the appropriate tool to respond, or because the UN peacekeeping operation was unable to fulfil its mandate.

In the 1990s, most of these missions were NATO- or European-led forces operating in the Balkans. During the twenty-first century, sub-Saharan Africa became the most frequent location for such operations, including in Côte d'Ivoire, the DRC, Somalia, Chad, Mali and the CAR. Council-authorized peace operations by a single Member State have been rare; the authorization given to French operations in Côte d'Ivoire (S/RES/1528 (2004)), Mali (S/RES/2085 (2004)) and then the wider Sahel region, and in the Central African Republic (S/RES/2127 (2013)), are the most prominent.

Like UN missions, Council-authorized peace operations have performed a wide range of roles. They have been deployed at different phases of the conflict cycle, usually after ceasefires or peace agreements, although many of these agreements have subsequently broken down.

UN-authorized peace operations have assumed varied relationships to UN peacekeeping operations. The most common relationships include:

- Cases where UN-authorized missions have conducted stabilization and/or enforcement tasks in the absence of a UN peacekeeping operation, for example, the Multinational Force in Haiti (1994); the Italian-led Operation Alba in Albania (1997); and ISAF in Afghanistan (2001).

- Cases where a UN-authorized peace operation paved the way for the deployment of a follow-on UN peacekeeping operation, for example, the ECOWAS mission in Côte d'Ivoire (ECOMICI, 2003), which transitioned into UNOCI; the African-led International Support Mission to Mali (AFISMA, 2012), which transitioned into MINUSMA; and the African-led International Support Mission to the Central African Republic (MISCA, 2013), which transitioned into MINUSCA.

- Cases where a UN-authorized peace operation conducted stabilization and enforcement tasks in parallel with a UN peacekeeping operation, for example, the NATO-led Kosovo Force (KFOR) with UNMIK (1999); and the EU-led Interim Emergency Multinational Force in the DRC with MONUC (2003).

- Cases where a UN-authorized peace operation conducted stabilization and enforcement tasks after a UN peacekeeping operation withdrew, for example, the NATO-led Implementation Force (IFOR) and Stabilisation Force (SFOR) after UNPROFOR in Bosnia; and the Australian-led International Force East Timor (INTERFET) after UNAMET (but subsequently alongside UNTAET) in East Timor.

- Cases where the Council has authorized training missions engaged in security sector reform for the host State's forces, for example, those carried out by the EU for Somalia (2010), Mali (2013) and the CAR (2015).

Conditions for success

It is difficult to draw general lessons across the dozens of cases where the Council has used this tool. Overall, the records of these operations are mixed. Nevertheless, some key themes have emerged which broadly echo the lessons on best practice for UN peace operations:

- Like UN peacekeeping operations, they require the consent and ideally the active cooperation of the host Government.
- Like UN operations, they are flexible inasmuch as they can be deployed at different stages of the conflict cycle and with varied mandates.
- Like UN operations, non-UN peace operations should be harnessed to a viable political strategy for conflict management.
- Particularly where enforcement tasks are envisaged, these operations usually work best with a lead State to provide strategic leadership and direct the chain of command.
- Like UN operations, political unity within the coalition and/or regional arrangement is key. It is important to recall that even peace operations deployed by regional organizations are "coalitions of the willing" in practice as not all the Organization's members contribute personnel and resources to the operation, and certainly not equally.
- Like UN operations, these authorized peace operations will work best where they receive unified political support from the Council and their other authorizing body.
- UN-authorized peace operations are flexible in their relationship to UN peacekeeping. They can be deployed in the absence of a UN mission, beforehand, in parallel with, and after a UN peacekeeping operation.
- For UN-authorized missions that transition (or "re-hat") into UN peacekeeping operations, it is important for all parties to be clear about differences in Rules of Engagement (RoE) and standards between the authorized operation and a UN peacekeeping operation (for example, related to personnel, equipment, infrastructure, allowances and so forth).
- Since the 1990s, the Council has tended to use non-UN peace operations regularly when confronted by quite high-intensity conflict environments that would go beyond the standard capabilities of UN peacekeepers.

Risks/ benefits

Benefits

- UN-authorized peace operations offer burden-sharing for international conflict management. Several regional arrangements – most notably the EU, AU and ECOWAS – have now conducted multiple peace operations and are improving their relevant capabilities and systems.

- They allow operational conflict management efforts in situations that are not appropriate for UN peace operations, such as where swift deployment is necessary, where greater force than UN peacekeepers could provide is likely to be needed, where Member State Governments do not want their troops under UN command, or where certain States or a regional arrangement have a specific interest in a situation and want to retain control of the operation.

- They expand the tools available to the Security Council and enable responses more tailored to the particular conflict situation.

- The Council can be seen to act in a decisive manner.

- Conflicting parties may see UN-authorized operations as more credible than a UN-led mission, especially for enforcement mandates.

- As with UN peacekeeping operations, Member States are more likely to be willing to commit significant resources to a mission and sustain casualties if they have a deeply held or national interest in resolving the conflict situation.

- Some UN-authorized peace operations, especially those conducted by NATO militaries, can field additional capabilities than those usually available to the UN.

- Some coalitions and regional arrangements are more comfortable with the use of offensive force and conducting counter-terrorism and counter-insurgency operations than the UN Secretariat.

- Many States are more comfortable taking part in an operation over which they have some level of control.

- Some States are more comfortable having their personnel under national command, or under the overarching command of someone from a State with which they have an established military relationship, for example, interoperability developed from membership of an alliance or regional organization.

- Some Member States are more comfortable deploying their personnel under arrangements in which they are confident in the medevac capabilities, which may not always be the case in UN-led operations.

- States are often more inclined to properly resource an operation of which they are a part, or in which they have a special interest.

- The most useful practical benefits are in those theatres where the UN is unwilling or cannot deploy its own peacekeepers, or as a potential transition mechanism from UN-authorized to UN-led peacekeeping. But they can also usefully deploy in parallel with UN missions.

- Like UN peace operations, UN-authorized peacekeepers from the region may be able to deploy rapidly and possess relevant local knowledge and legitimacy born of cultural and/or linguistic ties to local populations in the zone of conflict. States in the neighbourhood may also have more at stake in a crisis and hence display significant staying power.

- The operations often demonstrate "partnership peacekeeping" in action, that is, explicit cooperation between two or more external actors to respond to a particular crisis (UNSG, 2015).

Risks

- The parties to the conflict may see UN-authorized operations as less legitimate than a UN-led mission.

- The Security Council could have very little (if any) control over its delegated operations, once authorized.

- The Council could have little opportunity for oversight if the State/coalition/regional arrangement does not provide information and report to the Council in a timely, accurate and transparent manner.

- The operations may not be effective. Only some of the world's regional arrangements have significant experience of conducting peace operations (the EU, AU and ECOWAS have done the most), and many lack some of the capabilities needed to effectively conduct peace operations, including logistical support mechanisms. This creates a risk of not having sufficient sustainability for longer missions. Council-authorized peace operations might therefore request additional material support from the UN, for example, financial, technical and/or logistical. This raises questions about transitioning to a UN operation.

- There is also a potential risk of a regional hegemon dominating a coalition/regional arrangement, which could result in partisan interests influencing the operation.

- Mission personnel may engage in violations of international humanitarian law, including sexual exploitation and abuse. If the mission causes civilian harm or has problems related to accountability

and international humanitarian law compliance, this might negatively affect the UN's reputation by association.

- Where UN-authorized operations are engaged in enforcement tasks and then transition to a UN-led operation, this can undermine perceptions of the UN's impartiality among the conflict parties.

Legal considerations

Questions arise around just how much of the responsibility for the maintenance of international peace and security the Security Council can and should delegate, and whether and to what extent oversight should be sought of the UN-authorized operation.

When delegating authority to conduct peace operations to non-UN forces, the Council may experience challenges related to receiving regular and detailed reporting on the operation's activities (as required in Article 54 of the UN Charter in respect of regional arrangements).

Council-authorized peace operations would require all the usual legal and operational documents, including Status of Force Agreements (SOFAs)/ Status of Mission Agreements (SOMAs), Concept of Operations (ConOps), and Rules of Engagement (RoE), but these will not be UN documents. The Council should review such documents, but it may not always be easy to do so.

Difficult issues can arise where the Council and the States leading the national, coalition or regional peace operation have different views on interpretation and application of the mandate.

UNSC procedure

- The Security Council adopts a resolution authorizing the peace operation, ideally providing clarity about the operation's mandated tasks, force composition and posture, and exit strategy.
- The Secretary-General reports regularly on the mission's progress as well as mandate renewal meetings involving the contributing countries and the Council.
- Subsequent Council resolutions may be required to extend and revise the mission's mandate.

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OPERATIONAL TOOLS: UN-AUTHORIZED NON-UN OPERATIONS

46. MILITARY ENFORCEMENT FOR HUMANITARIAN OR HUMAN RIGHTS PURPOSES

Summary

The Security Council may authorize a coalition of States or a regional arrangement to deploy a military intervention force to stop mass atrocities or for other humanitarian purposes without host State consent. This would involve the temporary deployment of military forces (and perhaps police and other civilian personnel) to reduce direct or indirect harm to the local civilian population.

Plans for such operations would likely be generated outside the Security Council. The Council retains the ultimate responsibility for the maintenance of international peace and security and in theory exercises an oversight role. However, in practice, once the Council has delegated its authority, it has very little control over such missions.

Examples: The Council has used this tool on two occasions: to protect humanitarian relief operations in the absence of a central government in Somalia in 1992 (S/RES/794 (1992)); and to protect civilians under threat of physical violence in Libya in 2011 (S/RES/1973 (2011)).

Legal basis

The legal basis for this type of non-consensual, enforcement action (a humanitarian military intervention) is Council authorization under Chapter VII (Articles 39 and 42) of the UN Charter. This type of intervention may be seen as consistent with the "Third Pillar" of the Responsibility to Protect (R2P) doctrine, which concerns the responsibility of the international community when a State is manifestly failing to protect its population. However, the "pillars" of R2P are contained in the Secretary-General's 2009 report, *Implementing the Responsibility to Protect*, and have not been endorsed by the Council or the General Assembly.

Description

As part of its efforts to maintain or restore international peace and security, the Council can authorize the temporary deployment of a non-UN military intervention force for "humanitarian" purposes without the consent of the host Government. This would usually be considered to prevent or reduce widespread and systematic atrocities being perpetrated against civilians. Having identified a threat to international peace and security, the Council can delegate its authority, most likely to a coalition of States or regional arrangement, in order to carry out a military response with a mandate to protect civilians or reduce civilian harm in the area of

operations.

The mandate and composition of the force can be determined by the Council in consultation with the executing State/coalition/regional arrangement or directly by the State/coalition/regional arrangement, and then authorized by the Council. In practice, plans to use this tool are more likely to be generated outside the Council and adopted with relatively little Council input.

Such missions vary significantly in size but require a robust and capable military component. This can be supplemented by police and other civilians. The campaign may include air, land and sea operations. The intervention is under the operational command and control of the executing State/coalition/regional arrangement, which should regularly report back to the Council on its activities.

Force generation, logistics and mission support are the responsibility of the relevant State/coalition/regional arrangement, albeit with political support from the Council. The authorized coalition finances the military operations, although the Council may wish to support the creation of mechanisms to provide financial assistance to the force.

History

The context for the evolution of this tool is the long-standing debate over whether and when the Council should authorize military enforcement operations without host Government consent in order to protect civilians.

During the Cold War, several States that engaged in unauthorized humanitarian military intervention were criticized in the Security Council, for example, India into east Pakistan (1971); Vietnam into Cambodia (1978); and Tanzania into Uganda (1979) (Wheeler, 2000: Part 2). After the Cold War, however, support for such activity grew, not least in relation to the attacks on Kurds in Iraq; the violent disintegration of Yugoslavia and mass atrocities in Bosnia and Croatia; the civil war in Somalia; and the 1994 Rwandan genocide. Since the late 1990s, the Council also discussed humanitarian military intervention in relation to the conflicts in Kosovo (1998–1999); East Timor (1999); Darfur, Sudan (2004); Libya (2010–2011); and Syria (2010–). However, the Council has only authorized military intervention for humanitarian purposes on two occasions.

In December 1992, Security Council resolution 794 authorized a nearly 40,000-strong United States-led Unified Task Force (UNITAF) of approximately two dozen States to deploy to Somalia. UNITAF was mandated to create "a secure environment for humanitarian relief operations" and for the subsequent deployment of a large, robust UN peacekeeping operation, also authorized under Chapter VII. UNITAF took place in the absence of a host Government rather than against the consent

of an existing Government. The mission helped increase the delivery of humanitarian relief, but in mid-1993 became caught up in politicized debates about the handover to UNOSOM II and whether it had left the successor UN peacekeeping a secure environment in which to operate.

It is worth noting three other relevant episodes in the early 1990s. First, in 1991, the United States, United Kingdom and France claimed that resolution 688 (1991) gave them the authority to conduct Operation Provide Comfort, which enforced a no-fly zone over northern Iraq to protect the Kurdish population from attack by Iraq's Government. However, there was no explicit authorization for such action and this claim was rejected by other States.

The second episode came towards the end of the 1994 Rwandan genocide when a divided Security Council in a majority decision authorized French and Senegalese troops to conduct Operation Turquoise, for the stated purpose of contributing to the "protection of displaced persons, refugees and civilians at risk" (S/RES/929 1994). However, in practice this force had the effect of also protecting the (genocidal) Rwandan regime and actually facilitated its remnants' escape into neighbouring Zaire (now the Democratic Republic of the Congo).

The third episode was NATO's 78-day air campaign designed to protect civilians in Kosovo/Serbia in 1999. This was not consented to by the Federal Republic of Yugoslavia and was not authorized by the Council, as NATO countries' attempts to gain Security Council authorization were opposed by China and Russia, who indicated that they would veto such a measure.

The first time the Council authorized military intervention against the will of a host Government was in Libya in 2011, in the context of the wider Arab Uprising taking place across the region. In March 2011, Security Council resolution 1973 authorized a NATO-led coalition of States to "take all necessary measures … to protect civilians and civilian populated areas under threat of attack" in Libya. However, since the resolution excluded "a foreign occupation force of any form on any part of Libyan territory", the force carried out its mission via air operations with maritime support. Between March and October 2011, the air campaign involved over 26,000 sorties with more than 7500 strikes (all with precision-guided munitions) (Mueller, 2015: 4). However, this tool would usually envisage the deployment of ground forces, as well as aviation and perhaps maritime capabilities. Some states considered that the coalition campaign went beyond the mandate provided by the Council, extending beyond the protection of civilians to regime change.

The immediate practical goal of the intervention force was to prevent

likely atrocity crimes in Benghazi. But it also signalled the Council was willing to act against governments that used their military to attack civilian protestors during the ongoing Arab Uprisings. The intervention was also linked to the Council's credibility, given that resolution 1970 (2011) had demanded "an immediate end to the violence" yet Muammar Mohammed Abu Minyar Gaddafi's threats and his forces continued to target civilians, especially in Benghazi.

Conditions for success

Although the Council has only used this tool twice, several lessons can be drawn from these instances and other relevant historical cases:

- Centuries of scholarship on the "just war" tradition and more recent work on R2P have helpfully used "precautionary principles" to guide the decision to conduct humanitarian enforcement operations, notably "right intention", "last resort", "proportional means", and "reasonable prospects for success" (ICISS, 2001). There is also widespread recognition of the "responsibility to rebuild" after any intervention.

- Because host Government consent is not legally required or expected, the host Government's likely response and its military capabilities are important political considerations when weighing the benefits and risks of a potential intervention. Any enforcement operation without host Government consent will encounter considerable challenges.

- Different force postures and strategies for civilian protection operations come with distinct force requirements as well as their own risks and benefits (see MARO, 2010). In all scenarios, the intervention force should be designed to be more capable than its potential opponents.

- External intervention is likely to be more influential early in a crisis but there will be considerable political pressure to only use this tool as a last resort.

- The intervention will inevitably raise difficult dilemmas for developing a successful exit strategy, including in relation to the desired end-state, the relationship between military operations and local systems of governance, and the timing of the intervention's exit.

- Political support for such an intervention from relevant regional arrangements is important, and potentially catalytic. In Libya (2011), calls for intervention initially came from the League of Arab States and Organization of Islamic Conference, not the UN, although the idea was rejected by the African Union.

- The intervention's mandate should be focused, realistic and harnessed to a viable political conflict management strategy. Military enforcement

alone cannot deliver political solutions.

- Since the Council will not have operational control of the mission, it should regularly assess how the intervention is affecting military dynamics on the ground, and be prepared to revise the mandate accordingly. Such assessment will probably rely heavily on reporting provided to the Council by the delegated actor(s), which could be problematic.

- Political unity is important both within the delegated actor(s) and the Security Council. The longer the intervention persists, the harder it will be to maintain that unity.

- In terms of operational success, it is generally thought to be "easier to protect those who might become victims of violence ... than it is to defeat the perpetrators" (Seybolt, 2007: 218). But there are two important caveats: i) the rewards of defeating the perpetrators are potentially much higher because such a campaign can end a war and hence the cause of the mass killing whereas protecting potential victims can only ever address the symptoms; and ii) during the 1990s, campaigns to defeat the perpetrators had a better success rate than those to save the victims, probably because interveners tended to underestimate the demands involved in the "easier" option (that is, defending "safe areas") (Seybolt, 2007).

Risks/ benefits

Benefits

- An intervention force could prevent or mitigate mass atrocities and protect civilians from physical violence in theatres where UN peacekeepers or other relevant forces are unable or unwilling to operate. When there are serious threats of organized violence against civilians and/or atrocities begin to mount, it is likely that only military force can stop the perpetrators of such crimes from completing their objectives.

- An intervention force could alter battlefield dynamics, ideally against the principal perpetrator of atrocities, although the details will be very difficult to predict.

- Authorization of an intervention force could strengthen the Council's credibility and reputation for responding to mass atrocities and avoiding another "Rwanda" or "Srebrenica". Such a decision could also help maintain the Council's leading role in authorizing the legitimate and legal international use of force.

- As was seen in Kosovo in 1999, once a decision has been made to deploy a military intervention force, it is likely to go ahead with or without Security Council authorization. If the intervention is legitimate,

providing Security Council authorization gives the Council some visibility of the operations and more of an opportunity to influence them. It also avoids the development of alternate legal doctrines justifying intervention, which might erode the prohibition on the use of force set out in the UN Charter. In addition, it reinforces the Security Council's central role and relevance in the maintenance of international peace and security.

Risks:

- There is a high likelihood that the intervention force will suffer casualties and fatalities, and that it will cause some level of unintended civilian harm among the local population.

- An intervention may not end atrocities and may lead to an escalation in violence, perhaps for a prolonged period. There is a risk of exacerbating local conflict dynamics, and contributing to counterproductive outcomes.

- Humanitarian intervention may be used as a justification for other military and political objectives. In Libya (2011), the Council-authorized intervention precipitated the collapse of the Gaddafi regime, which some members of the intervention explicitly welcomed and some critics thought went beyond the Council mandate and was the real goal of the intervention.

- The Council could lose control over the direction of the authorized operation. The authorized actor(s) could stray from the terms of the mandate, resulting in negative unintended consequences (for example, civilian harm, negative environmental impact).

- The operation could damage local and international perceptions of Council impartiality.

- The activities of the operation could cause fractures in Council unity, intensifying the longer the intervention lasts.

- The timing of the intervention will be difficult to get right. Intervention early in a crisis is likely to have a greater effect but also be more politically controversial.

- Intervention will inevitably raise dilemmas and challenges for ensuring an effective exit strategy, including in relation to the desired end-state. A premature exit may require a subsequent force to return later, whereas staying too long will increase local resistance.

- Remaining inactive and silent in the face of mass atrocities may invite

challenges to the relevance of the Security Council and the UN more generally.

Legal considerations

Without a basis in the right to self-defence and/or in the absence of a Security Council authorization to use force, humanitarian military interventions are generally considered contrary to the UN Charter and international law. Having said that, one P5 member, the United Kingdom, claims that State practice supports the doctrine of "humanitarian intervention", such that it may be legal in specific circumstances.

The R2P concept was accepted by the UN General Assembly through the 2005 World Summit Outcome Document (paras. 138–139) and reaffirmed by the Security Council in resolution 1674 (2006). However, there remains division within the Council and indeed the wider membership on the concept, and there is little consensus on its application to the agenda of the Council. This is partly due to R2P's association with the Libyan intervention, and as reflected in the development of the Responsibility While Protecting concept, which seeks to put limits on military protection interventions to ensure they are accountable, proportionate and not misused. It is now commonly accepted though that the Council has the power and responsibility to act to end mass atrocity crimes, including as necessary acting under Chapter VII.

When authorizing the use of force by States or regional organizations, the Council may not receive detailed, timely and comprehensive reporting of activities from the operation. This is problematic to the extent that such an operation is acting under the Council's mandate, and also on behalf of the UN membership under the UN Charter.

If some Member States consider that an intervention has gone beyond its authorized mandate to use force – for example, for the purposes of regime change – it may result in reduced ongoing support for the operation. It can also affect the Council's willingness to agree to mandate such types of operations in the future. Reporting requirements to the Security Council and mandate renewals can assist Council Members considering this issue.

UNSC procedure

- The Security Council adopts a resolution authorizing the military intervention, ideally explaining the need for such intervention, identifying a leading actor, clarifying the operation's mandated tasks and preferred exit strategy, and detailing reporting requirements to the Council.
- The Secretary-General provides regular reporting on the mission's progress.
- Subsequent Council resolutions may be required to extend and revise the mission's mandate.

Further reading

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OPERATIONAL TOOLS: UN-AUTHORIZED NON-UN OPERATIONS

47. MILITARY ENFORCEMENT TO REPEL AGGRESSION

Summary

The Security Council may authorize a coalition of states or regional arrangement to use military force in response to acts of aggression, breaches of the peace, or threats to international peace and security. Such collective security enforcement missions are essentially engaged in war-fighting against a hostile military (and perhaps allies) and hence need to be very large and robust forces. This rules out most regional arrangements.

An alternative legal justification for military action in response to an armed attack is self-defence on the basis of Article 51 of the UN Charter. These operations are not a "tool" of the Council because they do not require Security Council authorization, but there have been occasions when the Council has expressed support for self-defensive action, for example, against Al-Qaida and the Taliban in Afghanistan (S/RES/1368 (2001) and S/RES/1373 (2001)); and ISIL, Al-Qaida and other terrorist groups in Syria (S/RES/2249 (2015)).

Plans for Security Council-authorized enforcement action would likely be generated outside the Security Council. The Council retains the ultimate responsibility for the maintenance of international peace and security and in theory exercises an oversight role. However, in practice, once the Council has delegated its authority, it has very little control over such operations.

Examples: The Council has used this tool on two occasions: authorizing United States-led coalitions to repel North Korea's armed attack on South Korea in 1950 (S/RES/83 and S/RES/84), and Iraq's invasion of Kuwait in 1990 (S/RES/678).

Legal basis

The Council can authorize this type of enforcement action under Chapter VII (Articles 39 and 42) of the UN Charter. Alternatively, the Member State which suffered the attack may appeal for international assistance via collective self-defence, with reference to Article 51 of the Charter. Action on the basis of self-defence does not require Security Council authorization, however, it does require immediate notification to the Council from the States acting in self-defence.

Description

This tool is at the centre of the idea of collective security, upon which the UN was built. The Council may authorize the deployment of a large, multinational military force to repel an armed attack on one of its Member States or to maintain or restore international peace and security. Having identified a breach of the peace, act of aggression, or threat to international peace and security, the Council can authorize a multinational force to carry out a military response. The Council could authorize a military response by a single State, but it would have less political legitimacy; or it could authorize a regional arrangement, but it may not have all the necessary war-fighting capabilities; hence a "coalition of the willing" is the more likely option.

The mandate and composition of the force could be determined by the Council in consultation with the coalition, or directly by the coalition, and then authorized by the Council. In practice, plans to use this tool are likely to be generated outside the Council and adopted with relatively little Council input. The delegated actor(s) would be required to regularly report to the Council on progress towards mandate implementation. The Council retains the ultimate responsibility for the maintenance of international peace and security and in theory exercises an oversight role. However, in practice, once the Council has delegated its authority, it has very little control over such operations.

In essence, this would be a war-fighting campaign requiring a large number of troops, capabilities and support personnel to engage a hostile force (and perhaps its allies). The military component may be supplemented with police and other civilians. The campaign could take place by air, land and sea. Command and control of the force would be delegated to the coalition. Historically, the Council has only authorized United States-led multinational forces in this role.

Force generation, logistics and mission support would be the responsibility of the coalition, albeit with political support from the Council. The authorized coalition would finance the military operations, although the Council may wish to support the creation of mechanisms to provide financial assistance to the force (for example, a trust fund for voluntary contributions).

Pursuant to Article 51 of the UN Charter, States may take action in self-defence or collective self-defence. This is not a "tool" of the Council because it does not require Council authorization (although the State concerned is required to report its exercise of self-defence to the Council). However, the Council may also welcome such action, including as part of a broader crisis management strategy. This has occurred both in the case of action against Al-Qaida and the Taliban in Afghanistan (S/RES/1368 (2001) and S/RES/1373 (2001)); and ISIL, Al-Qaida and other terrorist

groups in Syria (S/RES/2249 (2015)). In the case of ISIL, the language used in resolution 2249 looked very similar to what might be expected in a Council authorization of enforcement action, however it is generally interpreted as endorsement of self-defence on the basis of Article 51.

History

This tool is the most robust in the Council's arsenal of enforcement mechanisms. It enables the Council to authorize a coalition of its Member States to conduct a war-fighting campaign to restore international peace and security.

The first use of this tool was directly facilitated by the Cold War struggle between the United States and Soviet Union (see Stueck, 1997). When communist North Korea invaded South Korea in June 1950, the United States used the Soviet boycott of the Council as an opportunity to convince the other Members to join in authorizing its preferred response to the invasion: a coalition force labelled the "United Nations Command" (UNC) to repel the attack (S/RES/83 (1950), S/RES/84 (1950) and S/RES/85 (1950)). The precise language used in the resolution was "recommends that Member States furnish such assistance as may be necessary to repel the attack". Despite the name, UNC was not a UN-led operation; it was a coalition of over 20 states, commanded by the United States.

At its peak, UNC numbered over 900,000 troops. Although the UNC forces made considerable progress during 1950, in 1951 they were pushed back across the 38th parallel by Chinese troops. By July 1951, the ensuing stalemate generated peace talks and an armistice agreement was concluded in July 1953 which temporarily ended the fighting. However, no permanent peace agreement exists to this day, resulting in a heavily militarized frontier between the two Koreas. This was the only time the Council recommended the use of force during the Cold War in response to a breach of the peace by a State.

The Council's second use of this tool came in 1990 after the end of the Cold War when renewed cooperation between the United States and USSR saw them agree to authorize military force to expel the Iraqi troops that had invaded and occupied Kuwait (China abstained). Here, the Council declared the Iraqi invasion of Kuwait constituted a breach of international peace and security (S/RES/660 (1990)), it recognized the right to self-defence (S/RES/661 (1990)), and three months later authorized a United States-led coalition "to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area" (S/RES/678 (1990)).

At its peak, Operation Desert Storm involved some 700,000 soldiers from over 40 countries and was prosecuted by an aerial bombardment followed by the expulsion of Iraqi troops from Kuwait by coalition ground

forces. Iraqi forces were successfully expelled from Kuwait by March 1991. However, the United States-led military forces in Iraq (initially with France and the United Kingdom) established two no-fly zones in the north and south of the country, which were not clearly authorized by the Council. The no-fly zones were maintained – involving varying levels of strikes against Iraqi forces – until the subsequent United States-led invasion of Iraq in 2003. Although the coalition claimed that the 2003 intervention was implicitly authorized by Security Council resolutions 678, 687 and 1441, the consensus among most international lawyers was that the 2003 invasion of Iraq was not authorized by the Council.

In both Korea and Iraq, the Council-authorized forces repelled the invading troops. However, neither case resulted in the establishment of a stable peace in the area.

Conditions for success

Although this tool has been used only rarely, several lessons can be drawn from those cases:

- Military enforcement has been used with the consent of the State which suffered the aggression but without the consent of the invading country. As a result, it essentially involves a war-fighting campaign, regardless of whether its legal basis is considered collective self-defence or Council authorization.

- Security Council consensus is unlikely to emerge around such a dramatic course of action. There is rarely Council consensus regarding cross-border disputes, including because the interests of one of the P5 are often directly or indirectly engaged. The establishment of UNC was only possible due to the boycott of the Council by the USSR, while the Council decision to expel Iraqi forces from Kuwait came at an unprecedented time of United States–Soviet cooperation and was not supported, but not vetoed, by China. Other armed attacks on UN Member States have not generated such consensus in the Council, most notably the Russian Federation's annexation of Crimea (2014) and invasion of Ukraine (2022).

- Such war-fighting campaigns require a very large number of troops but also major power projection capabilities. In practice, this has meant that only United States-led coalitions are likely to have the ability to mobilize and deploy such large forces over large distances. Very few regional arrangements would be able to conduct such campaigns beyond their own region.

- Such military interventions should be tasked with a focused and realistic mandate that is harnessed to a viable political strategy for conflict management. Using the military instrument alone cannot

deliver political solutions. This is reflected by the fact that despite the large numbers of troops involved and initial success on the battlefield, neither occasion of the use of this tool by the Council resulted in the establishment of a stable peace in the region. The military and political stalemate on the Korean Peninsula continues to this day, while Iraq became the target of a subsequent United States-led invasion in 2003, followed by nearly two decades of mid- to low-intensity conflict.

- The Council should regularly analyse military dynamics on the ground, and may need to revise the mandate accordingly. This will depend, in part, on the delegated actor(s) providing regular, timely and detailed reporting back to the Council.

- Political unity is important both within the delegated actor/coalition and the Council. The longer the intervention persists, the harder it will be to maintain political unity. Moreover, the less effective the intervention, presumably the less likely it is that political unity among the coalition will be maintained.

Risks/ benefits

Benefits

- In extraordinary circumstances, this tool enables the Council to authorize a war-fighting campaign, which may be the only way to repel invading or occupying military forces. It enables the Council to authorize a level of military response well beyond peacekeeping and even humanitarian military intervention, in which cases the consent of the parties to the conflict is required or at least sought.
- Using this tool could highlight the Council's political unity and signal that the UN will protect the principle of the territorial integrity of its Member States. This could deter other states contemplating such invasions.

- If the intervention is legitimate, providing Security Council authorization gives the Council some visibility of the operations and more of an opportunity to influence them. It also avoids the development of alternate legal doctrines justifying intervention, which might erode the prohibition on the use of force set out in the UN Charter. In addition, it reinforces the Security Council's central role and relevance in the maintenance of international peace and security.

Risks:

- There is a high likelihood of significant casualties and fatalities among the intervention force. The intervention force is also likely to cause some level of unintended civilian harm among the local population.

- The outcome of the enforcement action is not a foregone conclusion. It could exacerbate conflict dynamics, contributing to counterproductive

outcomes, and there may be negative unpredicted and unintended consequences on the battlefield and politically. For example, it is not inconceivable that the Korean War might have escalated to the use of nuclear weapons.

- There is a risk that events on the ground may weaken the Council's political unity around the enforcement action; such risks are more likely the longer the intervention lasts and if it fails to achieve its objectives.

- It is often difficult for the Council to reach a consensus on authorizing legitimate interventions and on condemning illegitimate or illegal interventions, including because they may involve a veto-wielding permanent Council Member.

- Remaining inactive and silent in the face of acts of aggression, breaches of the peace, or threats to international peace and security may invite challenges to the relevance of the Security Council and the UN more generally.

- Intervention will inevitably raise dilemmas and challenges for ensuring an effective exit strategy, including in relation to the desired end-state, the relationship between military operations and local systems of governance, and the timing of the intervention's exit. A premature exit may require a subsequent force to return later, whereas staying too long may increase local resistance.

Legal considerations

A Council-authorized enforcement operation would require all the usual legal and operational documents, including a Status of Forces Agreement (SOFA)/Status of Mission Agreement (SOMA), Concept of Operations (ConOps), and Rules of Engagement (RoE), but these will not be UN documents. The Council should review such documents, but it may not always be easy to do so.

When authorizing enforcement action by other actors, the Council is likely to face challenges related to receiving detailed, timely and comprehensive reporting of activities in the theatre concerned. This is problematic to the extent that the operation concerned is acting under the Council's mandate, and also on behalf of the UN membership under the UN Charter.

If some states consider than an intervention has gone beyond its authorized mandate to use force – for example, for the purposes of regime change – it may result in reduced support for the ongoing operation. Reporting requirements to the Security Council and mandate renewals can assist Council Members considering this issue.

UNSC procedure	• The Council adopts a resolution authorizing the military campaign. Ideally, the resolution identifies a leading actor, clarifies the operation's mandated tasks and preferred exit strategy, and details reporting requirements to the Council. • Reports of the Secretary-General should regularly inform the Council of the mission's progress, make relevant observations and, where appropriate, recommend revisions to the mandate. • Subsequent Security Council resolutions may be required to extend or revise the mission's mandate.
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PART 3 – TRADECRAFT

PRACTICAL IDEAS FOR EFFECTIVE COUNCIL ENGAGEMENT

PART 3 – TRADECRAFT: PRACTICAL IDEAS FOR EFFECTIVE COUNCIL ENGAGEMENT

Before the Security Council can employ strategies to prevent or stop a violent conflict, the nature of the conflict needs to be understood, conflict management objectives identified, and tools selected to achieve those objectives. Achieving this requires collective decision-making by the 15 Council Members. This part of the *Handbook* focuses on strategies and practical ideas for building the collective will within the Council to effectively manage conflicts.

Building consensus in the Security Council on strategies for managing a new or evolving conflict can seem daunting. The Council's reputation for impenetrable process and byzantine complexity can be intimidating. Even those with extensive experience of multilateral diplomacy can find the dynamics of the Security Council challenging.

In recent times, the Council has found it increasingly difficult to exercise the vision and leadership that the founders of the UN hoped for when they gave it primary responsibility for the maintenance of international peace and security. But there *are* opportunities to move innovative initiatives successfully through the Council. This *Handbook* will hopefully encourage delegates to actively explore such opportunities. It suggests ways to prepare ahead of taking up a Council seat, strategies to build support and to lead with careful stewardship, tips to navigate complex procedures, and tools to manage political relationships.

Delegates will also find useful other resources, such as those provided by Security Council Report, the Security Council Affairs Division (SCAD) of the UN Department of Political and Peacebuilding Affairs in the UN Secretariat, the *Repertoire of the Practice of the Security Council*, and the Security Council website. These resources provide invaluable analysis and historical perspectives.

The Council has continually evolved its working methods. Procedural issues are rarely debated in formal meetings – the Council mainly operates informally – and as such most of its processes are not covered by the Provisional Rules of Procedure. Few working methods have been established by way of written decisions, but efforts have been made to capture many under the Note 507 process.

The COVID-19 pandemic in 2020 revealed both the best and the worst of the Council's adaptive working methods. Early in the pandemic, the Council Members, with good Secretariat support, demonstrated agility by quickly agreeing to continue functioning virtually and remotely. This decision, however, was less effective than it might have been because one Council Member did not agree to the virtual meetings being considered formal meetings. Ironically, because the Council could not meet formally in person due to the lockdown, no procedural decision on meeting virtually could be voted.

Council practice *can* and *does* change. If there is the will, determination and ingenuity, the Council can be persuaded to innovate.

PREPARATION

The preparation of a Security Council team – both the delegation in New York and the team in capital - involves many aspects, including selection, logistics and training. Most of these are generic and are applicable for good delegation performance across all of the issues faced by the Security Council. Preparation is also important in terms of delegation performance on issues involving conflict prevention and conflict management. Two key issues in this regard are:

- Domestic political space
- Conflict-focused practical preparation

Domestic political space

A key piece of preparation for any delegation is to have as much clarity as possible on their country's appetite for activism in the Council on country-specific conflict situations. This will depend on how comfortable political leaders may be for the delegation to actively promote and engage in collective action to manage conflict. A delegation will be handicapped if it is operating with uncertainty about the scope it has to be active.

Outsiders (for example, the media, the academic community and the general public) often assume that because the Security Council has a mandate to act collectively, it operates with a collective mind and a collective sense of responsibility. The political reality is very different. Fifteen States are members of the Security Council. Whether permanent or elected, each of these will have different domestic political drivers when it comes to their approaches to issues on the Council's agenda. In addition, each will have its own sovereign appreciation of and level of tolerance for:

- What constitutes an international conflict.
- Whether the Security Council should become involved.
- When to intervene and how to manage the conflict.
- The continuation of violence.
- Humanitarian consequences, including displacement of populations and flows of refugees.
- The effects of violence on civilian populations and other threats faced by those affected by actual or emerging conflict.

Moreover, elected members will also have different reasons for being on the Council and different objectives for their term. This can also affect calculations about how and when to use their political capital.

Member States' appetite for activism is likely to be influenced by:

- The State's history.
- Its experience of involvement in conflict.
- The State's internal stability, any contested territory, and any external threats.
- Past experience of conflict management, including participation in mediation, peacekeeping and regional peacebuilding.
- The Government's view on human rights, State sovereignty and intervention.
- The size and influence of its domestic civil society organizations.

- The dynamics of its own domestic politics.
- Its own population demographics and possible levels of identification with populations affected by the conflict.
- Its regional role and influence.
- Relationships with other States, including important regional partners, trading partners and other key bilateral partners.
- Relationships with relevant non-State actors on the international scene.
- Its interest in Council reform and becoming a permanent member.

In light of such factors, each of the 15 Governments represented on the Council will have distinct approaches to conflict management in specific situations. Their approaches will be based on an analysis of the risks, both to their national interests and also to their relationships with other States which could arise from taking certain positions or initiatives in the Security Council.

It is possible to make sound judgments about the likely risks for Member States of actively engaging on existing situations on the Council's agenda. What is harder to assess are the political ramifications and risks associated with new situations that begin to emerge and that challenge the Council either to engage early in conflict prevention, or to quickly employ conflict management tools when violence erupts.

It is therefore useful in terms of preparation to gain as clear as possible guidance from domestic political leadership about the political space available for the Council delegation. Examples of the kinds of questions that might need to be considered include:

- Should the delegation be looking for opportunities to advocate for collective action on conflict prevention and conflict management in country specific situations?
    - Or is the default position a low appetite for risk and a preference for addressing conflict management issues thematically?
- Is the delegation's space for advocacy on conflict prevention and conflict management general in nature or does it have a specific regional focus?
    - If the space is regionally focused, does that mean focusing on situations in the home region or subregion, in particular, should the delegation be active on problems afflicting neighbouring States?
    - Alternatively, should the delegation focus on a specific but more distant region – perhaps one where conflict issues have a strong resonance for domestic public opinion?
    - Or should there be a focus on a region(s) where the State has limited relationships and limited national interests and therefore a correspondingly lower level of risk?
- How much does the nature of the conflict matter?
    - Is the State more (or less) inclined to be active if the conflict is between two or more States?
    - Is the political action space wider (or narrower) in situations where the conflict is more of the nature of a civil war?
- To what extent will the gravity of the humanitarian situation determine the political space for activism?

- To what extent is the political space wider if there are credible examples of violations of international law or international humanitarian law?
- To what extent are the positions and interests of powerful States (for example, key regional actors, major trading partners, or important bilateral relationships with one or more of the permanent members (P5)) going to constrain the delegation's role?
- If there is some ambition for activism, are there strategies in place for a "capacity surge", both in capital and elsewhere, should the delegation take on a leadership role on a conflict situation?
- Is there scope for contributing resources to a possible UN operation whether of a military or other nature?

Answers to these sorts of questions will often be imprecise at best. Much will depend on the circumstances. But the process of thinking through the issues at an early stage, both in capital and by the delegation, will be useful preparation. It will certainly help a Security Council delegation better understand the scope for it to be active in promoting conflict prevention and conflict management activities in country-specific situations.

There is a risk that active engagement in the Council could damage sensitive or important bilateral or regional relationships. There will always be "red lines" which, if crossed, may cause damage. There have been cases where persistent pursuit by a delegation of provocative positions in the Council has damaged relationships. But where and what those "red lines" are will be different for each of the 15 Council Members, and can change over time according to evolving political and economic dynamics.

Some diplomats and politicians, particularly specialists in bilateral diplomacy, may overestimate the effect on bilateral relations of initiatives pursued in multilateral contexts. Multilateralists know that it is common to see States pursuing assertive positions that are at odds with countries that are close partners in other contexts, and for those close partnerships to be entirely unaffected. In the Security Council, members are accustomed to managing differing positions. Countries may be partners on one issue in the morning, and in the afternoon be on different sides of another issue. This is normal and accepted. Whether the pursuit of differing positions will negatively affect relationships has more to do with the clarity and professionalism with which the differences are handled.

Practical preparation

Despite the complexities, there are a number of practical, conflict-focused preparatory steps that new members can take once elected to the Council and before they commence their term. Some of the suggestions below could also be useful for permanent members when rotating new diplomats into their Council delegations.

(a) Professional credibility. New Council Members will be conscious of the importance of demonstrating the professional credibility of their team members, borne of both diplomatic experience and substantive expertise. Where generalist diplomats take on files of which they don't have specific expertise, an orientation visit to the country/region/mission can be extremely valuable for enabling them to effectively engage. The role of the capital-based team and the State's wider diplomatic network is also

important. Some countries have found it useful to strengthen existing capacity in capital on issues, countries or regions where they previously had little focus. Some have found it useful to bolster capacity in existing bilateral diplomatic posts in regions where conflict is active or likely, and even to establish temporary new diplomatic positions or posts or set up innovative colocations with other countries' embassies. All of this helps build knowledge and connections, enabling the team in New York to be as effective as possible.

(b) Balancing New York and capital. It is helpful to have in place procedures to get the right balance between necessary political control from the capital and micromanagement. Every Government will have a different level of appetite for independent thinking and action by its ambassador in New York. Micromanagement of the New York team can undermine the professional credibility and responsiveness of the delegation, and result in an overly risk-averse posture when reacting to conflict-related developments.

(c) Including a Legal Adviser in the delegation. Most delegations include at least one Legal Adviser as part of their team in New York. This role is essential for a number of reasons. The Legal Adviser can advise the rest of the delegation on potential legal issues arising in particular conflict situations and can also recommend legal tools to employ. They can advise on interpretation of the UN Charter, including the Council's powers, Member States' obligations, and on the Provisional Rules of Procedure. They can advise generally on issues of international law relevant to the Council's work, including international humanitarian, criminal and human rights law, sanctions, and the laws on the use of force. They can advise on language and the legal effect of Council resolutions, and assist in using appropriate concepts and language for drafting. They can also be the sanctions experts in the mission – an important role with a heavy workload. Legal Advisers typically have a broad knowledge of the Council's practice and precedent.

(d) Including a Military Adviser in the delegation. Many delegations also include a Military Adviser. This person can be a critical member of the team. The Secretary-General's Military Adviser and the military officers in the Department of Peace Operations (DPO), Office of Military Affairs can be an important part of the delegation's Secretariat network. UN military personnel are often more open to sharing information with fellow military professionals rather than civilian diplomats. The same is true of the military advisers of other Council delegations, who will often have useful information from their own national sources which they will willingly share with their military counterparts. The UN has a strong Military and Police Advisers Community (MPAC). Including a Military Adviser in the team can improve a delegation's ability to quickly understand the military and operational aspects of a fast-moving situation and make swift and informed decisions about strategies in the Council and the forces mandated. The Military Staff Committee (MSC), a subsidiary body of the Council, has in recent years become more active. Under the Charter only the military advisers of the P5 are formally members, but the MSC now invites the military advisers of elected members to attend its informal meetings and take part in its field missions. Non-military representatives, however, are not authorized to attend MSC meetings.

(e) Connection with Secretariat officials. Investing time in building relationships with Secretariat officials will be beneficial. This should involve contacts with officials dealing with political affairs, peacekeeping, peacebuilding, humanitarian affairs, field support and legal affairs. These people almost always know more about current and emerging conflict situations than is ever published in the Secretary-General's reports. Often sensitive, but vital, details are not included in these reports. Good networks and trusted relationships with Secretariat staff can assist a delegation get unofficial but helpful background information and often a "heads-up" about emerging developments. These connections should also be extended, if possible, via missions in Geneva to Secretariat officials working on refugee and human rights issues. These officials will often have useful parts of the "information puzzle" that are not fully understood by their colleagues in New York.

(f) Security Council Affairs Division (SCAD). As the Secretariat to the Security Council and all of its subsidiary bodies, SCAD provides substantive and secretariat support to the Council and is available to assist delegations. It has a 100-strong staff with institutional memory and knowledge of the practice and the Provisional Rules of Procedure. SCAD maintains a database of both factual and analytical information on the Council's practice. Its three branches cover the running of Council's operations; the provision of technical and substantive support to the subsidiary organs, particularly the Sanctions Committees; and guidance to Member States on the substantive and procedural practice of the Council. It is the only entity, other than the 15 Council Members, present at all deliberations, both formal and informal. SCAD can help a member navigate the practice and Provisional Rules of Procedure. It assists members prepare for and execute their Council presidencies. And members can call upon SCAD for specific support at any time, for example, requesting a non-paper on conflict prevention or statistics on Informal Interactive Dialogues (IID) sessions.

(g) Practical insights about peacekeeping operations. It is difficult to comprehend the size and complexity of UN peacekeeping operations just from reports and briefings. Given the importance of the UN peacekeeping tool, it is extremely valuable preparation for at least one member of a Council delegation (and more if resources permit) to visit a peacekeeping operation in the field. This will provide a practical sense of the issues involved and assist understanding of the challenges that typically face a Secretary-General's Special Representative (SRSG) and Force Commander. It will enable the building of networks with personnel on the ground that will be helpful when issues relating to that operation arise in the Council. And it will give that delegate (and by extension the delegation) greater credibility when engaging on peacekeeping issues. It would be useful for a delegation to have members visit at least two distinct kinds of mission:

- A major operation with Chapter VII responsibilities and a robust mandate (such as MINUSMA in Mali or UNMISS in South Sudan).
- An operation dealing with a more stable and perhaps stalled conflict situation (such as UNFICYP in Cyprus or MINURSO for Western Sahara).

(h) Practical insights about political and peacebuilding missions. In a similar way, it is important that as many of the new delegation members as possible have a real on the ground perspective of the different ways that political and peacebuilding missions operate and the challenges they face. Seeing even a little bit of what can be done in the field, of what works and what doesn't, is revealing and aids understanding of practical options for conflict prevention and peacebuilding. It gives the delegate more credibility and builds confidence to explore a greater range of options for dealing with emerging and evolving conflict situations.

(i) Building networks with regional and subregional organizations. Regional and subregional organizations play important roles in conflict prevention and management, including peacekeeping. They are also valuable sources of information and analytical insight into the drivers of conflicts in their regions. Investment during the preparatory phase in building networks with key personnel in such organizations can pay dividends later. These networks do need to be continually nurtured, however, and this can be a very useful ongoing role for embassies accredited to such organizations.

(j) Connecting with host countries for peacekeeping operations and parties to conflicts. Many new delegation members discover far too late that the host countries of UN missions, and especially peacekeeping operations, often feel overlooked. Sometimes this problem is not appreciated by the 15 Council Members until the host country's consent (or willingness to tolerate a UN operation) becomes problematic. There is real value, therefore, in a new delegation opening lines of communication with the States that are hosting peacekeeping operations or other missions. This can be done in a limited way by investing time in engaging with the relevant Permanent Missions in New York. But there is added value in making connections in the field. The affected States will value and remember the respect accorded to them and will be more likely to engage bilaterally when a problem arises.

Another consideration is the desirability, where possible, of building connections with other parties to the conflict in question. This is important both where the conflict is a civil war and where it is between States. Both sides want to be treated with respect. But building such connections will be politically sensitive in some cases. And making connections will not always be possible or appropriate. However, it is worth remembering that the Council has had hard experiences in the past where delegations only had links with Government officials but military or political developments resulted in a change of Government. And as a result of this, the newly installed Government felt aggrieved, making ongoing relations between them and the Council difficult.

(k) Connecting with troop-contributing countries (TCCs) and police-contributing countries (PCCs). There can be a disconnect between the Council and TCCs/PCCs that frequently results in political problems and threats to the effectiveness of Council-approved operations. This disconnect arises from Council decision-making taking place in one silo, and operational control – including recruitment of contingents – in another silo under the Secretary-General. Meetings between the Council and TCCs/PCCs tend

to be ritualised and perfunctory, which may not be a serious issue when an operation is proceeding smoothly. But when problems arise, TCCs/PCCs often feel the need for more substantial participation in Council decision-making.

Some important working methods, issues and improvements related to these challenges are discussed below. But in the context of delegation preparation, investing in building connections during the preparatory phase can make a real difference to the ability of delegations to constructively engage with TCCs/PCCs when needed. A practical option for delegations is to task team members who are dealing with conflict situations where peacekeeping troops are deployed to build bilateral connections with the key TCCs/PCCs involved. This can be of benefit to the delegation as often the Permanent Missions of the TCCs/PCCs have useful, detailed information about the situation on the ground. Providing a channel of communication between the TCCs/PCCs and the Council can help reduce the alienation from the Council TCCs/PCCs sometimes feel, and improve the operation's overall effectiveness. Contacting key TCCs/PCCs as part of a delegation's preparation will prove beneficial at later stages.

(l) Links with major NGOs. The role of civil society organizations is discussed in more detail below. Early engagement is important as building useful connections becomes much harder once team members are consumed in the Council bubble and day-to-day business that comes once a Council term has begun.

RELIABLE AND TIMELY INFORMATION

Council Members always face uncertainty when confronted with decisions about actual or potential conflict situations. The uncertainty is compounded because of problems with both the availability and reliability of information. Council Members can perceive information brought to the table by delegations as politicized.

Important sources of information include:

- National diplomatic and intelligence sources
- The UN Secretariat
- Other UN agencies
- Regional organizations
- Non-Council Member States
- Parties to the conflict
- NGOs working in the field
- The media
- Recognized academic and similar experts
- Think tanks
- Reports of the Panels or Groups of Experts under various Security Council sanctions regimes

National sources can be valuable, but for many Council Members are limited. Events often happen in remote or dangerous places where few Council Members have diplomatic

representation or access. Due to their permanent membership of the Council, P5 members may have national structures established to deliver information on many of the countries on the Council's agenda. While elected members are unlikely to establish such structures to support their limited Council tenure, in places where they don't have ongoing interests. This can create an asymmetry of information among Council Members which can lead to suspicion about motives and also to pushback against proposals based on national sources.

The Secretariat often has much useful information that is not routinely included in public reports due to political sensitivities or security concerns. Delegations can access this in person - individually or in small groups – provided they have built good and trusted relationships with Secretariat colleagues.

A problem which occurs relatively often is that the UN Secretariat may not be well informed about a new or emerging situation. This can be either because the UN has no local presence in the field, or because its representation has a developmental focus and lacks both the mandate and specialist personnel necessary to provide the kinds of information and analysis that the Council needs.

Beyond Secretariat departments and agencies, there are UN-system entities that can offer valuable insights. These include the SRSGs with thematic responsibilities, for example, Women, Children, Atrocity Prevention, and the Responsibility to Protect (R2P). SRSGs from field missions can also offer insightful and timely information and analysis. Some experienced former SRSGs report that, over the years, the SRSG leadership role has been diminished and is increasingly micromanaged from Headquarters. Despite the availability of technology that would allow SRSGs in the field to engage with Council Members in New York, it has become harder for SRSGs to get direct access to the Council in meaningful ways, especially early in an emerging situation when their field knowledge and experience might be most useful. Often they are relegated to being one of multiple briefers at a formal meeting after all the meaningful decisions have been made.

Getting input to the Council from sources external to the UN, such as recognized independent experts, has proved difficult. When Arria-formula meetings were first conceived in the 1990s, they were designed as an opportunity for Council Members to receive background information informally from reliable non-Secretariat sources or directly from parties to disputes or conflicts. But over time they came to be used more for meetings with civil society groups. More recently, they have been used in a partisan way, as tools for achieving political goals, rather than neutral sources of information. Other formats have emerged, including IIDs, which are useful for information sharing and engagement with wider audiences of UN Member States and regional organizations. These formats are constantly evolving. The important thing is to have one or more productive formats through which Council Members can collectively acquire briefings and information from a wide range of sources.

The media can be a good source of early warning in some cases. But the media rarely covers the situation in the detail or with the consistency that is necessary for the Council's purposes. There are also potential issues regarding the independence of some media sources.

Improving situational awareness

How Secretariat information can be shared collectively with Council Members in a timely way is a major challenge. Various historical Council practices, such as the way the monthly Programme of Work is established, the inability to work informally except by consensus, and the "penholder practice" in particular, inhibit the kinds of timely and practical collective engagement with the Secretariat that would facilitate the sharing of reliable information at a sufficiently early stage. These factors can result in the Council missing opportunities to engage in conflict prevention or to help the parties de-escalate the situation or manage down an emerging conflict.

The penholder practice has often had a negative impact on ensuring that Council Members are collectively and equitably able to access the best available information. The practice appeared in the early 2000s and became entrenched later that decade. For most of the Council's history the concept did not exist. Draft products would emerge from a range of interested delegations, and management of the negotiations was much more in the hands of the Presidency and permanent representatives collectively in informal consultations. The penholder system was never formally approved as a procedure but emerged informally, possibly as an option for reducing workload by streamlining the management of issues. It has some advantages, most notably in terms of continuity. But, given that the overwhelming number of "pens" are held by permanent members – mainly the United Kingdom, the United States and France – it has significantly altered the balance of power between permanent and elected members. And it has been detrimental to the way in which information is made available collectively to Council Members, as much is filtered through a single penholder delegation. This has been exacerbated by the fact that processes are now often led, unilaterally, by relatively junior "experts" in the penholder delegation as opposed to the previous practice of collective processes led by the Council President and with participation by all delegations at a senior level.

Often multiple briefers are assembled to speak in a public Council meeting. At face value this seems like a useful situational awareness measure, but in reality it often adds little or no value to the Council. There is some value in terms of increasing global public knowledge about a particular conflict situation or a thematic issue by collecting a group of experts to give presentations in a high profile public forum. But many former permanent representatives and former Secretariat officials do not believe such events improve the management of a particular conflict. They rarely provide information that is not already well-known by Council Members, and they too often come at the end of the process, after a resolution has been negotiated. Moreover, they consume hundreds of hours of Council time that could be spent more productively. Some argue that these events have become simply competitive efforts between various presidencies.

Situational awareness is not only a technical issue. There are frequently political factors at play. Countries naturally do not want to be on the agenda of the Security Council and some see possible Council involvement as limiting their military or strategic options. Some fear that Council involvement may lead to sanctions. Some may prefer that the conflict not be resolved, or at least not until they have achieved certain military and political objectives. This may lead States to pressure the UN or to seek support from sympathetic Council

Members to delay or block information coming before the Council.

In the past, initiatives and practices to develop new informal working methods to address this problem have included:

- Daily situational updates provided by the Secretariat to Security Council ambassadors at early morning meetings, which enabled the sharing of information informally in a timely way. The briefings covered key developments that had occurred over the past 24 hours in all situations that the Council was following.
- Informal, integrated situational awareness briefings provided by the Secretariat, fortnightly, off the record, outside of Council chambers, encouraging a frank exchange of information. These were initiated at the request of elected members.
- Monthly "horizon scanning" sessions led by the Secretariat, providing information to Council Members in informal consultations.
- Monthly informal breakfast discussions among permanent representatives hosted by the incoming Council President to enable informal ambassador-level discussion of issues of concern.
- Periodic sub-group configurations: monthly SG–SC luncheons; monthly SG–P5 meetings; periodic SG–E10 meetings.
- Sofa talks.
- Annual SG–SC retreats.

The Council President also plays an important role in getting information before Council Members in a timely and reliable fashion. In the past, Presidents of the Council have used their office as a vehicle for engaging with States, organizations, NGOs and individuals that are able to share information that can materially assist the Council. In cases when it is not possible (or there is not time) to negotiate new ways for such sources to appear before Council Members directly, Presidents have met systematically with such sources and then relayed this information to Council Members in informal consultations.

In practice, most of these initiatives have waned in usefulness or disappeared completely. The daily situational update faded over time, in part because some members preferred utilising their exclusive national sources and disliked the more collective approach. "Horizon scanning"' faded when a few Council Members sought to control in advance what would be scanned and what would not, arguing that it gave the Secretariat too much control over the Council's agenda, this despite the power given to the Secretary-General in Article 99 to bring any matter to the attention of the Council.

Sometimes the success of such initiatives depends on the determination and skill of a few individual permanent representatives and key Secretariat officials. Unfortunately useful practices can fall into disuse when those individuals move on.

There is also the question of time and energy. Smaller delegations, who would ironically benefit the most from time taken to build collective situational awareness, are always under very heavy time pressure. Some can easily be lured by arguments from larger delegations, who have less need of such briefings, that these initiatives are unnecessarily time-consuming.

Finally, the resistance to these kinds of initiatives can also be couched in indirect but vaguely legal arguments that the Council Members should not be discussing possible conflict situations because there has not been a formal determination that a threat to international peace and security exists. However, under the UN Charter and the Provisional Rules of Procedure, the Council may discuss a matter indefinitely without determining that it constitutes such a threat to international peace and security. Such a determination, explicit or implicit, is required only if the Council is deciding on measures under Chapter VII.

For further information on the Council's situational awareness procedures see Tool 1 "Early warning" and Tool 3 "External information".

EARLY COUNCIL ENGAGEMENT ON AN ISSUE

Too many times over the past 30 years, diplomats and political leaders, reflecting on conflict situations which have caused untold death, destruction and human misery, have lamented the failure of the international community to engage at an earlier stage. Grievances, injustices and legitimate concerns have not been taken seriously until it was too late, and the situation has spiralled into uncontrollable conflict. Once it has reached that stage, often the only action that the Security Council can take is to establish a peace operation. Undertakings of this nature typically cost billions of dollars and may be only marginally effective. In these instances, the UN becomes the "ambulance at the bottom of the cliff", and sometimes the UN itself is drawn into the conflict.

Early engagement on an emerging situation was clearly foreseen by the founders of the UN as an essential tool. Article 34 of the UN Charter provides for a distinct phase of Council engagement prior to determining that the maintenance of international peace and security is endangered. It recognizes that there can be a "golden moment" in the slide towards conflict when, with sufficient information and political will, collective preventive diplomacy in the context of "investigation" can make a real difference. Most importantly, under Article 34, there does not need to be the same stigma that States fear of being a formal item on the agenda of the Council once a situation has been determined to be a threat to international peace and security.

Prevention

The humanitarian and development benefits of conflict prevention for the local population are obvious. The financial benefits for the international community (weary of spending billions of dollars each year on peacekeeping) are also obvious. The political benefits of reducing the number of situations that evolve into conflict would add significantly to regional and global security and stability. It is no accident that States in regions most affected by conflict since 1945 (the Non-Aligned Movement and Group of 77 members) are politically strong advocates of more and better resourced conflict prevention. Yet it remains hard to get collective "buy-in" regarding early conflict engagement and prevention within the Security Council.

There are many reasons for this. One is cost. Early intervention carries the risk that effort and political capital will be expended on a situation that may otherwise resolve of its own

accord. Delegations may prefer to wait and see how the situation evolves rather than be perceived as overreacting. But doing nothing can result in a crisis escalating and eventually requiring far more costly interventions. Just one full-blown crisis could cost the international community much more than many early interventions. In other areas of human experience, most societies have come to accept that prevention is better than cure. But balancing these considerations in the context of conflict management is a challenge for Council members.

Other reasons for failing to act early include lack of information, and pressure on Council time with its already overloaded agenda. There are also often political factors at play. Parties to the emerging or escalating conflict may be opposed to Security Council engagement, fearing it will undermine their political or military objectives and force them to accept compromises. They may recruit allies within the Council to try to stall or block early Council engagement.

In theory, the case for early Security Council engagement is compelling, but in practice, it is immensely challenging for the 15 delegations to summon the collective political will and resources.

There are also important political dimensions involving the role of the permanent members and the Secretary-General.

Historically, the permanent members have favoured independent or non-collective approaches to conflict prevention. In part because they have often found elected members lacked the capacity or will or were hampered by their short tenure on the Council. But also because they believed their national interest was best served if their prevention-type resources were deployed individually, with a few selected bilateral partners, or with the Secretary-General, rather than in a structured partnership with Council Members as a whole.

An important and practical conflict prevention initiative began in 2002 with the establishment by the Council of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa. Initially the Working Group actively pursued conflict prevention initiatives relating to specific African situations. But over time this practical momentum faded. The short tenure of elected members and the limited capacity of most African members were major constraints. The Working Group became more focused on thematic issues (including the relationship between the Council and the African Union Peace and Security Council) which were easier for diplomats in New York to work on than issues in the field.

Successive Secretaries-General have at times been active using their independent good offices to promote conflict prevention. Capacity was built in the Secretariat's Department of Political Affairs (now DPPA) to support this, including specialist mediation teams.

Secretaries-General have sometimes sought informal support for their role from the Council. But it is rare for them to actively promote a dynamic synergy between their good offices capacity and the collective capacity of the Council. More often they prefer an independent approach, sometimes combined with engagement with one or more permanent members.

Direct participation by Council delegates in preventive diplomacy is rare. However, direct contact with the parties would be much more likely to build real knowledge of the situation, and deeper understanding of the friction. Conflict prevention work requires additional delegation resources. In addition to political and security experts, it would be beneficial to have those with skills in other relevant areas including development, finance, and demography. However, most of those involved in discussions about conflict prevention, both in New York and in capitals, are professional diplomats. Few have first-hand experience of a conflict or have been engaged in the kind of political work in the field necessary to build peace and de-escalate a dangerous situation. They are not trained for such work.

In light of the composition of New York Council delegations, which is traditionally focussed on political and security specialists, it is not surprising that most delegations are more comfortable with being the "ambulance at the bottom of the cliff", preferring to postpone investing until there is a demonstrable crisis. Given the skills required for conflict prevention, it may be necessary for delegations to draw some personnel from capital.

Any Council delegation that sees an opportunity for a conflict prevention initiative needs to overcome two political challenges. One is external: persuading other delegations; while the other is internal: persuading colleagues in capital to take the risks.

There are two kinds of domestic risks that such a delegation faces. Some at home will oppose additional diplomatic resources being diverted to such an endeavour. While others will see risks to various bilateral relationships. For most Council Members it would take a conscious decision that the promotion of conflict prevention in general is politically in their national interest and should be a priority for their Council term. Moreover, Council Members would also need to be politically comfortable that active involvement in a specific conflict-prevention initiative was consistent with their national interests. Bearing in mind conflict timeframes, elected Member States may need to be open to remaining engaged in some capacity even after they have completed their term.

A State contemplating election to the Council and planning to focus on conflict prevention may be wise to undertake the following:

- Factor conflict prevention into their early planning.
- Identify and allocate staff (including non-traditional diplomats) with relevant practical experience.
- Implement training programmes.
- Initiate secondments to UN or regional field missions.
- Investigate existing techniques, skills and best practices.

Having several elected members focused on conflict prevention would create significant momentum within the Council. However, for conflict prevention to gain real traction, the issue of securing long term buy in from the Secretariat and the Permanent members needs to be addressed. There is scope for an initiative to launch a sustained discussion of the issue, maybe in a retreat or series of retreats with the Secretary-General. This could also lead to a decision to formally request the Secretariat to establish a programme to facilitate conflict-prevention planning for each incoming cohort of elected Council Members.

Certain elements of conflict prevention could be implemented using procedural decisions. However, political value comes if the discussions operate in an informal, consensual and non-politicized way. Avoiding significant dissent by a permanent member is important for sustaining consent for the process or for any future substantive Council resolutions that may be required.

In the context of procedural matters, the overlap between the Council and the Peacebuilding Commission (PBC) is worth some consideration. The PBC is a subsidiary body of both the Council and the General Assembly having been jointly established by them in 2005. Its role is to support peace efforts in countries emerging from conflict, propose integrated strategies for post-conflict peacebuilding and recovery, bring together the range of relevant actors, and marshal resources. For further information on the PBC see Tool 13 "Peacebuilding Commission".

The PBC's processes can inform the conduct of collective conflict-prevention work in the Council. These include:

- Inclusive procedures to ensure engagement with all necessary parties.
- Participation by the States, international organizations (such as international financial institutions) and regional organizations whose involvement and resources are critical for success.
- Informal procedures that involve actors in the field.
- Sustained participation and leadership (that is, not following a rotating presidency).

Another consideration for gaining traction on conflict prevention may be a willingness for the Council to experiment with more relaxed and inclusive processes and procedures.

The reality is that not every case of "friction" can be addressed by collective Council initiatives. Resources are always limited. Many cases will never evolve into conflict. Some, despite all the effort applied, may be resistant to prevention, and the wider spectrum of conflict-management initiatives may be required. It is therefore a question of careful political judgment of which cases can and should be addressed.

In those cases on which the Council can and should engage early, there are five key elements that are essential for successfully initiating Council involvement:

1) Access to quality information.
2) Leadership by a delegation(s) that can be perceived by the protagonists as neutral, well-intentioned and bringing sufficient gravitas to the issue.
3) Partnership with the Secretariat and Secretary-General's good offices machinery.
4) Successful political management within the Security Council.
5) The ability (particularly on the part of the lead delegation(s)) to bring to the table and to the situation on the ground the practical ability to help. This may include the readiness to immediately deploy personnel (including diplomatic personnel and possibly military observers) as well as a willingness to contribute and/or help to leverage material resources that would help to address root causes.

Collective fact-finding

It is rare for the Council to take collective steps to explore at a very early stage – before it makes any "determination" – whether an emerging threat or situation is likely to lead to conflict. This is despite Article 34 of the UN Charter clearly envisaging this as being an important step in the Council's processes. The Article recognizes that a stage exists in the evolution of a conflict before there is a threat which is "likely to endanger international peace and security". It speaks of a "situation which might lead to international friction". And it steers the Council towards investigation before it makes any determination of the existence of a threat to international peace and security.

The benefits of the Article 34 phase in Council processes seem obvious:

1. Informal, non-politicized and sustained processes on the ground, potentially involving direct participation by Council Members, are more likely to build real knowledge of the situation, understanding of the underlying causes of the friction and the real risks.

2. Undertaking a preliminary investigation allows the Council to postpone making a determination. Given that making a formal determination can be politically controversial and threatening for the State(s) concerned, an investigation might still be unwelcome, but offers a pathway that could be more acceptable and perhaps more effective in the long term.

3. The mere fact of undertaking such an investigation may have a sufficiently sanguine and cooling effect on the parties as to deter the escalation of the friction to a conflict situation.

4. Using Article 34 more offers benefits in terms of the Council's reputation with the wider international community. Strong preferences are often expressed by many States, and especially the Non-Aligned Movement and Group of 77 members, for the Council to focus initially on non-coercive, pacific resolution of problems rather than using its most coercive Chapter VII tools.

5. Such "investigation" is a Chapter VI matter and therefore Article 27(3), requiring that parties to a dispute must abstain, may apply if it can be shown that a member is a "party" and there is a "dispute".

It is unclear what is behind the apparent Council reluctance to make more constructive use of Article 34. It seems to be a largely unconscious reluctance, since Article 34 action is so rarely even discussed. Possible factors may include reluctance to commit resources. Serious fact-finding would involve a significant cost to Council Members both in terms of time and money. Another possible factor is the disinclination of some permanent to welcome such initiatives. As large powers with strong networks they often have, or assume they have, sufficient independent understanding of the dynamics of situations of 'friction', as a result, they may be dismissive of the idea of collective engagement, and not appreciate the value this could hold for the broader Council membership. Some members may prefer to retain

pre-eminent positions and not wish collective processes to undercut possible opportunities to act independently. The reluctance may also be borne of the natural human inclination to "wait and see" before expending effort on a potential problem. Perhaps the most likely factor is concern that fact-finding will steer future Council action in a particular direction. States, and their patrons on the Council, will actively avoid any Council engagement on a situation and the stigma that might create.

Despite this reluctance, the case for the use of Article 34, and prevention generally, seem indisputable. Compared to the enormous human and financial costs of conflict, the costs to Security Council Members of undertaking preliminary fact-finding are negligible.

In practice, the Council can implement Article 34 in various creative or customized ways. They could establish a subsidiary body such as a commission, committee or special mission to undertake fact-finding. Creating such a body could be a procedural decision and under Article 27(2) could be set up by a vote of nine members.

The real political value in a fact-finding process, and especially a process which may evolve into an effective preventive tool, is if it is able to operate in a non-politicized way. An investigative process which did not enjoy wide support in the Council and at least the acquiescence of the permanent members would become politicized and likely fail. Consent is critical and a process voted into existence, especially if it involves dissent by a permanent member, does not bode well either for sustaining consent for the process by the parties or for any future substantive Council resolutions that may be required.

Partnership with the Secretariat

Whether it is for prevention or for early engagement on a conflict that is already underway, Council Members, and particularly the lead delegations, need to avoid any sense of competition with the Secretariat. Some Secretariat officials or other Council delegations may be hesitant about Council engagement, arguing that early engagement is better left to the Secretariat, and that Council activity is either unnecessary or would be counterproductive. While there will be some situations that are not "ripe" for early Council engagement, the UN Charter clearly mandates the Council to play this role. The argument also overstates both the capacity and the historical effectiveness of the Secretariat's good offices mandate. While the Secretariat has undoubtedly done good work in many cases, many of the worst cases of violent conflict have had considerable Secretariat engagement. Often good offices do not succeed. There is no guarantee that early Council engagement would have resulted in a different outcome, but in most of these cases it was never seriously pursued.

Both the Council and the Secretariat have an early engagement role to play. It should not be a matter of one or the other; both have a time and a place. Sequencing their engagement or working hand in hand offers the best prospects for nudging protagonists of an emerging conflict into negotiations and political solutions.

In order to maximise the prospects of a successful partnership with the Secretariat, Council Members should:

- Use collective informal channels with the Secretariat for regular situational awareness and information-gathering.

- Engage in a structured dialogue with the Secretariat about their respective opportunities for early engagement on an emerging situation.
- Plan sequenced and/or mutually supportive strategies for both organs to discharge their conflict prevention and early engagement responsibilities.
- Build a genuine partnership with the Secretariat.
- Include in their joint planning the opportunities for leveraging the capacity of other parts of the UN system and, where appropriate, relevant regional or subregional organizations.

Engaging the Secretary-General's personal leadership

Apart from the need to work in a constructive partnership with the Secretariat, one tool that Council delegations may find useful is engaging the personal leadership of the Secretary-General.

In the 1980s, 1990s and early 2000s, delegations profited on many occasions from the personal leadership of the Secretary-General. The Secretary-General can help jointly build and sustain momentum for a conflict management outcome. Employing this kind of integrated and harmonious strategy results in better outcomes. However, a delegation must be willing to invest time and effort at an early stage in private or small group meetings with the Secretary-General and be open to a joint approach.

Over the past few decades, the Council and the Secretary-General have tended to operate in their own "silos". They interact informally at regular lunch meetings but such events have become increasingly stylised. They also interact informally at an annual retreat, conducted off-site, away from Headquarters, and organized by the Secretariat. These retreats focus in a thematic way on issues at a strategic level. They are not generally used as tools for progressing conflict management, but this could be possible. The Council and the Secretary-General also meet publicly in formal settings at Council meetings. But these are highly scripted and not a suitable forum for discussion. They rarely produce any genuine interaction.

The relationship between the Council and the Secretary-General is thus often seen as working at "arm's length". It has been described by an ambassador and senior Secretariat official as "undercooked" compared to the 1980s and 1990s.

There is no doubt that the UN Charter gives a sufficient mandate for the Council and the Secretary-General to work in close partnership. Article 99 mandates the Secretary-General, at his/her discretion, to bring to the attention of the Security Council "any matter which in his[/her] opinion may threaten the maintenance of international peace and security". And Article 98 speaks of the Council entrusting "other functions" to the Secretary-General.

Successful management within the Council

Successfully shepherding early engagement initiatives through the Council requires determined leadership, sustained commitment, sufficient capacity, and clear neutrality.

Some delegations will be cautious about the Council taking a leadership role. There may also be scepticism that a group of 15 can execute the nuanced role that is necessary for effective

early engagement. Based on the divisiveness within the Council in recent times, this concern is valid. The added value that the Council could bring will only be realised if the Council can work harmoniously and in a sustained and non-politicized way.

Collective engagement by the Council provides the following benefits:

- States often have more effect with their peers than representatives of international organizations.
- A group of States working collectively can amplify the political and moral weight of efforts to promote compromise and accept political solutions. This weight is further amplified if the group of States is the Security Council.
- States are able to quickly leverage technical assistance capacity and financing to address root causes.
- Balance, equity and neutrality for all protagonists can be better assured by a group of States acting transparently in a collective, legitimate format such as the Council rather than acting unilaterally, bilaterally or in unstructured coalitions.
- Multiple and diverse players can be an asset rather than a liability. Rarely is it the case that a single strategy at the outset will lead to political solutions to a conflict situation. As understanding of the issue grows, or in response to changing circumstances, flexibility, adaptation and adjustment of strategy are essential. In these circumstances diversity of ideas is helpful. Initiatives that are run outside the Council, unilaterally or with partners, often have a single-minded approach. They can find this adaptation and adjustment difficult. By contrast, a collective approach can allow for diverse analysis and interpretation of the evolving situation and, if well managed, lead to more effective engagement and more sustainable solutions.

Put simply, a unified Council with a harmonised commitment has a higher chance of success. But it is important to stress that a "unified" Council does not need to be a "monolithic" Council. There must be scope for diverse thinking, especially with regard to the practical steps for employing the requisite conflict prevention tools. Indeed, the inherent value of a collective involving 15 members is the diversity of perspectives. A unified commitment to the principle that the Council should actively work for peace to be maintained and conflict to be avoided is essential. A key element in such a commitment is the willingness of each of the 15 Council Members to compromise and adjust their views in order to maintain a harmonised approach.

Council Members, and especially the P5, need to avoid exclusively promoting their own preferred political outcomes and be ready to compromise. Sometimes, this can be achieved under the leadership of one or a small group of elected Council Members who are regarded as "relatively neutral" by the conflicting parties and open-minded about the political outcomes. This will, however, present challenges in terms of process and working methods.

CUSTOMIZING CONFLICT MANAGEMENT TOOLS

Diplomats, international lawyers and Secretariat officials are readily drawn to existing precedents, models and frameworks that have worked, with more or less success, in the

past. It is not easy to negotiate innovative measures, and often institutional structures have grown up around the status quo, which promotes a certain amount of common perspective. As such, it is tempting to fall back on past accepted solutions or models using previously agreed language as the "path of least resistance". However, Council members, newcomers especially, should be cautious about accepting narratives about what has worked (or not worked) in the past and why, particularly from those who are invested in previous decisions.

Even among delegations from permanent members, the reasons for, or even the existence of, past practice can quickly become lost, which can lead to misconceptions. Security Council Report offers an accurate longer term perspective on some issues. SCAD, and the Repertoire it produces, are also useful assets in this regard.

An institution's history is important, because forgetting condemns the institution to repeat past failures. Continuity of policy and enduring basic structures – especially when it comes to operations in the field and the mobilization of resources and logistics – is critical. However, a balance must be struck with the equally pressing reality that each emerging conflict is different, and a "cookie cutter", "one-size-fits-all" approach may not work. This is exacerbated by the tendency for much of the substance to be delegated to groups of often less experienced junior delegates. Limited experience often leads to a "cut and paste" approach.

Historically, the Security Council has been through periods of both innovation and standardisation. Both the Secretariat and the Council need to be constantly alert to the need to customize conflict management tools. This is important not only when a new situation emerges, but also when it becomes clear that existing measures are stalled or failing.

Diplomats serving on Council delegations who have the opportunity to visit peacekeeping and political missions in the field and talk to UN and local actors will appreciate that the issues can look very different from what they read in reports or hear from colleagues in New York. Such experiences can yield innovative ideas that allow more effective customizations than the standard UN or Council template.

In essence, customization involves thinking outside the existing frameworks. In practice, the need may be driven by:

- Realities on the ground (the military situation; the nature of the protagonists and their modes of operation; the risks to civilians; the political and social circumstances; the involvement of outside actors etc.).
- Realities in the Council (concerns by one or more permanent members that need to be accommodated; positions of troop-contributing countries; positions of regional organizations; capacity or resource issues etc.).

Peacekeeping missions, one of the flagship conflict management activities of the UN, were an innovation born of the circumstances on the ground and in the Council which saw the need for a UN presence to be deployed, but no standing UN military force to meet that need. Peacekeeping then continued to evolve in response to the requirements of the contexts into which it was deployed, moving from unarmed inter-positional ceasefire monitoring, through large and heavy operations with broad and complex

mandates incorporating a spectrum of peacebuilding functions, to more targeted and robust missions focusing on the protection of civilians and supporting the delivery of humanitarian assistance.

The following are examples of major customizations or innovations by the Security Council. It is not an exhaustive list. Each example demonstrates a willingness to think outside existing frameworks and act boldly. The examples have not been selected because the innovation was necessarily successful. Some were not. The success or otherwise of these Council innovations was due not only to whether the Council got the decisions right, but also whether implementation was well handled in practice, and whether the situation evolved in an unmanageable way.

UN SECURITY COUNCIL INNOVATIONS

1991 Collective military action against an aggressor. Resolution 678 (1990) on Iraq/Kuwait was a bold and innovative response by the Council to the aggression by Iraq against Kuwait. It authorized a coalition of Member States to use "all necessary means" to secure the liberation of Kuwait and it customized a new response, not specifically foreseen in the UN Charter, for collective military action against an aggressor.

1991 UN Compensation Commission. This was a new kind of Council subsidiary organ established by resolution 687 (1991) to consider claims and award compensation for loss and damage incurred, including by individuals, as a result of the invasion of Kuwait. Nineteen panels of Commissioners made recommendations to the Governing Council which comprised all 15 Council Members but sat in Geneva. Ultimately more than $50 billion in compensation was paid out.

1992 Military support to the delivery of humanitarian assistance. The deployment of international forces to Somalia to create a "secure environment for humanitarian relief operations" was an important innovation (resolution 794 (1992)). Although the intervention was to some extent successful – in the sense that the worst outcomes from famine were avoided – the parallel efforts to mitigate the underlying political and security instability in Somalia were a failure. Almost 30 years later, the instability continues. This has led to a new threat and a quite different Security Council innovation to respond to it – the authorizations, beginning with resolution 1816 (2008), to use force to combat Somali pirates in the Gulf of Aden.

1993–1994 International criminal tribunals. The Council broke new ground establishing customized judicial institutions to bring to account individuals responsible for genocide, war crimes and crimes against humanity in the former Yugoslavia, and Rwanda. The International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) were ad hoc criminal courts established under resolution 827 (1993) and resolution 955 (1994).

1994 Expanding UN peacekeeping – protection of civilians. Prior to the 1990s, the use of force by UN peacekeeping operations had mainly been limited to self-defence. In 1994, responding to the genocide in Rwanda, the Security Council devised the first specific mandate for the protection of civilians in resolution 918. The innovation failed. But in light of this failure, and the failure again in Srebrenica in 1995, the Council began work on a major innovation to the peacekeeping model. By the time the Council deployed a mission to Sierra Leone in 1999, it had expanded the model, authorizing its peacekeepers to use force to protect civilians. This has subsequently become common across most UN peacekeeping missions, and the focus of a few.

1994 Customizing the "all necessary means" mandate for Haiti. In 1994, UN sanctions had failed to restore the elected Government in Haiti, which had been overthrown in a coup, and local forces had frustrated deployment of a consent-based stabilization operation. The United States proposed an "all necessary means" mandate for a coalition military intervention. Most Council Members, including other permanent members, supported this initiative. But a small number of elected members were concerned about the application of the full "all necessary means" precedent from Iraq in the very different circumstances in Haiti. Resolution 940 (1994) was an innovative Council response to the situation. The Council eventually agreed important customizations of the mandate, including deployment of a group of UN military observers at the same time as the coalition forces (an oversight capacity), an obligation on the coalition to be accountable to the Council including through formal reporting, and a commitment to transition to a full UN peacekeeping mission once a secure environment was established.

1999 Transitional administrations for Kosovo and Timor-Leste. Resolution 1244 (1999) authorized an international civil presence in Kosovo – the United Nations Interim Administration Mission in Kosovo (UNMIK). This was a major innovation for the UN system, and its mandate was unprecedented in complexity and scope. The Council vested UNMIK with authority over the territory and people of Kosovo, including all legislative and executive powers and administration of the judiciary. Responding to the situation in Timor-Leste, resolution 1272 (1999) involved a similar innovation by the Council. Following the withdrawal of Indonesian troops in accordance with resolution 1264 (1999) and overseen by the "all necessary means" coalition INTERFET, the Council recognized the need for the international community to provide governance in Timor-Leste. Accordingly, it established UNTAET, a combined peacekeeping and governance model and authorized the UN mission to directly administer the country for a defined period.

2001 New machinery to respond to terrorism. In resolution 1373 (2001), the Security Council created a new machinery and legal obligations on States to respond to the growing threat of terrorism. This was to be overseen by a new Council committee, the Counter-Terrorism Committee. In 2004, the Council further established a standing

expert capacity, the Counter-Terrorism Executive Directorate (CTED). This innovative tool was created as a Special Political Mission, separate from the Secretariat structures, to provide analysis, advice and other support to the Committee.

2002 Working Group to pursue conflict prevention. In the early 2000s, there was some momentum behind the role that conflict prevention could play in pursuit of the Organization's objectives. Secretary-General Kofi Annan had urged the Council to "make conflict prevention the cornerstone of collective security" (SC/6892 (2000). In 2002, the Council established a working group to focus on conflict prevention in Africa (S/2002/207 (2002)). This was an innovative attempt to design new processes for the Council to help manage emerging conflict situations. After a promising start on some specific conflict situations, the working group shifted its focus to general and thematic issues and has become the main Security Council focal point for organizing the annual meeting between the Council and the African Union Peace and Security Council.

2007 Customization of the peacekeeping model for Darfur to include partnership with a regional organization. In resolution 1769 (2007), the Council made another bold peacekeeping innovation and established a joint "hybrid" peacekeeping operation of the UN in partnership with a regional organisation, the African Union. The operation was given a protection of civilians mandate and was focused on bringing stability and protecting civilians in Darfur, in the west of Sudan.

2011 Customization of peacekeeping command and control. In the face of post-election violence in Côte d'Ivoire in March 2011, and notwithstanding a clear authorization in previous Council decisions for UN peacekeepers to use force for protection of civilians, there was uncertainty about actually using force in the deteriorating situation. Traditionally, the Council gave authorizations to use force, but decisions about whether and when to utilise such authorisations were seen as "command and control" matters within the realm of the Secretary-General's responsibilities. In resolution 1975 (2011), however, the Council decided, in the context of sending strong political signals to the parties, to bluntly reinforce the authority to use force. In the resolution it "***stresses*** its full support given to UNOCI, [...] to use all necessary means to carry out its mandate ..." In effect this was a customization of command and control, signalling that the Council accepted that the time had come to actually use force.

2011 A bold experiment for protection of civilians in Libya. Resolution 1973 (2011) was the Council response to an imminent attack by Gaddafi's forces on the city of Benghazi, with grave risks for civilians opposed to his rule. At the time there was growing momentum behind the principle of responsibility to protect (R2P) and a majority of the Council was ready for a major new innovation – a customization of the "all necessary means" mandate to allow the use of force by a coalition to protect a threatened civilian population. The customization included limiting the authorization to the use of air power. Ground operations were specifically excluded. Five Council

Members abstained, some concerned about the principles involved, some preferring to continue high-level political mediation by regional leaders, and others seeing a need for even more customization including further limitations over implementation and a Council-controlled end game. Brazil subsequently articulated the need for a complementary principle of "responsibility while protecting" to accompany the principle of "responsibility to protect".

2013 Expanding UN peacekeeping – targeted offensive operations. In response to the threats posed by armed groups in the eastern Democratic Republic of the Congo and the UN mission's (MONUSCO) failure to act in several instances, in 2013 the Council established the MONUSCO Force Intervention Brigade. This was the first time that a UN force was specifically tasked to carry out targeted offensive operations to "neutralize and disarm" named targets (S/RES/2098). It represented a significant evolution in the robustness and purpose of UN forces deployed as part of a peacekeeping mission, and was an example of an innovation tailored to the specific circumstances on the ground. It was also an example of the Council working in concert with regional partners, as the concept for a regional intervention brigade was originally introduced at the International Conference on the Great Lakes Region (ICGLR), and eventually adopted by the UN and transformed into an international effort.

One of the aims of this *Handbook* is to help delegations think innovatively about the kinds of customization that may be appropriate in the future. It is critical to both take stock of the past and to think outside existing frameworks. It is worth delegations reflecting on the cases above (and the many others that are relevant) which not only represent Council innovations, but may act as a starting point for considering how in other situations things might be done differently and better.

TAKING A LEADERSHIP ROLE

A delegation may wish to take leadership on an initiative in the Council. Even if unintended, early substantive engagement by a delegation in discussions of an emerging issue, whether on its own or in company with others, may result in the delegation being seen by others as taking a leading role.

Sometimes a delegation needs to decide quickly whether or not to speak up. The opportunity to do so does not last long. The situation on the ground may rapidly escalate, other pressures of Council work may "crowd out" the moment for action, or the issue may become heavily politicized within the Council resulting in hostility among the permanent members. The need to decide quickly about whether to speak up and possibly take on a leadership role underlines the importance of preparation, especially understanding the scope that a delegation has in this regard.

A delegation that sees an opportunity to take initiative, or wants to support an initiative being developed by another delegation, needs to initially focus on four aspects:

i. Gauging appetite for Council action through bilateral or small group discussions with Council Members and also with parties to a conflict/dispute.
ii. Articulating the problem and the risks of doing nothing.
iii. Promoting a vision for what the Council can do to help steer the protagonists to a negotiated political solution or the adoption of a Council measure that is designed to "manage down" the conflict situation.
iv. Helping to build a unified Council position.

A delegation does not need a fully developed peace plan or resolution in order to take a leadership role. It may be useful in some cases, but in many situations having such a plan at the outset could be seen as unduly overbearing and prescriptive. A delegation does however need to:

- Have developed ideas for options through networking with the Secretariat and perhaps with the relevant regional organization.
- Demonstrate that it has capacity for leadership within the Council and capacity for practical support in the field.
- Include in its vision possible options for practical working methods to enable the Council Members to implement the vision.
- Be open to including practical ideas from other Council Members.

It can help if there are several like-minded Council Members who can work together. Getting "traction" in the Council on any new idea involves building momentum. And building momentum requires that at least one, or preferably several other Council Members, are willing to be associated with the initiative or at least to speak to welcome the ideas and encourage further work on them. Silence around the table when a new initiative is launched can be as fatal as active opposition.

The procedural context for the initial discussions therefore needs to be carefully considered. There are a range of options:

- Will it be raised at informal consultations under Any Other Business?
- Will it be raised at a "situational awareness" discussion with the Secretariat?
- Will it be raised at some other collective engagement of the whole 15, such as a monthly breakfast?
- Will it be raised with other delegations bilaterally or in small groups and then progressively "socialised" into a collective meeting of the 15?

There are advantages and disadvantages to all these options. Given the increased rigidity surrounding informal consultations in recent years, some may feel ambushed if a new initiative is raised there without warning. Much will depend on the atmosphere at the time. Launching in another format such as a situational awareness meeting could be seen as less confrontational, but some could take exception, viewing it as a misuse of the format. Normally some kind of initial bilateral/small group "testing of the waters" will be the most productive strategy. But occasionally the urgency of the situation may dictate otherwise. And sometimes, the gravitas which can come with a surprise launch may be a useful tactic.

It will always be helpful if the initiative is launched under a supportive presidency. This suggests briefing the President at an early stage, and if necessary delaying until the next (and hopefully more supportive) presidency.

Playing an early or leadership role in promoting a decision for Council engagement will usually follow through to a leadership role in the subsequent implementation. While leadership roles are often assumed by the P5 under the "penholder" system, this does not have to be the case. In the 1990s and early 2000s, it was common for initiatives to be driven from across the whole Council. There was more collective "ownership" of the management of discussions and decision-making. In recent times, there have been a few examples of elected members "grabbing" the pen and an increase in joint penholding between permanent and elected members. Cases include the "humanitarian track" on Syria, and on Ethiopia.

Elected members can play particularly vital leadership roles on issues that risk being politicized by the P5. When Council Members are seeking to build a unified position on early engagement it may be useful if an elected Council Member, who is perceived as neutral as between the protagonists and open-minded as to the political outcomes, can step up.

It has been suggested that that leadership by elected members cannot succeed over the medium term because most conflict situations require sustained leadership over an extended period and elected members only have at most only two years to lead an initiative. However, past practice has shown elected members successfully handing over leadership responsibilities to other elected members when they leave the Council. In 2014, Australia, Luxembourg and Jordan created and took leadership of a new "'humanitarian track" on the situation in Syria, aimed at promoting access for humanitarian assistance. This was separated from the "political track", which continued to be dominated by P5 leadership and heavily politicized. At the conclusion of their time on the Council, Australia, Luxembourg and Jordan successfully handed over leadership responsibilities to another group of elected members – New Zealand, Spain and Egypt – who then handed over to other elected members and so on.

BUILDING SUPPORT AND MOMENTUM

When a delegation(s) decides to embark on an active role in promoting a vision for Council engagement, it will be necessary to build support. Many delegation members will be familiar with doing this in General Assembly committees or other large multilateral fora. But the environment in the Security Council is unique.

Where and when the deals are done

In the Security Council, much important business is done informally. As is common elsewhere in the system, key deals are often done in private discussions between a few delegations. But unlike the practice in other UN bodies, this often takes place even before the issue is "introduced" to the full Council membership or scheduled for discussion at informal consultations. The "penholder" practice has reinforced this trend.

The importance of nine affirmative votes

The positions of the five permanent members will often be a key factor, especially if one of the five is a party to the issue or sees it as important to their national interest. However, delegations sometimes forget that a shift in position by a seemingly strongly opposed P5 member can occur when it becomes clear that the initiative is supported by nine affirmative votes. P5 opposition is not always due to a strongly held position on that particular issue, resistance may come from a general policy preference, or may even be due only to a personal preference.

Also, it is not unknown for P5 delegations to seek to use their "closet veto" power – that is, threatening a veto in private – in circumstances where their capital would be reluctant to cast a formal veto in public. Sometimes permanent members' capitals can be influenced if it becomes clear that an initiative enjoys support and has secured the necessary nine votes, meaning a formal veto would be required.

If nothing else, demonstrating the clear support of nine delegations signals to the P5 that the leaders of the initiative have sufficient backing to control the procedure by adopting a procedural decision. It also signals to any permanent member pushing a simple policy preference that they would be facing a public political cost if they exercised a veto. This can produce a recalculation and the conclusion that their national interests may be better served by negotiating a compromise.

There are other situations where the nine affirmative votes can be critically important. Delegations should always bear in mind that even when the P5 are acting in unison they need to secure the votes of at least four elected members. This produces what some call the "democratic veto", that is, if seven elected members band together and abstain or vote against a draft resolution, it can be blocked.

There have been examples where P5 members have agreed on a draft resolution that many elected members considered unwise. Resolution 929 (1994) – the ill-fated French intervention in Rwanda in 1994 – is a case in point. This resolution was supported by all P5 members but there was significant concern from elected members. Ultimately, the democratic veto did not prevail; the resolution secured the support of 5 elected members and was adopted by 10 votes.

The nine votes required need to be affirmative. This means that an abstention carries the same weight as a negative vote but it allows for a more nuanced political explanation of a member's position.

High-level involvement

A key concern for a delegation seeking to build support for an initiative is demonstrating to Council colleagues from the outset that the other 14 members need to take their position seriously and that a meaningful accommodation is essential if Council unity is to be maintained. Deploying a delegation's ambassador is the best way of achieving this.

In the past, it was normal practice for all new ideas to be floated initially in informal consultations and almost exclusively by ambassadors who remained engaged in the

discussion in this format until a basic agreement was reached on key elements of the action that the Council would take. Only then was a text given to more junior diplomats to resolve the details. The current practice in which much of the initial engagement takes place at the lower level does not promote innovation and customization.

A determined delegation could still use informal consultations to achieve high level control of the negotiations. But additional strategies are also needed, including making use of the monthly breakfast meetings of Permanent Representatives to establish seriousness of intent, inserting Deputy Permanent Representatives into the experts' meetings, and engaging at lunches, receptions, "pull asides", and other bilateral communications.

Delegating initial negotiations to more junior diplomats comes with risks. The intimate nature of the Security Council context, where delegates are in close contact with the same individuals from the other 14 delegations on a daily basis, can result in the forming of close personal relationships. This is reinforced by the practice of delegations structuring their teams in groups of like "experts" who meet in their own "subject bubbles". Because experts spend much time engaging with their counterparts, expert groups can run the risk of "group think" and dominance by a particular delegate, especially when that delegate is from the "penholder" delegation. The problem can be exacerbated where other members of the group are not in fact subject matter experts, but generalist diplomats covering numerous files. This can result in opportunities for advancing national positions being missed, and issues being elevated to the Permanent Representative level too late. The growing tendency to negotiate electronically can also suppress creative interaction between delegations.

Bilateral connections

A delegation wanting to build support for its position and demonstrate its seriousness of intent should include in its strategies diplomatic outreach to the other 14 Council Members in their capitals, as well as outreach in the capitals of non-Council Members with interests in the issues. The purpose is not to debate the details of the issues in capitals, nor to negotiate through this channel, but rather to register that the issue is seen as important and that the position needs to be taken seriously. Obviously, the level of bilateral engagement can be escalated later if necessary.

Professionalism and negotiating in good faith

Trust and respect for professionalism are fundamental commodities in the intense and intimate world of the Security Council and are essential if a delegation wishes to play a leading role on an issue.

Collegiality is also important but the reasons for this are not always easy for outsiders to understand. Delegations sit in the same small room as their 14 colleagues almost every day. A delegation can have significant differences with another delegation on one issue in the morning, then, on a different issue in the afternoon the two delegations may be on the same side and looking for support from each other. In these circumstances trust and professionalism are critical for advancing an initiative.

Delegations can lose trust and respect in various ways, including:

- The way they manage their presidencies. There have been cases where delegations put so much effort into planning and delivering events for their presidencies that they fail to make a full or effective contribution across the rest of their two-year term. It is noticed when delegations are inactive on threats to international peace and security in specific cases, but become highly active in promoting their own presidency events. Similarly, it is noticed when delegations become competitive about promoting large numbers of briefers for their presidencies or trying to secure large numbers of outcomes. Colleagues see this as evidence that the delegation in question has not made the transition from "Assembly mentality" to "Council mentality".

- Springing surprises on other Council Members, especially in formal meetings or when casting their vote. Some Council Members can be unforgiving of such treatment and it will be remembered for a long time.

- Forgetting that time is precious in the Council. The last thing Council colleagues want to hear in formal meetings are long, learned statements for the record from delegations which have not played an active role in informal negotiations or which manifestly have no national interest in the situation under discussion.

- Even more damaging to the respect in which a delegation will be held is when long prepared statements are made in informal consultations on issues on which the delegation is not playing an active role. In the past, informal consultations were focused and highly interactive. Delegations rarely if ever spoke from notes, and it was normal for many delegations to say only a sentence of support, or nothing if they had no proposals to make. More recently there has been a trend for some delegations to give long prepared speeches.

Negotiating in good faith is critical to maintaining professionalism and respect. A delegation's ability to progress or exercise leadership on an initiative will be enhanced if it is respected for professionalism and collegiality and has always negotiated in good faith when it comes to other members' initiatives. A key principle of good faith negotiation that is sometimes not well understood is that when a delegation cannot support another's initiative and intends to abstain or vote against it, they should never seek to amend or customize the other side's draft resolution. If proposals for change are made, then it will be assumed that the delegation is genuinely open to voting in favour of the draft if their position can be accommodated. Colleagues will see it as an act of bad faith if amendments are made to meet a delegation's position, but when it comes to the vote the delegation still does not support the amended draft.

Building bridges

In recent years, the absence of "bridge-builders" among Council delegations has proved problematic. The situation was acute during the Cold War, when there was pressure on delegations to align with one side or the other. And if not aligned many delegations felt obliged to remain silent.

The "with us or against us" approach, and allowing this to infect the whole Council agenda, is ultimately destructive of multilateral diplomacy. If it persists over time and across many issues, the entire UN system is undermined.

It is natural, on important or controversial issues, for States or parties to conflicts to stake out high-ground positions consistent with their preferred maximum outcome. In some hard cases this may continue for extended periods. But the international community has a strong interest in its institutions like the Security Council finding acceptable middle ground on most issues most of the time.

Achieving that middle ground, finding the compromise – the "win/win" scenario that gives something to both sides – is difficult for the parties to orchestrate by themselves. The value of multilateral institutions like the Council is that they bring to the table other States that are able to build bridges and help find solutions that will lead to tolerable middle ground.

Actively seeking middle ground, building bridges and achieving compromises have all been challenged as being irresponsible or out of place, especially for elected members. However, this sort of criticism ignores the fact that under the UN Charter, being a member of the Council carries responsibilities for all members. Under Article 24, all Council Members agree that they are acting on behalf of the international community. This responsibility challenges all Council Members, and especially those that are not intimately involved in a conflict or dispute, to actively look for solutions. The Charter signals that there is a clear responsibility to be active rather than passive.

Walking the talk

Council Members, particularly the P5, are likely to be sceptical or even dismissive of a fellow Council Member who advocates loudly for the Council to act on a complex situation requiring significant funds and resources from the UN and often political risk as well, but who demonstrates no clear intention of making any practical national contributions themselves. Moreover, States both inside and outside the Council with significant regional interests at stake, will likely also be unimpressed by risky measures when the advocate only "talks the talk" but does not "walk the walk".

A delegation that can demonstrate that it is prepared to put something from its national resources on the line, however small, can improve its credibility and the respect with which its initiative will be viewed. A delegation that has focused at an early stage in discussions with capital on the national resources it needs to have lined up if it is contemplating a leadership role will have identified this issue. It will have begun to think in advance about possible national contributions it could make in various circumstances. For each country the possibilities will be different. But having something to put on the line, if and when the time comes, can make a real impact.

Utilizing the power of the presidency

Many elected members focus significant energy on staging an event (often several events) during their presidency that highlight a particular thematic issue. For some this is a safe substitute for legitimate activism on country-specific issues. For others it is born of a desire

to have a predictable occasion at which their Minister or other political leaders can be seen to be exercising leadership in the Council. Some of these presidency-related initiatives have had lasting value and produced thematic resolutions that have set benchmarks and norms that continue to guide Council decision-making. But, in general, the significance of thematic debates, statements, and even resolutions quickly fades.

However, presidencies can be important for the development of initiatives seeking to manage or prevent conflict in specific situations. The Provisional Rules of Procedure envisage a significant role for the President of the Council. But in practice whether that potential is exercised or not can depend on the inclinations and skills of the individual holding the presidency. Also, Council practice can inhibit the scope for presidents to exercise leadership. Furthermore, the Council goes through phases where presidencies are active and effective, and other times when the role is limited.

A good example is the President's engagement with the media. In the 1990s, Council presidents were trusted to engage with the media on their own, and this responsibility gave scope for significant leadership. More recently, presidents have been constrained by a practice that "elements for the press" must be negotiated at the end of closed consultations of the whole. This typically allows the other delegations to control what the President may or may not say. Whatever scope for leadership may still exist will therefore depend on the mastery of the sitting presidency and its negotiating skills.

Multilateral decision-making relies on leadership by the Chair of the negotiations or the President. This typically involves four responsibilities:

i) Neutral management of the meetings.
ii) Exercising the formal powers in the relevant Provisional Rules of Procedure.
iii) Exercising informal leadership often for forging interactions between delegations, both in small groups and bilaterally, designed to produce common ground.
iv) Producing a "Chair's texts" which contain compromise language that the Chair judges is the best common ground between the delegations.

In the Security Council, however, the President rarely assumes the latter roles, although they are not formally precluded by any rule or identifiable decision. This is partly because practices have evolved over time that limit the role of the President, and also due to the monthly rotation of the Presidency, as these roles usually require a longer time horizon.

An important option for ameliorating the negative impact of the monthly rotation of the Presidency is building a group of like-minded delegations who commit to progressing a particular issue across several presidencies – sequential if possible, but if not, over an orchestrated period.

There have been plenty of successfully active presidents in the past. There is always potential for a president to play a decisive role either in assisting in bringing a new issue to the table, or alternatively in frustrating the advancement of an issue. In this context, timing is critical when deciding when to launch or build momentum for an initiative.

Public diplomacy and the media

In the world of modern communication technology, the way that issues are framed and understood can make a difference to the political will of hesitant leaders to make compromises. Fostering relationships with journalists accredited to the UN is essential for building support.

Ambassadors often speak to journalists at the "stakeout" adjacent to the Council Chamber, delivering a message from the Council, or making a public pitch for their national positions. This is most effective when ambassadors understand and are trained in public diplomacy. An ambassador with excellent communication skills is a major asset.

It will also sometimes be necessary for an ambassador to enlist a supportive approach from their own national media. Despite good support from political leaders, domestic public opinion may be uncertain or concerned about the direction in which a matter is heading in the Council. If left unaddressed, over time this could lead to constraints on the delegation's political space for action, and also encourage sceptics in the Council to push back more strongly.

Public diplomacy is not just about communicating with the media. It also means having an active presence on social media. A delegation wishing to play a leading role on a particular initiative needs to actively and smartly engage on all relevant platforms.

Using different "formats" and side events

Some delegations take steps to buttress their case for an initiative by organizing one or more side events, sometimes using established but informal Council "formats" and sometimes other approaches. These can include:

- Arria-formula meetings.
- Informal Interactive Dialogues.
- Small group events with Council colleagues.
- Events with experts and NGOs.
- Hosting colleagues to a working breakfast/lunch/dinner.
- Inviting the Secretary-General or a senior official to meet informally and privately with Council colleagues.
- Sofa talks.
- First-day-of-presidency briefing of the wider UN Member States, as well as end-of-presidency wrap-up sessions.
- Meetings with different regional groups.

In current practice, Arria-formula meetings provide an opportunity to enlist input from NGOs and other civil society sources and recognized experts. This can help build knowledge and political momentum. But there have been cases where such meetings have ended up being counterproductive. Some Council Members resent assertive NGOs, and for this reason may boycott Arria-formula meetings. Sometimes the NGOs or experts end up alienating Council colleagues rather than persuading them. Sometimes the organizers of Arria-formula meetings are more interested in using the event to play to domestic audiences than to build support for their position. For all these reasons it is important to think carefully about how

such an event is handled. For further information on Arria-formula meetings see Tool 3 "External information".

Informal Interactive Dialogues have evolved over time. For a period, they were mostly used as tools for outward communication – that is, private, open-ended discussions for the UN membership at large. Sometimes these became stilted, especially when the Council Members closed ranks and presented a united front rather than engaging participants to help resolve differences. At best they were more useful for those outside the Council. Rarely if ever were they useful for actually building momentum.

More recently IIDs have been used by the 15 Council Members to invite high-level officials from countries or organizations to discuss substance. This enables private, off-the-record meetings with one or more Member States and relevant briefers with a more frank and interactive exchange of views than those which take place during formal meetings. In effect, IIDs are the equivalent of closed consultations of the whole, the difference being that non-Council Member States and briefers from outside the UN system can be invited to participate, whereas by convention, that is not possible in closed consultations. This use of the format can be leveraged to build momentum. But there are many pitfalls that afflict participation by States outside the Council. For further information on IIDs see Tool 3 "External information".

"Wrap-Up" meetings, organized by the outgoing President at the end of the month, can also help progress an initiative and build momentum. Like Arria-formula meetings and IIDs, the popularity of Wrap Ups has ebbed and flowed depending on individual presidencies and the general mood in the Council. Initially Wrap Ups were seen as a tool for promoting transparency. Over time, many came to the view that the benefits were minor and were outweighed by the time and resources expended. But Wrap Ups do not need to be a boring repetition of what the Council has decided during the month. They can be used to highlight and promote key pieces of unfinished business and stimulate momentum. To achieve this however a good partnership is required between the delegations promoting an initiative and the outgoing President.

Events with small groups of Council colleagues can be particularly useful. These might be limited to Council Members or perhaps also include a recognized expert, a party to the conflict, a victim of the violence, or an organization with field experience such as the International Committee of the Red Cross (ICRC) or Médecins Sans Frontières (MSF).

Working social events can also play a positive role in building momentum. Ambassadors are more likely to explore options for bridging differences during informal and private discussions over a meal rather than in a meeting room at the UN. Similarly, the Secretary-General or senior UN officials can play a more frank and open role in promoting understanding and bridging differences between delegations at informal private events than in meeting rooms.

Engaging key stakeholders

Key stakeholders in UN conflict management efforts may include:

- The conflicting parties

- The Secretariat
- TCCs/PCCs
- Potential TCCs/PCCs
- Regional actors including regional organizations
- Relevant international organizations
- Other States with influence and engagement in the region
- Recognized subject matter experts
- NGOs with field experience in the relevant area

Security Council Members are sometimes perceived by key stakeholders as remote from the real issues and unable to influence events on the ground. The Council at times is seen as an "ivory tower", where weeks are spent arguing about issues which are important internally for the members, but are distant from what is happening on the ground and have limited relevance to effectively managing the conflict situation. This problem becomes even more acute when some members are seen to be instrumentalising the Council as a vehicle for advancing a specific national foreign policy agenda against another State, for scoring political points, or to appeal to a domestic political audience.

There have been occasions when parties to conflicts systematically ignore Council statements and resolutions. Open flouting of sanctions has also become more common. UN peacekeepers and humanitarian aid workers are regularly attacked and even killed.

Negative perceptions of the Council by key stakeholders sometimes leads to them becoming publicly critical. This occurs when there is a concern that the Council Members have not listened, not understood the realities on the ground, and not taken into account the positions of those whose cooperation will be essential if the measures being adopted are to succeed.

The current model of formal decision-making effectively relegates stakeholders to participating only by making a statement at the time of adoption of an already negotiated resolution. For many years, it was difficult to find ways to informally involve key stakeholders in the collective work of the Council at the informal level. However, the recent evolution of the use of IIDs may be a hopeful sign.

The Council working with affected States in a systematic way and allowing broader participation in the development of conflict management measures can get lost due to a mixture of historical practice and the pressure of the Programme of Work. This is generally seen as problematic and does not afford key stakeholders the level of respect and engagement most expect.

In some situations, such as dealing with Da'esh for instance, or an act of overt aggression such as the invasion of Kuwait, a firm and closely held approach by the Council, keeping outsiders at arm's length, may be both necessary and appropriate. But that model is often inappropriate and does not need to be the norm.

Key stakeholders want to be assured that the Council is listening to the protagonists, that it is aware of the realities on the ground and in the region, and that it properly understands

the conflict and its root causes, which often lie beyond the political and security situation and are anchored in economic and development issues. They also want to be engaged in the formulation and development of measures to prevent or manage conflict. Customizing working methods to address these weaknesses requires creative thinking on the use of procedure and working methods.

Ultimately, it is possible for Council Members, in most cases, to make efforts to respectfully and substantively engage key stakeholders. Delegations considering promoting an initiative might consider:

- Organizing a private, informal round table (or series of events) with relevant key stakeholders. These could take place in New York and/or in the region, and could include other Council delegations.
- Including in their proposals situation-specific provisions that would ensure ongoing meaningful and structured engagement between Council Members and key stakeholders.
- Organizing a dedicated visit by Council Members to the country or countries in question, giving the opportunity to listen directly to parties on the ground. This can be particularly helpful when one of the protagonists is not a State.
- Ensuring a process for sustained participation and input to the Council by relevant international economic and development actors.
- Encouraging a relevant sanctions or counter-terrorism committee to invite the participation of key stakeholders.
- Encouraging visits by relevant subsidiary organ Chairs to affected States and regions.

Taking such steps could help to ensure greater acceptance by key stakeholders, and would certainly improve the Council's reputation.

The working methods and issues regarding participation by key stakeholders in the work of the Council are considered below in more detail in the section on "participation".

USE OF PROCEDURE AND WORKING METHODS

Procedural challenges can affect a delegation's ability to operate effectively within the Council. This section of the *Handbook* focuses on using certain procedures and working methods to progress outcomes. It is not intended to be a comprehensive guide to the procedure of the Council. There are already excellent resources available to help delegations with such matters, including:

- The Provisional Rules of Procedure of the Security Council (S/96/Rev.7).

- Security Council Note 507 – S/2017/507 – a Presidential Note on working methods, which is agreed by the Council and updated from time to time. Updated versions always use the document reference S/xxxx/507 based on the first iteration of this series, which was adopted as an initiative of the Japanese Presidency in 2006 as Note S/2006/507.

- Security Council Presidential Notes provide advice on working methods issued in between publication of updated versions of Note 507. They are available at https://www.scprocedure.org/chapter-1-section-5n.

- SCAD produces and maintains the detailed and useful *Repertoire of the Practice of the Security Council* produced under the 1952 mandate of the General Assembly in resolution 686 (VII) and available at https://www.un.org/securitycouncil/content/repertoire/structure.

- Security Council Report (SCR) has produced a useful and concise reference tool *The UN Security Council Handbook; Users Guide to Practice and Procedure* available at https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/the-un-security-council-handbook-by-scr-1.pdf.

- The comprehensive volume *The Procedure of the UN Security Council,* 4th ed. by Loraine Sievers and Sam Daws (Oxford, Oxford University Press, 2014) and the accompanying website on which updates are posted: https://www.scprocedure.org/.

Effectively using procedure

Grappling with the plethora of documents and materials produced over the years is part of the challenge faced by all delegations in making the best procedural use of the Council and employing working methods to achieve their desired outcomes.

Important lessons that delegations have learned include:

- It is important to know the key sources and the history of working methods and procedures. Delegations with ambassadors who are knowledgeable about the key sources and are comfortable with asserting strong procedural positions can be especially effective.

- Good lawyers with a creative policy edge to their skills will be beneficial to a delegation. Delegations who have in their team one or more international lawyers who have served in or closely observed the Council earlier in their career will have a distinct advantage.

- The complexity of Council processes and working methods can overwhelm many delegates and most external observers. Many are susceptible to manipulation about what is possible and what is not. Knowledgeable "insiders", including P5 delegations and sometimes also Secretariat officials, can often persuade delegations that things are the way they are because they have always been that way and cannot change.

- Some of the most problematic processes of the Council are relatively recent. It is easy to forget, when confronted with resistance to doing something differently, that the Council often innovates successfully. It can do things even when it seems stuck. Its formal procedures can be changed by majority vote and without veto, and most of the Council's real work is done informally, and the informal processes are open to constant evolution.

The agenda – trickier than you might think

The media, commentators and even Council delegations often refer to a country or situation being "on the Council agenda". The correct procedural description, however, is that the Council is "seized" of a situation. In technical terms there is a document called the "Summary statement of matters of which the Security Council is seized". This "seizure list" is maintained by the Secretariat.

Seizure happens when the Council has formally considered an issue. Usually, the last paragraph of a resolution indicates that "the Council remains seized of the situation". This is useful because it indicates to the protagonists, and to the international community at large, that the Council does not consider the issue resolved, it has not concluded its work on the subject, and is watching developments.

Getting a new situation formally before the Council requires that the Council become seized of the matter. This is a key procedural element and is a precondition for subsequent employment of any of the Council's formal conflict management tools.

The language in which seizure is described, whether the issue is characterised as a "dispute" or a "situation" or in some other more neutral way, may prove significant at a later stage. This is also relevant with respect to voting and the application of Article 27(3).

The correct use of the term "agenda" relates to the formal meetings of the Council. Any formal involvement by the Council responding to an actual or potential conflict must be preceded by a decision to adopt an "agenda". This applies to any formal action, whether a resolution, statement, decision, letter, or even holding a debate. It does not apply to informal action, such as informal consultations, IIDs, Arria-formula meetings or situational awareness briefings, although in practice most of the situations discussed in informal formats are already on the seizure list.

A specific or general agenda item must be adopted at the start of a formal Council meeting, as provided for in Rule 11 and Presidential Note S/2017/507, paragraph 14. In current practice, this is a necessary prerequisite for the adoption of any resolution or statement by the President. It is not a requirement, however, for the issuance of any Council decision as a Presidential letter or for the issuance of a statement to the press. That is why, under current practice, when the Council considers several different matters at a single sitting, the President will adjourn and then open each subsequent meeting with the adoption of the different relevant agenda item.

In normal practice, the Secretariat, with the approval of the President, will circulate a draft provisional agenda for each matter informally to all Council Members – generally a day before the scheduled meeting. (Technically Rule 8 requires that this be circulated three days in advance, but in the consensus environment that often prevails this rule is routinely ignored.) Sometimes the draft provisional agenda is circulated in informal consultations, sometimes electronically. It will normally have a minimum of two items: first, Adoption of the Agenda and second, the name of the matter to be discussed.

This informal procedure, and assuming the acquiescence of the 15 Council Members, provides the President and the Secretariat with assurance that members are comfortable with: i) a formal meeting being convened, ii) the timing; and iii) that the description of the matter is acceptable.

It also allows delegations to raise for discussion the question of participation by States who are not members of the Council as well as experts including representatives of other organizations under Rule 39 of the Provisional Rules of Procedure.

The sitting presidency's political coordinator will circulate on the network of Council political coordinators a weekly and nightly outline of the Programme of Work that includes further detail, such as recently received Rule 37 requests for participation, and any addition of a briefer or the latter's details. This allows for potential difficulties to be detected, and if possible resolved, by the presidency ahead of a meeting. There are earlier opportunities for such reactions, including the monthly lunch meetings of the political coordinators, hosted by the incoming presidency, and the Permanent Representatives' breakfast meeting, hosted by the presidency on the first working day of the month.

If there are no objections by any of the 15, the formal meeting will then be notified in the Journal. When the meeting opens, the President's script will normally say something like, "The Provisional agenda for this meeting is xxxx". Following a slight pause and if no objections, the President then gavels "The agenda is adopted".

But it is not always straightforward. Sometimes members may have differing views about the timing or the description of the matter to be discussed, or about broader participation in the meeting. Some may feel the language describing the matter is unbalanced, or that there are other practical considerations that need to be addressed. Sometimes the issue can be more serious. Some delegations may see a meeting as premature. Or there may be a more fundamental issue with one or more delegations opposed to the issue being discussed at all.

The informal discussions of the Council operate by consensus, so if it becomes clear that there is not consensus on the draft agenda the burden then shifts to the delegations that support having a formal Council meeting. Rule 2 of the Provisional Rules of Procedure allows a single member of the Council to call for a meeting. So if there are objections, the Council Member attempting to initiate the discussion must request the President to convene a meeting under Rule 2 and specify the situation for discussion. In the past such a request needed to be in writing. This is no longer the case.

The President must then schedule a formal meeting. Practice has established that the timing of the meeting remains at the discretion of the President. A requesting delegation cannot specify this.

When the meeting is convened, there can be no discussion of the substantive issue until the agenda is adopted. Delegations that object can then publicly raise their objections and express opposition to the adoption of the agenda (or to the presence of a briefer under Rule 37 or Rule 39). This precipitates a procedural vote on the agenda and whether the discussion can proceed.

The adoption of the agenda is recognized as a "procedural matter" and therefore under Article 27(2) of the UN Charter can be adopted with nine affirmative votes and the veto does not apply. It is therefore important for the meeting initiators to ensure in advance that they have the support of at least nine colleagues before asking the President to call the meeting.

In recent times, the proponents of holding the meeting have prevailed in most cases of contested agendas. At times simply generating a public debate may be sufficient for their purposes. But winning a procedural vote on adoption of the agenda can be a pyrrhic victory, as it may intensify the objections of their opponents and doom any substantive follow-up action to a veto.

Informal meetings – procedural traps and opportunities

As mentioned previously, the Council undertakes much of its work informally. This is a key vulnerability, as it disincentivizes decision-making. Because informal mode operates only by consensus, it effectively extends the veto from the 5 permanent members to all 15, and to both substantive and procedural matters. An exception to this is Any Other Business (AOB) under consultations. There does not need to be consensus for discussion of an issue under AOB, but there is a practice of trying get agreement if the topic is likely to be controversial.

Technically, a "Council meeting" only happens when the 15 members gather formally – almost always in the Council Chamber – and an agenda has been adopted. Accordingly, all other meetings, such as informal consultations or other formats, events or actions, are meetings of "the members of the Council". The distinction matters because under the Council's practice, the Provisional Rules of Procedure only apply in meetings of the Council. This means that no formal or legal decisions can be taken except by the Council meeting formally. The only exception under present practice is decisions comprised in a letter by the President.

Rigid adherence to this practice has proved problematic in the past and caused irritation. When Council Members have been at a joint event, with the African Union for instance, some have resisted using language for joint statements that suggested "the Council" was engaged or which implied agreement on anything substantive.

Even more significantly for the Council's own internal working methods, the practice of requiring unanimity in informal contexts also applies to matters of process and procedure. Although there have been some cases where actions have proceeded in the face of objections, but this was perhaps because objecting States acquiesced. This has a strange result. Although the UN Charter specifies in Article 27(2) that when meeting formally there are no vetoes on matters of procedure, by contrast when meeting informally there are 15 vetoes on procedure. Delegations seeking to improve informal working methods to deal with conflict management issues have sometimes simply given up when faced with this obstacle. As a result, the current working methods of the Council set an even a higher threshold for the approval of non-resolution products than resolutions. Presidential Statements (PRSTs), press statements, letters from the President and elements for the press require consensus from all 15 Council Members.

The issue is particularly important when it comes to conflict prevention and conflict management. Successfully handling such matters requires sensitivity, and it is very rare that they can be handled sensitively in the public glare of a formal Council meeting, even a closed one. Informal working methods are almost always preferable. Successful handling also requires flexibility, yet Council informal working methods can be inflexible and there is often resistance to change. By contrast, the Peacebuilding Commission's configurations seem to be able to manage informal processes more effectively.

Council Members seeking to progress a conflict management issue in an informal context and finding themselves frustrated due to obstructions over process may consider:

- Having in their "back pocket" a draft resolution to formally decide the procedural point at issue.
- Being ready to circulate the draft resolution and propose a decision under Article 27(2) when confronted with procedural traps or with delegations that refuse to compromise on a practical procedural working methods issue.
- Being prepared to state an intention to request a formal meeting under Rule 2 that would require the President to convene a formal meeting and would force a public vote on the issue.

All these ideas have been effectively employed in the past.

More generally, members may find value in building clear understandings about majority decision-making on procedural issues, including decisions on adjusting processes, into any new informal mechanisms put in place.

Council Member party to a dispute

An important provision of the UN Charter that is rarely considered is the rule in the proviso to Article 27(3) that a Council Member which is a party to a dispute must abstain if the decision is being taken under Chapter VI or Article 52(3). Many of the conflict management tools considered in this *Handbook* fall within those provisions. Unfortunately, there is little practice that overtly discusses the interpretation of what constitutes a "party" or what constitutes a "dispute".

There are, however, cases in the early history of the Council which shed light on the issue, such as in 1946 when the United Kingdom and France did not participate in a vote on Syria and Lebanon, and in 1947 when the United Kingdom abstained from votes on the Corfu Channel issue and on the Egyptian question. Elected members including India, Pakistan, Egypt and Argentina have also abstained in cases where they were involved in the situations in question. But there have been few, if any, instances of the application of the proviso in the past 60 years. To the contrary, there is much evidence of *failure* to comply with Article 27(3). The most notable in recent times was on Ukraine (by Russia). Other cases include Georgia and the Democratic People's Republic of Korea (DPRK) (by Russia), and Libya, Grenada, Nicaragua and Panama (by the United States).

There are practical issues in forcing the application of Article 27(3) in specific cases. But ignoring clear provisions of the UN Charter is very curious. Even more curious is the fact

that elected members have not called out or challenged these actions. In fact, in recent times the proviso has rarely been directly discussed in the Council.

Because of the limited and inconsistent practice there is no settled interpretation of Article 27(3). The International Court of Justice (ICJ), in the *Namibia* case, found against South Africa's complaint about a Council decision in which the proviso had not been applied, on the basis that the issue before the Council was a "situation" rather than a "dispute" and that South Africa could have objected at the time of the decision.

The ICJ decision emphasizes that Council Members need to be alert to the importance of the way that issues are framed in Council agendas. Whether they are framed as a "situation" or a "dispute", or in some other more ambiguous way, can matter at a later stage.

The predominant word used in Chapter VI is "dispute". However, Articles 34, 35 and 36 recognize that both "disputes" and "situations" can come under Chapter VI. There is a sense from the overall scheme of Chapter VI that a "dispute" is a case in which the issues are more concrete. By contrast, "situations" are more nebulous and involve issues that may or may not lead to conflict. Trying to get a settled interpretation in the abstract is difficult. The issues are more likely to be addressed in ongoing practice.

If a situation arose where a permanent member manifestly a party to a dispute had cast a negative vote, the option exists for the President to make a ruling regarding the applicability of the proviso in Article 27(3). Such a ruling could come either at the sole initiative of the President immediately after the vote, indicating that pursuant to the proviso in Article 27(3) the resolution was adopted despite the negative vote of the permanent member. Or it could arise in response to a point of order by another Council Member immediately after the vote and before the President stated the outcome of the vote.

In a case initiated solely by the President this would likely trigger a point of order by the permanent member that had sought to cast a negative vote. In a situation where the issue emerged because of a point of order from another Council Member immediately after the vote, the President would be required to make a ruling.

Rule 30 specifies that when a point of order is raised, the President must "immediately state his[/her] ruling". If the ruling is challenged, the President must submit the issue to the Council for an "immediate decision". Rule 30 goes on to provide that the ruling "shall stand unless overruled". Accordingly, in either scenario, the permanent member who tried to exercise the veto would then have to secure a majority to overrule the President.

Any scenario involving such a direct challenge to a permanent member would involve high stakes and would likely undermine the constructive context which is desirable for future Council engagement on a situation. Sometimes, however, it may be the best way forward.

In other cases, the prospect of such a scenario playing out in public may encourage the parties to seek a compromise. The level of a permanent member's obduracy may be influenced by the risk and political embarrassment of a negative vote being determined to be

a compulsory abstention. Moreover, if some negotiating incentives can also be offered, this may make the prospect of a voluntary abstention more attractive.

Participation

The UN Charter clearly recognizes that while the Council has primary responsibility for maintaining international peace and security, other actors and stakeholders whose interests are keenly engaged can add value to conflict management in different ways. It encourages the Council to allow such actors to "participate" in the work of the Council on an ad hoc basis. Such actors may include other UN Member States, parties to disputes, international organizations, regional organizations and even individuals or non-governmental organizations.

Over the years the Security Council has generally applied a practice which defines participation very narrowly. Even States with strong interests in the issues being discussed are usually given only a ritualistic opportunity to participate by speaking in a formal meeting once the decision has already been finalised by Council Members in private. Many States have felt aggrieved that this narrow application of the Charter has not afforded them due process. They believe that important opportunities for them to add value to the Council's work have been lost and mistakes have been made.

Most substantive work by the Council, and all of the negotiation between its members, takes place informally. The question therefore arises whether it would it be possible to make changes to Council working methods to allow participation which would elevate these participants to a more engaged status at appropriate points in the informal discussions. Because the Provisional Rules of Procedure do not apply to the informal work of the Council, there is considerable scope within the general framework set out in the UN Charter to accomplish this.

The spirit of the relevant provisions in the Charter – Articles 31, 32 and 44 – seeks to promote inclusive and meaningful participation.

- Article 31 relates to the **participation of UN Members**. It indicates that they "may participate, without vote" when the Council considers that the interests of that member are "specially affected".
- Article 32 relates to the **participation of parties to a dispute**, including both UN Members and non-UN members. It indicates that parties to a dispute "shall be invited to participate, without vote", subject to any "just conditions" the Council may lay down for the participation of non-UN members.
- Article 44 relates to the **participation of UN Members providing armed forces**. It provides that the Council "shall … invite" such members to participate in "decisions concerning the employment of contingents".

Rules 37, 38 and 39 of the Provisional Rules of Procedure supplement the rights of non-members as provided in the UN Charter, providing for participation for non-members, other organizations and even individuals in certain circumstances.

Article 32 confers a legal right to participate on States that are party to a dispute. However,

concerns about inadvertently recognizing statehood have caused some non-State parties to be admitted to participate under Rule 39 of the Provisional Rules of Procedure instead. Under Article 31, the Council has significant scope to determine whether a UN Member's rights are "specially affected", but cannot refuse participation when it has made this determination. Whether Article 31 confers a legal right to participate is unsettled, but relevant in respect of the possibility of a resolution agreed without participation being illegal and void.

Despite the clear and strong provision for participation in the UN Charter, Council practice has in most cases effectively reduced participation by non-members in the practical work of the Council to that of remote observers. They are excluded from substantive discussions and negotiations, and only have the opportunity to speak *after* the substance of decisions has been agreed. This is seen by many as far from being the "just conditions" prescribed in the Charter.

In 1946, the Council admitted Albania (at the time a non-member) to participate in a limited fashion in discussions on the situation in Greece. Agreement could not be reached on whether Albania could participate under Article 32, so the Council acted under Article 30 and invited the Albanian Government to take a seat at the table for the purpose of "making a factual statement" to the Council. This demonstrated that the Council can create other types of legally acceptable participation as long as they are consistent with the substantive rules of the UN Charter.

The practice of holding formal meetings with troop- and police-contributing countries (TCCs/PCCs) was introduced as a response to TCC/PCC concerns. However, the meetings are generally stilted and rarely add substantive value. Article 44 of the UN Charter goes further, it accords to TCCs a right of participation "in decisions" about the employment of contingents. At face value this would seem to include a right to vote. But there is no practice to clarify this interpretation because Article 44 is limited to military enforcement operations (Article 42) to which states are *obliged* to provide troops (Article 43). This procedure has never been tested as such operations have never been implemented. Nevertheless, the language of Article 44 reinforces that the Charter contemplated the Council being able to operate with much wider and more active participation.

Focusing on participation in formal meetings is, to a large extent, a "red herring", given that formal meetings essentially "rubber stamp" outcomes which have already been informally agreed among Council Members. What really matters to parties to disputes, to TCCs and to those whose interests are specially affected, is to get to participate meaningfully and add what value they can in the informal working methods and negotiations leading up to agreement.

There will always be a legitimate place for informal consultations involving just the Council Members. As with all negotiations, exploratory discussions between Council Members on resolutions with significant points of difference will usually be more productive if undertaken out of the spotlight. Final decision-making responsibility rests with the 15 members. But this does not need to be a justification for excluding participation in all key informal discussions. The practice of wider use of IIDs for involvement of outside parties is an encouraging development even if those IIDs remain focused more on sharing information

rather than the development of substantive outcomes.

Delegations crafting initiatives to help prevent or manage conflict could consider options for more innovative participation in informal working methods than has been the case under the historical practice of the Council.

Council visiting missions

Council visiting missions are both a useful conflict management tool and a helpful working method (see Tool 6 "Visiting missions" for more information). They have been a relatively common working method since the 1990s, however they ceased during the COVID-19 pandemic, and there was only one in 2021, and none in 2022. There is inherent value in Council Members travelling together, building relationships and engaging in informal discussions. Visiting missions have helped the Council to respond more effectively to conflict situations. A good example was the mission to Indonesia at the height of the Timor-Leste crisis. However, in recent decades the value of missions in managing specific conflict issues has faded.

Technically when in the field, missions are subsidiary organs of the Security Council. The Council is legally considered to remain at UN Headquarters even if all its members depart on the mission. Missions are therefore constrained by the same procedural limitations as other informal methods, yet they have at times issued outcomes, such as a Presidential Statement during a visit to Darfur.

Initially, visiting missions comprised a select group of Member States and were organized in response to the specific dynamics of a conflict situation. From 2005 onwards, there was an expansion in the number and composition of missions. It soon became the norm for all Council Members to participate in all missions. Missions became less focused on being a working method designed to address specific aspects of conflict management. And as the practice of organizing visiting missions became progressively routinized, their ability to have a real impact diminished.

In recent years, they have largely been focused on relationship-building and information-gathering. But some missions have provided an opportunity for Council Members to present strong messages directly to senior Government officials. They have also helped to create links with senior mission leaders, important NGOs and local civil society representatives.

Some argue that members of visiting missions return to New York with an enhanced appreciation of the challenges encountered in the field and that this adds value. But it is important to bear in mind the costs involved. The impact on the budget is huge – typically over half a million dollars. This does not take into account the cost of diverting political and security resources in field missions away from their principal tasks. Nor the costs of diverting Council delegation leaders away from their wider responsibilities.

A mission conducted under a delegation's presidency may be considered as a possible "legacy vehicle". However, without targeted aims and useful outcomes, these can be viewed as "self-promotional junkets".

There is often little follow-up to conclusions reached during field missions. In recent times, on occasion Council Members have failed to agree on a field mission report, thus leaving no formal record. Overall, the utilization of missions as a useful working method designed to produce specific outcomes has waned. There is scope for revitalizing this.

All of this is not to say that visiting missions should be avoided. To the contrary, they can be a useful and important part of a specific conflict management strategy. But to achieve this, a different style of mission from what has become the norm is needed. A good mission is one focused in a meaningful way on a specific situation as part of a dedicated, ongoing engagement with the parties. Episodic events or events organized around presidencies are rarely useful.

Sustaining practical and effective collective leadership on conflict issues

One of the biggest challenges facing the Security Council is sustaining focus on all the conflict situations of which it is "seized". Most issues are managed through scheduled regular reviews based on reporting cycles. These are generally every six or twelve months, but monthly or three-monthly cycles do occur. This routinization may improve efficiency, but not necessarily effectiveness. In all organizations, routinization can result in a culture of automaticity and "box ticking". Substantive practical, customized and sustained engagement can be sacrificed in favour of maintaining the Programme of Work.

As a result, the Council is often blindsided by outbreaks of violence or crisis situations which it did not anticipate, and which put it on the "back foot". It is too often responding after the fact, relegated to being the "ambulance at the bottom of the cliff".

This routinization of the Council's schedule is driven in part by the sheer amount of work, but also by working methods that have become increasingly arm's length from the situations on the ground, New York-focused, and constrained by process.

In the 1990s, the Council Members received detailed, daily oral briefings from the Secretariat – "situational updates" – on developments in the various situations the Council was following and on emerging issues that might warrant Council attention. Sometimes these would occur twice a day. This allowed Council Members to react, ask questions and formulate strategies and measures that could be taken, often including immediate reactions to the press by the President. The process enabled a sustained and active engagement on many issues. But it waned after 2000.

Below are innovative working methods that would allow the Council to become more proactive and more effective. They are not radically new, but each could be customized to benefit the Council's conflict management efforts.

- The Council could draw on the Peacebuilding Commission's (PBC) experience with "configurations". PBC configurations focus on a specific situation and are composed according to the needs of that situation. They may include as participants States not members of the PBC, and even international organizations. Configurations are led by

a Member State as the Chair for an extended period, which enables sustained focus. Configurations actively work in the field engaging directly with stakeholders and parties. But they do not have a mandate to work in the pre-conflict or active conflict space, and this presents an unexplored opportunity for the Council.

- The Council could establish subject-specific committees to deal with particular conflict situations. The new committees could be led by a Chair holding office for two years, with a specific, full-time conflict prevention mandate or conflict resolution mandate. They could be given defined authority to act (including with specific rules for decision-making) and to determine their own practical processes for participation. The mandates could steer the committees to spend substantial time in the field. There may be concern that delegations do not have resources for this level of engagement. And the experience of the Sanctions Committees suggests that Council committees meeting in New York will often be staffed by junior diplomats, whereas serious conflict prevention work requires high-level attention, so members may need to look at different models for staffing their delegations.

- The model of the UN Compensation Commission showed that it is possible for the Council to effectively "clone" itself to deal with a specific issue. That model, established in 1991, was a high-level Council subsidiary body which comprised all Council Members sitting in Geneva. Features of that working method, albeit with a different mandate, could enable the Council to focus in a sustained way on a particular conflict.

The Council could combine the above working methods with the establishment of professional support machinery. There are precedents which demonstrate that if there is the will, the resources can be mobilized. The Compensation Commission had a large specialized professional staff with skills appropriate to the task. Faced with particular political circumstances in 2004, the Council created an Executive Directorate to support the Counter-Terrorism Committee.

COUNCIL SUBSIDIARY BODIES

Over the years the Council has established a number of subsidiary bodies to assist the fulfilment of its responsibility for the maintenance of international peace and security. Some have been information-gathering and analysis bodies; some were created to monitor and support the implementation of sanctions regimes; some to pursue accountability for war crimes; others to execute conflict prevention, response and recovery activities on the ground.

Peace operations

UN peace operations – political, peacekeeping and peacebuilding missions – operationally execute the Council's conflict management responsibilities. Most peacekeeping operations are created as subsidiary bodies of the Council, while political and peacebuilding missions are created either as a Council subsidiary body or on the initiative of the Secretary-General. Further details about UN peace operations can be found in Tools 28–38.

International tribunals

The establishment of international criminal tribunals was an innovative application of the Council's power to use subsidiary bodies as specific tools to implement its conflict management responsibilities. The Council established customized judicial institutions to bring accountability to individuals responsible for genocide, war crimes and crimes against humanity in Yugoslavia and Rwanda. Further details about these tribunals can be found in Tool 17 "Establishment of ad hoc international criminal tribunals".

Peacebuilding Commission

The PBC was jointly established in 2005 by the Security Council and the General Assembly as an intergovernmental advisory body. It supports the work of the Council on countries emerging from conflict, including through providing information and advice based on engagement with a wide spectrum of actors, proposing integrated strategies for post-conflict peacebuilding, and marshalling resources. In 2015, General Assembly and Security Council decisions widened the PBC mandate to include prevention. Subsequently, in 2016, the Council in a Presidential Note changed the Council's PBC agenda item to reflect this development. Further details about the PBC can be found in Tool 13 "Peacebuilding Commission".

Compensation Commission

The Compensation Commission was a unique Council subsidiary organ established to consider claims and award compensation for loss and damage incurred as a result of the invasion of Kuwait by Iraq. Nineteen panels of Commissioners made recommendations to the Governing Council which comprised all 15 Council Members but sat in Geneva. Ultimately over $50 billion in compensation was paid out. Further details about the Compensation Commission can be found in Tool 19 "Compensation commissions".

Military Staff Committee

The Military Staff Committee, established under the UN Charter, was intended to provide military advice to the Council and help planning for the use of force. However, it has never fulfilled that function, in part because the specific model for the use of force by the UN envisaged in the Charter was never operationalised. The Military Staff Committee meets every two weeks. Only the military advisers of the P5 are formally members, but the military advisers of elected members are now invited to attend its informal meetings and take part in its field missions. It often discusses peace operations that are on the agenda, but in general the Military Staff Committee is largely disconnected from the day-to-day work of the Council.

If such a committee could be revitalized it could make a valuable contribution, especially in situations where the UN is considering a military response, and where UN operations engage in robust peacekeeping. In 2005, Russia made proposals to this end, but was unable to gain the support of the other members of the P5.

Delegations concerned about the lack of sustained Council oversight of coalition peace operations, or the management of increasingly risky UN peacekeeping operations, could explore the idea of an alternative to the Military Staff Committee, but with membership

comprising all Council Members. Another possibility, perhaps combined with a renewed committee, is a new Council working method focused on regular interaction between the Military Advisers of Council Members with TCCs/PCCs to focus on peacekeeping issues.

Counter-Terrorism Committee

In resolution 1373 (2001), the Security Council created a bold new machinery and legal obligations on States to respond to the growing threat of terrorism. This was to be overseen by a new subsidiary body, the Counter-Terrorism Committee. In 2004, the Council further established a standing expert capacity, the Counter-Terrorism Executive Directorate (CTED). This innovative tool was created separate from the normal Secretariat structures to provide analysis, advice and other support to the Committee.

Non-Proliferation Committee

The Committee established pursuant to resolution 1540, the "1540 Committee", is mandated to address the risk of terrorists acquiring and using weapons of mass destruction (WMDs). The Committee has oversight of State compliance with Security Council resolutions relating to the non-proliferation of WMDs. It engages with States and encourages the adoption and implementation of legislation and other measures to control proliferation. Its mandate focuses on conflict at a generic level rather than specific conflicts.

Sanctions Committees and Panels of Experts

Very often committees are established to oversee sanctions regimes when the Council decides to impose Chapter VII measures short of the use of force. They are usually supported by Panels of Experts with ongoing monitoring responsibilities. Further details about these bodies can be found in the introduction to UN sanctions.

Leadership of Sanctions Committees, a role which is generally allocated to ambassadors of elected members, is often technical and time consuming. In addition, the process for appointing chairs, and the limited burden-sharing by permanent members, has been controversial. Being a committee chair can detract significantly from a delegation's ability to exercise leadership on other more high-profile issues. It has been argued that P5 ambassadors should also share the chairing of Sanctions Committees. The current arrangement, in which they do not share the burden, frees them to devote more of their time to substantive political matters, reinforcing P5 dominance of the political aspects of Council work.

When committees are empowered to approve exemptions to sanctions for particular humanitarian purposes, the role of the chair can become particularly onerous. It can also become controversial as the State subject to the regime presses for exemptions, other States with trading interests seek exemptions, or their commercial trading entities seek to circumvent the regime.

It has been suggested that the effort that is directed towards sanctions regimes could be better leveraged. Instead of the effort being "siloed", some Committee mandates could be expanded to involve the Committee in leading political efforts on behalf of the Council to resolve the underlying conflict situations. P5 members have resisted these kinds of proposals. But elected members continue to propose that chairs of various sanctions regimes

automatically serve as co-penholders on the same issues. There have been two examples of this: Germany with the United Kingdom on Libya (2019–2020) and Mexico with France on Mali (late 2022). This would require elected members being willing to commit substantial additional resources to their Council delegations.

Working groups

Most Council working groups have general rather than conflict-specific mandates, though in the course of their work some do address specific aspects of individual conflict situations, including:

- Ad Hoc Working Group on Conflict Prevention and Resolution in Africa
- Working Group on Children and Armed Conflict
- Working Group on Peacekeeping Operations
- Working Group established pursuant to resolution 1566 (2004) (which deals with implementation of counter-terrorism measures)
- Informal Working Group on International Tribunals
- Informal Working Group on Documentation and Other Procedural Questions

These are all recognized Council subsidiary bodies which are included in the annual Presidential Note.

There are several additional subsidiary bodies similar to these working groups which are not formally recognized, including:

- Informal Experts Group on Women, Peace and Security (established by resolution 2242 (2015))
- Informal Experts Group on Protection of Civilians
- Informal Experts Group on Climate and Security

Although it might seem that the establishment of a working group is a procedural matter under Article 27(2), it is in fact a substantive matter and therefore subject to the veto or, if done through a Presidential Note, requiring consensus. In any event, proponents of the less formal groups generally have not pressed for formal recognition. Instead, they have proceeded to organize meetings informally with all members welcome to attend, although on occasion not all members have participated.

Sometimes the chairs of working groups (and Council committees) can exercise useful leadership roles. One such example was in 2005 when the Chair of the Peacekeeping Working Group was mandated by Council Members to undertake a mission to seek solutions to the ongoing conflict between Ethiopia and Eritrea. This suggests that other working groups could have potential for a more focused and sustained conflict resolution role on behalf of the Council in situations where there are specific issues.

HARNESSING CAPACITY FROM ELSEWHERE IN THE UN SYSTEM AND FROM EXTERNAL SOURCES

While Article 24 confers upon the Council the "primary responsibility" for international peace and security, in practice, the other organs of the UN and the wider system also

contribute significantly to the management of conflict situations. Viewing these bodies as partners rather than subordinates helps to harness their unique capacities for the common good.

General Assembly

Article 10 of the UN Charter mandates the General Assembly to discuss and make recommendations on matters of peace and security. Article 14 specifically mandates the General Assembly to make recommendations for the "peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations". It includes all situations resulting from a violation of the Charter including its Purposes and Principles. This language is noticeably different from the more specific mandate given to the Council in Chapter V. It may suggest an intention for the General Assembly to have a wider role than the Council.

When "action" is required, as opposed to discussions and recommendations, the Charter envisages in Article 11(2) the General Assembly referring cases to the Security Council. This is made more specific in Article 12(1) which requires that the Assembly not make any recommendations regarding a dispute or situation "while the Security Council ... is exercising the functions assigned to it". Article 12(1) therefore underlines the intention in Article 24 that the Security Council will have "primary responsibility" for the maintenance of international peace and security, but that a residual responsibility lies with the General Assembly.

The Council's responsibility for international peace and security is thus not exclusive. And indeed, under Article 12(1) it is envisaged that the Council will still request involvement by the Assembly while it is exercising its responsibilities. Under Articles 12(2) and 24(2), the General Assembly must be kept informed. This is especially important if the Council ceases to deal with a matter. In addition, as the ICJ indicated in the *Wall* and *Kosovo* advisory opinions, both the Security Council and the Assembly initially interpreted and applied Article 12 such that the Assembly could not make a recommendation on a question concerning the maintenance of international peace and security while the matter remained on the Council's agenda. This interpretation of Article 12 has subsequently evolved. The Court noted the increasing tendency for the Council and the Assembly to deal in parallel with the same matter.

The UN Charter clearly contemplates a form of dynamic interaction between the two organs. Article 10 speaks of the Assembly making recommendations to States or to the Security Council or both. Article 11(2) makes this a reciprocal relationship. It envisages the Security Council referring to the Assembly questions relating to the maintenance of international peace and security. The Assembly is given a specific power in Article 11(3) to "call to the attention of the Security Council situations which are likely to endanger international peace and security".

Dynamic interaction between the Assembly and the Council on specific conflict situations was a feature of conflict management in the early years of the UN. But divisions during the Cold War resulted in cases which were more contentious. General Assembly resolution 377A (V) (1950), the "Uniting for Peace" resolution, extended the interpretation of the

General Assembly's power to take "action" when the Council was unable to do so because it was stalemated by a veto. The "Uniting for Peace" procedures can be initiated by either the Assembly or the Council and have been used 13 times (most recently in February 2022, although not for 25 years prior).

In the post-Cold War era some cases demonstrated that interaction can be mutually reinforcing. This was seen, for example, when both the Assembly and the Council played simultaneous roles on Bosnia during the wars following the break-up of Yugoslavia.

Importantly, the Council and the General Assembly have developed a systematized process for interaction at the level of the two Presidents. Each month the two Presidents meet and exchange views on the relevant issues on each organ's agenda. This process is yet to produce significant dividends. But it may have potential for Council delegations, both during their presidencies and in terms of opportunities for Council Members as a whole, to promote constructive dynamic engagement on an issue by both organs.

Another interesting example of dynamic interaction occurred in 1993 when the Security Council, under successive presidencies, was considering action to be taken in response to Secretary-General Boutros-Ghali's *An Agenda for Peace*. In March 1993, the Council, concerned about a new trend of attacks on peacekeepers and other UN personnel, took up the question of safety and security of UN personnel in the field. This resulted in both a Presidential Statement and also resolution 868. The Council recognized, however, that there were aspects of the problem which were more appropriately addressed in the General Assembly. New Zealand, the Council Member that held the March presidency, took the lead in the General Assembly, which quickly set up an ad hoc committee. The committee rapidly drafted a new convention and the following year the General Assembly adopted the "Convention on Safety of United Nations and Associated Personnel" defining new international crimes for those attacking UN personnel and establishing universal jurisdiction rules to facilitate prosecutions.

More recently, however, the interaction has been less harmonious, as in the case of Crimea in 2014 when the General Assembly supported the territorial integrity of Ukraine when the Security Council was blocked by a veto, and again in 2022 in response to the Russian invasion of Ukraine.

The latter case resulted in further General Assembly action in resolution 76/262 (2022), under which the Assembly established a "Standing mandate for a General Assembly debate when a veto is cast in the Security Council". The resolution provided that the Assembly President must convene a formal meeting within 10 working days of the casting of a veto by one or more permanent members of the Council and hold a debate on the situation as to which the veto was cast. Further, the Assembly invited the Council, in accordance with Article 24 (3) of the UN Charter, to submit a special report on the use of the veto in question to the Assembly at least 72 hours before the relevant discussion takes place.

The re-emergence of the "Uniting for Peace" practice and its recent enhancement may have had the unfortunate short-term effect of narrowing the willingness of UN members to apply Article 12 in constructive ways. However, the possibilities for positive, mutually reinforcing

interactions between the Assembly and the Council still exist.

Economic and Social Council

The UN Charter recognizes, in Article 65, that there are often connections between economic and social issues, and the emergence or continuation of conflict. Accordingly, the Economic and Social Council (ECOSOC) is mandated to communicate information to the Security Council. There seems to be an expectation of a dynamic relationship between the two organs under which the Security Council would at times request assistance from ECOSOC.

There is therefore a theoretical mechanism – if the political will and practical energy existed – to harness both the political and security capacity of the UN and its economic and social capacity in an integrated approach to managing conflict. However, the current working methods of both organs would make this difficult.

The creation of the PBC was one response to the difficulty of making such a partnership work. But currently there is still no effective Council mechanism for a systematic policy response that can address wider causes. The UN system is therefore handicapped in harnessing an integrated approach to a complex conflict situation that would involve both the political and security dimensions along with capacity on the economic and social front to address root causes of conflict.

Human Rights Council, United Nations High Commissioner for Refugees and humanitarian agencies

The Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR) and leaders of the humanitarian agencies have at times played an important role in partnership with the Security Council, focusing attention on emerging or worsening conflicts. This has included speaking at Council meetings.

Human rights and humanitarian actors often operate at the local level and therefore have an intimate understanding of a conflict. Information and analysis from these agencies can play an important early warning role. They are also important practical partners in the field, helping to achieve successful security outcomes. UN peacekeeping operations often work closely with humanitarian agencies to support the delivery of relief assistance in volatile environments. Several peacekeeping missions include human rights components, which have a joint reporting line to the mission's SRSG and the OHCHR.

Sometimes the Council needs to support these agencies when they are attacked or face serious political difficulties in the field. This can involve the Council publicly or privately signalling support for their work and underlining the importance of their role in its resolutions and statements. Sometimes the Council goes further, adopting innovative operational measures to facilitate humanitarian access, for example, the series of cross-border/cross-line humanitarian access decisions by the Council on Syria, which commenced in 2014. For further details see Tool 39 "Cross-border humanitarian relief operations in contested environments".

By contrast, the intergovernmental bodies that oversee the UN human rights and humanitarian agencies (the Human Rights Council and the Executive Boards of the UNHCR,

the UN Children's Fund (UNICEF) and the World Food Programme (WFP)) rarely if ever engage with the Security Council.

International Court of Justice

The jurisdiction of the ICJ falls into two broad categories:

- Disputes brought before the Court by parties for adjudication.
- Legal questions referred to the Court by one of the intergovernmental organs.

For more detailed information, see Tools 15 "International Court of Justice - advisory opinions" and 16 "International Court of Justice - judgements".

With disputes brought to the Court for adjudication, the Court's judgements are binding. But access is limited because the Court's jurisdiction is only compulsory for States that specifically accept. For most States and in most disputes, access to the Court is by way of mutual consent. Experience has shown that many States are willing, voluntarily, to consent to referring certain types of legal disputes, such as boundary issues, to the ICJ. The number of cases being handled by the Court is now substantial. Procedural requirements are onerous and, as with domestic courts, the resolution of cases can be very slow.

With legal questions that are referred to the Court for advisory opinions, access to the Court is much easier. The Security Council, the General Assembly, and even some specialized agencies, can by majority vote refer a matter to the Court. However, this is offset by the fact that the Court's advisory opinions are not binding.

The UN Charter envisages that legal issues would be one likely driver of threats to international peace and security. Article 33 mandates the Security Council to call on parties to a dispute to settle the matter by peaceful means, including judicial settlement. Article 36(3) indicates that "as a general rule" legal disputes should be referred to the ICJ and that the Security Council should take this into account. And Article 94 gives the Council an enforcement role if a State fails to comply with the Court's judgment.

The Charter also provides for the Council to seek input from the Court. Article 96 articulates that the Council may seek advice from the ICJ "on any legal question". Unlike the General Assembly, however, the Council does not have a strong practice of seeking input from the Court by way of advisory opinions – having only done so once – even where there are clearly legal issues that are complicating or exacerbating a threat to peace and security.

The slow pace of the Court and its extended timeframes are no doubt seen by some Council Members as reason for not seeking input. It is true that in swiftly evolving conflicts the scope for traditional legal input may be difficult. But other factors are no doubt also often in play, including the desire of some members to keep political control of the management of the issue in the Council.

Efforts by Council Members to pronounce on the merits of the respective legal positions, and especially to seek to have the Council determine legal issues, can become controversial. They are often also unhelpful in the larger picture of conflict prevention and management.

The Council and the Court as parallel principal organs of the UN interact regularly. This usually occurs at a closed meeting of the Council when the President of the Court meets with the Council to discuss their respective functions. They do not discuss specific cases or situations.

Over the years some delegations have been disappointed at the failure of the Council to better use the Court. They have pointed out that an advisory opinion of the ICJ can be given much more swiftly than a judgment in a contentious case and that independent advice from the Court could be a helpful strand of a broader conflict management strategy. In 2016, in the course of a regular interaction between the Council and the President of the ICJ, there was some exploration of this issue. In response to a question, the President of the ICJ indicated that if the Council considered that urgent advice from the Court on a legal question would help with management of a conflict, the Court would be ready and able to respond quickly. This is a useful possibility for delegations to bear in mind.

The wider international system

Organizations such as the World Bank, the International Monetary Fund (IMF) and the International Criminal Court (ICC) can all affect – both positively and negatively – conflict management. While rightly independent, it is important that such institutions do not operate in "policy silos" divorced from conflict realities. Decisions by such organizations that that may make sense in other scenarios can have disastrous effects in conflicts. It is therefore vital to avoid decisions that may result in wars being unnecessarily prolonged with untold additional casualties and destruction.

Loan conditionalities or economic policy requirements may have the unintended consequence of destabilizing peace agreements or incentivizing perverse military reactions. Criminal indictments at a premature point or a critical stage of negotiations may disincentivize warlords or political leaders from going through with a peace deal.

Just as conflict is usually rooted in economic, social and political causes, an emerging or fragile peace can also be vulnerable to economic, social or legal shocks. The risk of the Council and the International Financial Institutions (IFIs) or the ICC heading in mutually inconsistent policy directions is real. This points to a need for Council delegations to avoid a "silo approach" to their work, needing to be alert to the system-wide context in which they are working.

Sometimes potentially adverse effects from the decisions of other international organizations will be able to be managed through national action by members' delegations within those organizations. But this requires a high level of policy integration within national systems that can be hard for countries to achieve.

There is a case for the Council being more proactive in terms of collective integration of conflict relevant problems. Its informal working methods could be useful in this regard. The PBC has already developed processes for involving the IFIs in some of their country "configurations" and the Council may find that a systematic partnership involving appropriate participation could help to ensure that policy divergences are minimized.

The Statute of the ICC already provides for formal interconnection between the Court and the Council in that the Council can take various decisions relating to matters before the Court. The two bodies have semi-annual meetings on Darfur and Libya. Perhaps there is a role for extending those to a broader scope regular meeting between the Council and the President of the ICC, modelled on the meeting with the ICJ.

Regional organizations

Regional organizations play an increasingly important role in managing conflicts and it is critical for the Security Council to work closely with these influential actors.

Chapter VIII of the UN Charter recognizes the role of regional organizations and "arrangements". Article 52 acknowledges the scope for appropriate "regional action", provided that it is consistent with the UN purposes and principles. Regional arrangements are identified as possible conflict management resources of first resort – that is, before referring matters to the Security Council. The Charter also envisages the Council sometimes referring cases to regional organizations and even utilising them for "enforcement action under its authority".

However, the pre-eminence of the Council is underlined both in respect of action under Chapter VI (Article 52(3)) and Chapter VII (Article 53(1)), and in a requirement to keep the Security Council informed (Article 54).

Further detail on the Council's engagement with regional organizations on conflict management issues is found throughout the tools, see in particular Tool 9 "Mediators and special envoys", Tool 10 "Regional offices and regional envoys", Tool 11 "Regional organizations", Tool 42 "Hybrid operations", Tool 43 "Support to regional peace operations", and Tool 45 "National, coalition or regional peace operations".

International Committee of the Red Cross

As the guardian of international humanitarian law, the International Committee of the Red Cross (ICRC) holds a unique place among NGOs and is particularly relevant to the work of the Security Council. There is regular interaction between the Council and the ICRC, and the President of the ICRC is often invited to address the Council at formal meetings.

Apart from the Security Council, the ICRC is probably the only other global organization so directly focused on conflict situations. But unlike the Security Council, the ICRC is not concerned with preventing or managing conflict. Its mandate derives originally from the law of armed conflict, which regulates the conduct of hostilities.

The ICRC strives to maintain a neutral and impartial position between the parties to an armed conflict. It is one of the most active organizations in the humanitarian community and focuses principally on:

- Those who are wounded.
- Those who become prisoners.
- Those who are displaced.
- The provision of humanitarian assistance to victims.

- The protection of civilians and civilian infrastructure.

The ICRC maintains a large field presence in most armed conflicts. Its footprint in conflict zones is often much wider than that of the UN. Its delegations are usually stationed on both sides of conflict lines. As a result it is scrupulous about its independence and not taking sides.

Because of its protection and humanitarian roles, advocacy often plays an important part in the work of the ICRC.

The ICRC contributes to much of the Council's work on thematic issues. Although the two bodies approach conflict issues from very different perspectives, there is often considerable overlap between the Council and the ICRC in terms of the principles which they believe should be applied and the action that should be taken in specific conflict situations. The work of both the Council and the ICRC can be mutually reinforcing.

The ICRC is usually very well informed about the situation in the field and its delegation in New York can be an invaluable source of information for the Council.

THEMATIC ISSUES

Thematic work in the Council

The UN Charter clearly envisages that the thematic and normative work of the UN would be undertaken by the General Assembly and the Economic and Social Council (ECOSOC). There are extensive mandates for such work in Chapters IV and X, including in the field of international peace and security.

By contrast, general thematic work is not envisaged in the Charter as a function of the Security Council. There is only one mandate for the Security Council in the field of thematic work – Article 26 – which requires the Security Council to exercise responsibility for formulating plans for the establishment of a "system for the regulation of armaments". (Ironically this is a responsibility that for many years the Council has abdicated to the General Assembly.)

For most of the first 50 years of the UN's existence the Security Council focused its attention on specific conflict situations. Thematic work was rare. However, over the past three decades, the practice of debating thematic issues has become increasingly common.

Some attribute this change to the challenge presented to the Council by Secretary-General Boutros-Ghali in 1992 when he delivered his *An Agenda for Peace* report. The Council responded by taking up the various themes in the report chapter by chapter. Often this resulted in the Council, under the leadership of successive presidencies, adopting Presidential Statements relating to many of the report's themes. Over time this evolved into a pattern under which many delegations began to feel that it was incumbent on them to initiate a thematic event to mark their presidency.

Some believe that this thematic practice developed because delegations sensed that a sequence of related thematic decisions could have practical relevance for evolving the Council's approach to conflict management issues in a thoughtful and structured way.

Others have interpreted this new taste for thematic work as a response to the fact that some elected members struggled to insert themselves into established negotiation processes in order to play an effective role on country-specific issues. In addition, elected members' delegations are often composed of staff whose experience of multilateral diplomacy is based on the thematic work undertaken in the General Assembly committees and ECOSOC bodies, so it is something that they are familiar with and good at.

Less kind interpretations of the evolution of this practice suggest that thematic debates emerged because some members were paralysed by the complexity and political risks associated with the agenda of country-specific conflicts. They saw thematic debates as an alternative which would help to justify the effort associated with getting elected and could enable them to highlight domestically their participation in the Council. A kinder interpretation is that there are genuine domestic and/or regional interests on a thematic issue, which have in recent years often included food security, and climate security/change.

There is an element of truth in all of these interpretations. In reality, thematic work is now an integral and important feature of the Council's Programme of Work. Many delegations feel an expectation to highlight their presidencies by launching a thematic initiative of some kind.

Some permanent members have expressed frustration about the time consumed by thematic events, especially those orchestrated by elected members to highlight presidencies. They sometimes portray thematic debates as ephemeral and push back against time being expended on negotiating agreed outcomes. Some resist continued expansion of certain thematic agendas. However, the opposition has softened in recent years, and some permanent members now hold their own signature presidency events.

Increasingly there is controversy over the use of thematic debates relating to broader global security risks such as climate change. However, many elected members see climate security as a real issue and want to highlight specific security threats to themselves or their neighbours. Others, including some permanent members, push back against the issue both in general and in terms of securing concrete outcomes from debates.

Council engagement on thematic issues has indeed contributed to the evolution of the UN's peace and security work in a considered and systematic way. And thematic frameworks have provided normative and practical "hooks" onto which measures addressing specific conflicts have been focused. For example, thematic work on the protection of civilians, and children and armed conflict has, over time, become integrated into conflict-specific responses.

Important achievements made by the thematic work of the Council include:

- Protection of civilians
- Women, peace and security

- Sexual and gender-based violence
- Children and armed conflict
- Compliance with international humanitarian law
- Protection of UN personnel
- Protection of medical personnel and facilities
- Rule of law
- Violence driven by hate speech, discrimination and extremism
- HIV / AIDS and Ebola
- Peacekeeping
- Peacebuilding
- Post-conflict stabilization including DDR and SSR
- Food security
- Cybersecurity
- Climate and security
- Youth, peace and security
- Landmines and other explosive devices
- Working methods of the Security Council

As many delegations include a thematic event to highlight their presidency, the challenge is to ensure that it is a good use of the Council's time, and one that will result in something that makes a real contribution to the maintenance of international peace and security.

Presidency events

When developing a strategy for progressing a presidency event the following considerations should be borne in mind:

- It is easy to assume that a high-profile presidency event will have lasting value. But the reality is that the overwhelming majority of such product-driven legacy events are quickly lost to memory and become irrelevant.

- A number of former Permanent Representatives and senior Secretariat officials have expressed concern at the tendency for some members to become competitive about the volume of presidency events a delegation may try to organize. It is easy to mistakenly substitute quantity for quality.

- There is at times a genuine problem of low-value thematic events distracting delegations and crowding out time and negotiating energy at the expense of working to make progress on substantive conflict specific situations.

- A delegation proposing a thematic event can be in a weak position when a presidency event or debate has been "promised" to their capital as a national achievement. Such a delegation can easily become desperate for consensus and can therefore easily be "gamed" by other delegations who dislike the idea and insist on watering down the proposal so that it has little substance.

- Beware seeking an outcome for outcome's sake without advancing the issue. Or

trying to get an outcome for the event itself (especially if the Foreign Minister is in town) when more time is needed to negotiate.

- Beware defining a successful event by the number of briefers. In reality, the briefers rarely add much that Council Members do not already know. There are more efficient ways of sharing fresh information with Council Members.

- Beware also the temptation to politically "weaponize" briefers – that is, to try to secure a panel of briefers who will dominate one side of a contested argument. This may be politically satisfying theatre, but is ultimately not good for the Council discharging its Charter responsibilities.

- It is important to do solid research and be aware of the full range of the Council's achievements on a particular issue over the past 25 years. It can be embarrassing to formulate a detailed thematic initiative only to discover that there are already comprehensive prior Council decisions on the matter. There have been cases when even permanent members have fallen into this trap. In the constantly changing membership environment even quite detailed past decisions can be forgotten over time.

- Meet with SCAD's Charter Research Branch to discuss possible thematic events and products on which a delegation intends to focus during their Council membership and / or presidency.

Security Council Report (SCR) and SCAD maintain comprehensive databases of the discussions and decisions on each thematic issue. SCR has also produced a series of detailed Special Research Reports on most thematic topics. These provide historical analysis and commentary on how the thematic material may (or may not) have been translated into practical, useful measures in specific conflict situations. They also provide useful insights into the evolving political dynamics at play.

When planning a presidency event, a fundamental question to ask at the outset is whether another thematic debate on a particular topic will really be useful in terms of advancing the Council's responsibilities under the UN Charter. Will it make a tangible difference in terms of lives lost and conflicts resolved? Over the years many thematic debates have ended up being very general, and their outcome documents, if any, have been so abstract and so caveated that they are not useful in practice.

In many cases the biggest problem is not the absence of normative rules and thematic principles but rather the political willingness of the Council to actually apply them in specific cases. So an important question is, can a new thematic initiative be focused in a way that will incentivize better practical application by the Council of its normative and thematic principles?

An equally fundamental question is whether the proposed thematic event is likely to crowd out or displace work that really needs to be done on specific situations. This is an important

ethical question that is hard to anticipate. Even when a Member State has developed, well in advance of their presidency, an excellent plan for a useful thematic initiative, events and conflicts emerge or evolve that demand the detailed attention of the Council. In such circumstances it can become necessary to allow the thematic initiative to slip. There have been cases when a President confronted by such a situation has reached agreement with a future presidency for their initiative to be resurrected at a later time.

In the case of thematic agendas which are already well developed, the law of diminishing returns can result in disappointing outcomes. Considerable effort can be expended negotiating negligible practical advances.

An even worse outcome can result in a thematic area that has become controversial. Sometimes even previously agreed language cannot be agreed. It is wise therefore to be alert to the risk that revisiting a thematic issue in such circumstances can have negative, unintended consequences, sometimes resulting in actually undermining what had previously been achieved.

There can be good options for thematic debates, especially where it is possible to formulate a topic that addresses a problem that is recognized by key Council Members as a practical issue affecting one or more conflicts before the Council. The initiative by Norway in January 2022 for a debate on violence targeting women peacemakers is a good example. It addressed a real issue but did not exaggerate. It was promoted by a State widely recognized for its neutral role in conflict resolution. And it did not seek to develop new norms or principles – relying on the fact that there were already extensive relevant norms in place and recognizing that the challenge was the need for action to improve compliance.

Similarly, in 2016, thematic work by the Council was successful in highlighting the issue emerging in various conflicts of combatants actively targeting their opponents' hospitals, medical facilities and medical personnel. Again this was a case where there were already clear norms in place. The issue was to highlight the lack of compliance with the relevant IHL norms.

These examples demonstrate how those seeking to promote a thematic initiative almost always find that they need to "walk a very narrow path". On the one hand, a thematic initiative which closely addresses or specifically references real needs in current conflicts, may be seen by one or other of the parties as a political effort to shame and blame them. So retaining appropriate neutrality and generality will be important. On the other hand, there is the risk of descending so far into abstraction and generality as to be irrelevant.

Another important factor in assessing whether and how to promote a thematic initiative is the Security Council rules and practice on decision-making. In practice, Council Members will normally grant a certain amount of deference to a fellow member regarding their plans for their presidency, but this does not translate into a carte blanche. There will often be opposition to the details and sometimes resistance to the whole concept. Accordingly, the rules relating to opening a new agenda item are particularly relevant.

One modality to ease opposition to introducing new thematic debates was the introduction

in 2007 of the general or "umbrella" agenda item, "Maintenance of international peace and security". This allows for various thematic issues to be addressed as sub-items, thereby avoiding the step of creating a distinct new item which will then be added to the Summary Statement of matters of which the Security Council is seized.

A President will almost always be able to manoeuvre a majority decision to open an agenda on a new thematic initiative – even on a very controversial issue. But this will only produce a debate. If an outcome is sought, the process is more complicated. And vetoes can be expected if there is not a serious effort at prior negotiation on the substance.

An option, which may present an acceptable compromise, is for the presidency to agree that it will not seek an agreed outcome document, but that it will prepare a note summarizing the conclusions of the debate and share it with all concerned. An example of such a case was the high-level debate on climate change and security in July 2015. The presidency conclusions may be included in a letter from the presidency delegation to the President (which gets a document number and therefore is "on the record").

If an agreed outcome is sought, the Member State will need to begin informally, before assuming the presidency, the process of securing agreement to include the issue on the Programme of Work. This is essential because time will need to be allocated for discussion and negotiation. But of course at this point the Member State does not yet hold the presidency and so cannot control the discussions. Even more difficult is the practical reality that in the Council's informal discussion on the Programme of Work the consensus rule applies, so every delegation has a veto.

The actual negotiation of the substance of a thematic outcome can also be compromised by the fact that it may not be a priority, particularly for smaller delegations and when there are pressing active conflicts requiring attention. There have also been occasions when delegations have sought to "run down the clock" until the end of the month when the presidency is over. It is important therefore for the presidency delegation leadership to be willing to allocate time to actively oversee the negotiation process. It is important for the Permanent Representative to be seen to be personally engaged, and for the delegation to be willing to quickly escalate the negotiations to higher levels if necessary.

There have been cases where, in order to break a stalemate in negotiation of a thematic Presidential Statement (especially where the objectors are clearly taking advantage of the consensus environment in informal negotiations), the presidency has found it helpful to have in their "back pocket" an alternative outcome document in the form of a draft resolution. Sometimes, when faced with the prospect of having to justify their position in public and then be exposed to a vote, objectors will more readily find a compromise. This can be a high stakes tactic. But it may be worth the risk if the alternative is a statement so watered down that it becomes meaningless.

Another critical consideration is the timing of a vote on a draft outcome document. It is prudent to see a successful outcome document beyond one's monthly presidency. By removing the self-imposed pressure and disadvantage when other delegations know eagerness to have a product during one's presidency, the delegation gives itself

more latitude for successful negotiation. There is a growing number of such successful outcome documents – resolutions and/or PRSTs that were adopted outside a delegation's presidency term.

A high-profile event to mark a presidency does not need to be focused on an abstract thematic issue. There have been successful debates organized by presidencies on country-specific issues. An example was the Head of Government level debate on Syria organized by the President of the Council in September 2016. It is important to note, however, that there is potential for such events to exacerbate tensions in the Council rather than help the conflict situation. This is especially the case when the debate is focused in support of one of the parties to the conflict or is overtly politicized so as to try to corner other Council Members that have opposing views. Such a debate can be most helpful if it is organized by a presidency that is seen by all parties as trying to be constructive and neutral.

STRATEGIES FOR BROADER GLOBAL SECURITY THREATS

This *Handbook* focuses on violent conflict and how delegations might help the Security Council better manage such situations in the future. These conflict situations are typically local or regional. They involve threats to the peace that are international in dimension, but very rarely have global significance. Nevertheless, the threats to international security that are catastrophic and global are real.

The Council has typically maintained a narrow definition of what constitutes a threat to international peace and security. It has effectively left to other UN fora the implementation of the full scope of its mandate on arms control under Article 26 of the UN Charter. There has been resistance to the Council working on security threats from climate change, and the Council has adopted limited responses to global health crises.

The next emergency that threatens global security could be environmental. It could be financial. It could be a new even more dangerous version of Da'esh or fascist-type extremists. It could be a nuclear, chemical or biological emergency. It could be widespread collapse of governance in a region. It could be a massive famine. It could be a humanitarian or refugee emergency of huge proportions driven by climate change events. It could be several, interconnected crises at once.

The Security Council is the only global intergovernmental body with real authority. But its limited approach to the interpretation of its mandate means that in some instances, the international community is without a mechanism for collective decision-making on existential global risks to security. When emergencies or major crises arise, especially where there are significant cross-sectoral components or where there are strong domestic political elements in play, it is difficult, under existing structures, to bring to bear the high-level political leadership and collective decision-making by States that can make a real difference.

Increasingly there are arguments that the world of the twenty-first century needs a

carefully limited, but fully empowered, Council which can respond, politically, decisively and effectively, to a variety of unpredictable crises and, if necessary, to more than one simultaneously. Global systemic risks cannot be managed without international cooperation within a system that is accepted as legitimate, which can act quickly and which has authority to instil leadership, and in the worst case to compel effective compliance with risk mitigation measures.

The UN Security Council already exists. It has unique convening power and capacity for decisive action. It stands out as an existing institution with potential to exercise leadership in forging collective responses to future global risks.

The competition for seats on the Council demonstrates that most governments continue to attach a significant premium to the Council as the premier international institution. Most States respect and implement the Council's binding decisions. The permanent members attach particular importance to their special role.

A wider definition of the Security Council mandate is possible without amendment to the UN Charter. This would be a continuation of the evolution of the interpretation of Article 24, which confers on the Council "primary responsibility for the maintenance of international peace and security". The understanding and application of Article 24 has continually grown and adapted, allowing the Council to play a leading role in managing many civil war situations, regional terrorism situations, and even moving tentatively into the areas of climate change and health emergencies.

In practice, items on the Council's agenda have related almost exclusively to "threats to peace". This reflects its history and also that there is a relatively clear understanding of what is meant by "international peace". Often the words "peace" and "security" are used as if they were synonymous. But they are not the same thing.

The word security is much more open textured and much wider in scope than just matters relating to peace – or the absence of conflict. A clarified interpretation of security for the purposes of Chapters V, VI, VII and VIII of the UN Charter could focus on a wider but carefully limited responsibility – security in the face of serious global emergencies as well as major global risks which are threats to security.

The Security Council has in the past demonstrated capacity to evolve and innovate. It has expanded its focus from protecting just the security of States to include also human security. To this end it has included in its tool box measures to protect civilians, promote humanitarian relief, and hold individuals accountable for their use of violence against the innocent.

The Council has also shown in its responses to terrorism that it can come together and act decisively when senior level political attention becomes focused on its potential. It has a track record of using high-level and even summit-level meetings to exercise leadership and focus attention. Useful tools for the management of threats to global security therefore exist, have been tested, and could be leveraged in the future.

CONCLUSION

CONCLUSION: IDEAS FOR INNOVATIVATION

Improving the Council's effectiveness is not necessarily about expanding its range of tools, or the threats on which it engages. It already has a spectrum of conflict management tools at its disposal and engages on a wide range of threats. In many instances, what is most needed is greater political cohesion and improvement in the timeliness and implementation of existing tools.

There are, however, instances which call for innovation and new ideas. Fresh thinking to respond to the evolving global security environment or to break through intractable conflict management issues. The following lists some ideas that Council Members may consider as they seek new solutions.

THREATS

The range of situations that the Council has determined to be the threats to international peace and security has expanded considerably from armed conflict between States to include intra-State conflict, mass human rights abuse, humanitarian crises, terrorism and the proliferation of weapons. Because the Council is the only piece of the global architecture that can compel States to act, there is an impulse to bring all the big problems to it, including issues such as HIV/AIDS, climate change and health crises.

Whether or not the Council should deal with such issues, how, and to what extent, remain contentious issues, including within the Council. There is certainly merit in the argument that as the only intergovernmental body with enforcement power, it is the international community's best hope for obliging coherent global action. However, there is also merit in the argument that there are other well-established parts of the UN system that can deal with these issues, and are better qualified and resourced to do so. Beyond the principled argumentation is the practical issue that the Council can only do so much in its current configuration. While it may have the scope to address more peripheral issues, it does so at a cost to its core business. At some point, overloading the Council may break it.

Nevertheless, with the constantly evolving security environment, there will be future challenges on which the Council will need to engage, potentially in an enhanced partnership with other parts of the UN system, including:

- Food insecurity
- Cyber warfare
- Environmental catastrophes
- Organized crime
- Global health crises

TOOLS

The following lists ideas for consideration, areas of potential innovation for new tools, and improvement of existing tools.

Diplomatic tools

- **Information:**
  - Deploy small fact-finding missions, including representatives from Council delegations, prior to the determination of a threat.
  - Establish a professional, systematic early warning mechanism for the Council.
  - Improve the way information and conflict analysis are shared with the Council, and how it is informed about what is happening on the ground.
  - Increase the use of analysis from UN agencies, such as the UN Office on Drugs and Crime (UNODC).
  - Increase the use of information from sanctions experts bodies.
- **Council visiting missions:** Deploy "mini missions" – light, swift, less expensive missions, comprising just a few Council Members with a targeted political agenda and specific objectives.
- **Political economy:** More directly address the political economy of violence, including through targeting illicit trade and resource exploitation that fuels conflict.
- **Peacebuilding:** When developing recommendations, particularly for security sector reform, transition and State building, consider inviting "south-to-south" exchanges and advice.
- **Humanitarian crises:** Expanded engagement on humanitarian crises caused by conflict, including for the purpose of prevention.

Legal tools

- **Judicial:**
  - Short of recommending that States settle their dispute through the ICJ, the Council could more often "invite" or "encourage" States to do so.
  - Request urgent advisory opinions from the ICJ.
- **Compensation/reparations:**
  - Establish a standing reparations or compensation commission to serve as a deterrent, something akin to the UN Compensation Commission established for Iraq.
  - Institutionalize options for reparations in cases of aggression and genocide.
- **Sanctions:**
  - Develop targeted sanctions for cyber offences.
  - Go beyond resource sanctions, putting in place a regime that involves industry + civil society + legal oversight + mediation, something akin to the Kimberley Process.
  - Strategically exploit the sanctions tool by better leveraging sanctions and sanctions experts bodies as an integral and dynamic part of a cohesive conflict management strategy, intimately connected to other diplomatic, legal and operational tools and the broader political work of the Council.

Operational tools

- **Stand-by arrangements:** Revisit Articles 43 and 45 of the UN Charter to establish mechanisms for bringing Security Council Members into UN operations and encouraging cohesion.
- **New types of deployments:**
    - Anticipatory platforms designed to address specific threats, based on foresight of known patterns.
    - Small teams positioned to assist in a preventive and post-mission capacity.
    - Small missions mandated to provide specific technical assistance, such as border demarcation.
    - Mechanisms to monitor the movement of illicit goods.
    - Small teams deployed specifically for nuclear facilities protection.
    - A mechanism where there are chemical and biological weapons experts ready to deploy at short notice to investigate allegations of use.
    - Elections assistance missions, comprising technical elections assistance and a security component mandated under Chapter VII to use force, if necessary.
    - Expanded support operations, drawing on the full UN peace operations support apparatus to assist non-UN deployments.
    - A mechanism for short, sharp national deployments to plug holes in UN capacity. Member States providing capacity without having to become "blue-hatted". Limited duration, high-capability, high-impact support to an existing mission.
    - Deployments specifically aimed at preventing and responding to humanitarian crises caused by conflict. In addition to the delivery of humanitarian assistance, this may include things like helping the ICRC to extract prisoners.
    - Limited transitional administration support missions – more than peacebuilding support, but less than executive authority transitional administration.
- **Improving existing deployments:**
    - Address the political economy of violence through mandated tasks, such as activities to combat illicit trade.
    - Require a specific part of the mission budget to be devoted to information operations, such as intelligence and outreach.
    - Require real improvements in the use of technology, including bioengineering, to make UN peace operations safer and more effective.
    - Demonstrate more ambition for UN deployments to train host Government forces so they can fulfil their national civilian protection responsibilities.
    - Require missions to use renewable energy, to leave behind a positive environmental legacy.
    - Collectively undertake further work on conceiving and managing UN deployments as a continuum of operations.

- **Automaticity:**
  - Consider ways for the UN to operate automatically, unless the Security Council decides otherwise, for example, immediate use of force for grievous crimes.
  - Establish a mechanism whereby the collapse of a peace agreement automatically triggers a mechanism, such as a Council "group of friends".
- **Inclusivity:**
  - Ensure timely, meaningful and sustained engagement between Council Members and key stakeholders, and participation in the process by those whose interests are specifically affected.
  - Consider how the Council can enable UN peace and security actors to work better with development and humanitarian actors.
- **Management:**
  - Develop small groups of interested Council Members to engage more intensively on specific situations across the Council's work. The Chair (or co-chairs) would both hold the pen on the situation and chair the relevant Sanctions Committee (where one exists). The small group could engage more regularly and informally with UN officials in Headquarters and in the field, as well as with parties to the conflict and other key actors including TCCs/PCCs, influential States, regional organizations and NGOs, and they could carry out small, quick and light field visits. The full Council Membership would remain engaged in all formal proceedings and decisions, but establishing small, targeted sub-groups would allow the membership to spread the work, more actively engage in management of a particular situation, and achieve greater cohesion across the Council's streams of work.
  - Become more engaged in the implementation of tools through establishing "groups of friends" within the Council to shepherd delivery of initiatives.
  - Improve relationship-building among Council delegates to encourage more informal discussion and constructive engagement on some of the more transient issues, through, for example, making greater use of initiatives such as "sofa talks".
  - Undertake informal "brainstorming" sessions, where the Council and relevant Secretariat and mission staff can exchange ideas on a specific issue or challenge, in an interactive and informal manner with a view to identifying concrete practical actions.
  - Engage directly with, and provide more support to, SRSGs, especially in situations where the Government is pushing back on the UN presence or threatening civilians.
  - Clearly indicate delineation of responsibilities and authorities where there are multiple senior UN representatives working on a situation, in order to reduce confusion.
  - Establish a regular mechanism where the P5 are invited to share with the rest of the Council their ideas on how to end a particular conflict.
- **Sanctions:** Better integrate sanctions tools and the sanctions management mechanisms into the Council's broader conflict management efforts. Instead of being siloed some

Sanctions Committee mandates could be expanded to involve the committee in leading political efforts on the situation. The delegation who holds the pen on the situation, could also chair the corresponding Sanctions Committee. The information from the sanctions expert body could systematically be fed into and inform the other initiatives. Sanctions and operational work in the field could be better coordinated, with SRSGs empowered to engage on relevant sanctions.

- **Configurations:** Consider alternate configurations of the Council (for example, representatives of all Council delegations convened in Geneva) to work in close cooperation and in a sustained manner with relevant UN agencies (such as the World Health Organization) to deal with security challenges beyond its core business.

CONCLUSION

The forces of change are eternal. An inexorable pull into the future. The security environment of today is markedly different from that of 1945, and from what it will be 70 years into the future.

The Security Council has shown itself to be a dynamic institution, evolving its composition, mandate and practices to enable it to respond to changing threats to international peace and security. This evolution is a question not only of effectiveness, but of survival. There have, however, been too many instances when the Council has failed to respond in a timely or meaningful way, when atrocities have been allowed to unfold, or other actors have stepped up to fill the breach. Every time the Council fails to respond, every time it responds too late, every time its response is ineffective or meaningless, its authority and relevance are eroded.

With its unique enforcement powers, the Council could evolve into a highly respected apex body ready to swiftly and effectively tackle a range of global security challenges, some of which we cannot yet even imagine. Or, if hampered by political paralysis, it could slip into irrelevance while other actors take up the role intended for it. In the absence of a global catastrophe, it is highly unlikely that the international community would ever agree to a body with such potential power again. Effectively responding to the security crises of today and tomorrow is an existential imperative for the Security Council and the UN collective security arrangement, and one in which all Member States have a stake.

GLOSSARY

AFISMA	African-led International Support Mission to Mali
AMIB	African Union Mission in Burundi
AMIS	African Union Mission in Sudan
AMISOM	African Union Mission in Somalia
AOB	Any Other Business
ASEAN	Association of Southeast Asian Nations
ASG	Assistant Secretary-General
ATMIS	AU Transition Mission in Somalia
ATT	Arms Trade Treaty
AU	African Union
AU PSC	African Union Peace and Security Council
BINUB	UN Integrated Office in Burundi
BINUCA	UN Integrated Peacebuilding Office in the Central African Republic
BINUH	UN Integrated Office in Haiti
BONUCA	UN Peacebuilding Support Office in the Central African Republic
CAR	Central African Republic
CBM	Confidence-building measure
CERF	UN Central Emergency Response Fund
CEWS	Continental Early Warning System
CNMC	Cameroon–Nigeria Mixed Commission
ConOps	Concept of Operations
CRSV	Conflict-related sexual violence
CTED	Counter-Terrorism Executive Directorate
Da'esh	Also known as Islamic State of Iraq and Syria and Islamic State of Iraq and the Levant
DDR	Disarmament, demobilization and reintegration
DOS	UN Department of Operational Support
DPO	UN Department of Peace Operations
DPPA	UN Department of Political and Peacebuilding Affairs
DPRK	Democratic People's Republic of Korea
DRC	Democratic Republic of the Congo
E10	Ten elected members of the Security Council
ECOMOG	ECOWAS Monitoring Group
ECOWAS	Economic Community of West African States
EOSG	Executive Office of the UN Secretary-General
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUPM	European Union Police Mission in Bosnia
EWS	European Union Conflict Early Warning System
FARDC	Armed Forces of the Democratic Republic of the Congo
HIV/AIDS	Human immunodeficiency virus/Acquired immunodeficiency syndrome
HRDDP	UN Human Rights Due Diligence Policy
IAEA	International Atomic Energy Agency

ICC	*International Criminal Court*
ICGLR	International Conference on the Great Lakes Region
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IDP	Internally displaced person
IFOR	NATO-led Implementation Force
IHL	International humanitarian law
IHRL	International human rights law
IID	Informal Interactive Dialogue
IMF	International Monetary Fund
INTERFET	International Force East Timor
IPTF	International Police Task Force in Bosnia
IRMCT	International Residual Mechanism for Criminal Tribunals
ISAF	International Security Assistance Force in Afghanistan
ISF	UN Integrated Strategic Framework
ISIL	Islamic State of Iraq and the Levant – also known as Islamic State of Iraq and Syria and Da'esh
ISIS	Islamic State of Iraq and Syria – also known as Islamic State of Iraq and the Levant and Da'esh
ITA	International transitional administration
JCPOA	Joint Comprehensive Plan of Action
KFOR	NATO-led Kosovo Force
MARA	Monitoring, analysis and reporting arrangements
MENUB	UN Electoral Observation Mission in Burundi
MFO	Multinational Force and Observers in the Sinai
MICIVIH	UN–OAS International Civilian Mission in Haiti
MINUCI	UN Mission in Côte d'Ivoire
MINUJUSTH	UN Mission for Justice Support in Haiti
MINURCAT	UN Mission in the Central African Republic and Chad
MINURSO	UN Mission for the Referendum in Western Sahara
MINUSCA	Multidimensional Integrated Stabilization Mission in the Central African Republic
MINUSMA	UN Multidimensional Integrated Stabilization Mission in Mali
MINUSTAH	UN Stabilization Mission in Haiti
MIPONUH	UN Civilian Police Mission in Haiti
MISCA	African-led International Support Mission to the Central African Republic
MNJTF	Multinational Joint Task Force
MONUC	UN Organization Mission in the Democratic Republic of the Congo
MONUSCO	UN Organization Stabilization Mission in the Democratic Republic of the Congo
MPAC	UN Military and Police Advisers Community
MSC	UN Security Council Military Staff Committee
MSU	Mediation Support Unit within the UNDPPA
NATO	North Atlantic Treaty Organization

NGO	Non-governmental organization
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
OCHA	UN Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
OIOS	Internal Oversight Services
ONUB	UN Operation in Burundi
ONUMOZ	UN Operation in Mozambique
ONUSAL	UN Observer Mission in El Salvador
OPCW	Organization for the Prohibition of Chemical Weapons
ORCI	UN Office for Research and the Collection of Information
OROLSI	Office for the Rule of Law and Security Institutions
OSASG	Office of the Special Adviser on Cyprus
OSCE	Organization for Security and Co-operation in Europe
P5	Five permanent members of the Security Council
PBC	Peacebuilding Commission
PBF	UN Secretary-General's Peacebuilding Fund
PBSO	Peacebuilding Support Office
PCC	Police-contributing country
PKO	Peacekeeping operation
POC	Protection of civilians
PRST	UN Security Council Presidential Statement
R2P	Responsibility to protect
RAMSI	Australia/New Zealand-led Regional Assistance Mission to Solomon Islands
RoE	Rules of Engagement
SADC	Southern African Development Community
SAPMIL	Preventive Mission in the Kingdom of Lesotho
SCAD	Security Council Affairs Division within the UN DPPA
SCR	Security Council Report
SESG	Special Envoy of the Secretary-General
SFOR	Stabilisation Force in Bosnia and Herzegovina
SGBV	Sexual and gender-based violence
SIPRI	Stockholm International Peace Research Institute
SOFA	Status of Forces Agreement
SOMA	Status of Mission Agreement
SPLA-IO	Sudan People's Liberation Army-in-Opposition
SPM	Special political mission
SRSG	Special Representative of the Secretary-General
SRSG-SVC	Secretary-General on Sexual Violence in Conflict
SSR	Security sector reform
TCC	Troop-contributing country
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNAMA	UN Assistance Mission in Afghanistan
UNAMI	UN Assistance Mission in Iraq
UNAMID	UN–AU Hybrid Operation in Darfur (Sudan)

UNAMIR	UN Assistance Mission for Rwanda
UNAMSIL	UN Mission in Sierra Leone
UNASOG	UN Abuzou Strip Observer Group
UNAVEM	UN Angola Verification Mission
UNCC	UN Compensation Commission
UNCLOS	UN Convention on the Law of the Sea
UNDAF	UN Development Assistance Framework
UNDOF	UN Disengagement Observer Force
UNEERO	UN Emergency Ebola Response Coordinator for the DRC
UNEF	UN Emergency Force
UNFICYP	UN Peacekeeping Force in Cyprus
UNGA	UN General Assembly
UNHCR	UN High Commissioner for Refugees
UNIFIL	UN Interim Force in Lebanon
UNIOSIL	UN Integrated Office in Sierra Leone
UNIPSIL	UN Integrated Peacebuilding Office in Sierra Leone
UNITAD	Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL
UNITAMS	UN Integrated Transition Assistance Mission in Sudan
UNMC	UN Mission in Colombia
UNMEE	UN Mission in Ethiopia and Eritrea
UNMEER	UN Mission for Ebola Emergency Response West Africa
UNMHA	UN Mission to support the Hudaydah Agreement in Yemen
UNMIH	UN Mission in Haiti
UNMIK	UN Mission in Kosovo
UNMIL	UN Mission in Liberia
UNMIN	UN Mission in Nepal
UNMIS	UN Mission in Sudan
UNMISET	UN Mission in Support of East Timor
UNMISS	UN Mission in South Sudan
UNMIT	UN Mission in Timor-Leste
UNMOGIP	UN Military Observer Group in India and Pakistan
UNMOVIC	UN Monitoring, Verification and Inspection Commission (Iraq)
UNOA	UN Office in Angola
UNOB	UN Office in Burundi
UNOCA	UN Regional Office for Central Africa
UNOCI	UN Mission in Côte d'Ivoire
UNOGBIS	UN Peacebuilding Support Office in Guinea-Bissau
UNOL	UN Office in Liberia
UNOMIG	UN Observer Mission in Georgia
UNOMIL	UN Observer Mission in Liberia
UNOMSIL	UN Observer Mission in Sierra Leone
UNOMUR	UN Observer Mission Uganda-Rwanda
UNOSOM	UN Operation in Somalia
UNOWAS	UN Office for West Africa and the Sahel
UNPOB	UN Political Office in Bougainville

UNPOS	UN Political Office in Somalia
UNPREDEP	UN Preventive Deployment Force in Macedonia
UNPROFOR	UN Protection Force (former Yugoslavia)
UNPSG	UN Police Support Group in Eastern Slavonia
UNRRCA	UN Regional Centre for Preventive Diplomacy for Central Asia
UNSC	UN Security Council
UNSCO	UN Special Coordinator for the Middle East Peace Process
UNSCOL	Office of the UN Special Coordinator for Lebanon
UNSCOM	UN Special Commission (Iraq)
UNSCR	UN Security Council resolution
UNSMA	UN Special Mission to Afghanistan
UNSMIL	UN Support Mission in Libya
UNSMIS	UN Supervision Mission in Syria
UNSOM	UN Assistance Mission in Somalia
UNTAC	UN Transitional Authority in Cambodia
UNTAES	UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium
UNTAET	UN Transitional Administration in East Timor
UNTAG	UN Transitional Assistance Group (Namibia)
UNTOP	UN Peacebuilding Support Office in Tajikistan
UNTSO	UN Truce Supervision Organization
UNVM	UN Verification Mission in Colombia
US	United States of America
USG	Under-Secretary-General
USSR	Union of Soviet Socialist Republics
WHO	World Health Organization
WMD	Weapons of mass destruction
WPS	Women, peace and security

A PRACTITIONER'S GUIDE TO THE SECURITY COUNCIL'S CONFLICT MANAGEMENT TOOLS

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