THE HOLE OF THE UNITED NATIONS

IN

CONFLICT MANAGEMENT



BY

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D E D I C A T I O N

To my Family;

Alache, my wife;

Danjuma, my son;

Ibiyemi, my son;

Iyadunni, my daughter;

Akintunde, my son;

For bearing the odds patiently while I was away.

CERTIFICATION

The dissertation entitled "The Role of the United Nations in Conflict Management" by BELLO-FADILE, Ralf Sixtus Babatunde meets the regulations governing the award of the degree of Ph.D. of Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

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D E C L A R A T I O N

I hereby declare that this dissertation has been written by me and that it is a record of my own research work. It has not been presented in any previous application for a higher degree. All quotations are indicated and the sources of information are specifically acknowledged by means of references.

Date: 13th Oct 1987

R.S.B. BELLO-FADILE

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On the whole, the views expressed in this work are mine. They do not purport to be those of my colleagues or of those persons interviewed at home and abroad. I alone, therefore, take responsibility for any omission bearing in mind that to err is human.

ABSTRACT

Going down memory lane, we discovered that states have always sought to manage conflicts that impede peace and security in the society at large. With this in mind, I forged ahead to see what international institutions can do to help ameliorate the suffering that comes with conflict. This study, therefore, is concerned with collective management mechanisms of actual or potential conflict so as to save succeeding generations from the scourge of war which twice in our lifetime has brought untold sorrow to mankind.

After some working assumptions, the study examined briefly the historical development of international institutions. The United Nations is however the focal point of the study. Thus we examined the role of the mo3t universal institution ever organized by States in their international relations. The United Nations has the responsibility of bringing about by peaceful means, and in conformity with the principles of justice and international law, the management of conflicts.

We observed that conflict, which can be 'crisis' 'dispute[1] or 'situation', has no acceptable definition in international relations. Nevertheless, no matter

the terminology, the fundamental premises on which conflict is based cannot be removed. Our concept of conflict therefore is a relationship among states in which actions and interactions are mutually opposed on a particular issue(s) at a point in time. We identified five common variables in this concept, these are: parties; interest(s); correlation; incongruity and reaction which could be coercion or violence or both. Conflict is often brought about basically by power-play over vital national interest and incompatible objectives and policy actions. Characteristically, conflict could manifest in physical aggression or public verbal dispute or covert verbal aggression or breach of expectation or avoidance.

It is our contention therefore that conflict can be effectively managed by a disinterested party or institution. This is particularly possible where the parties to the dispute are unwilling to follow the norms of international society, that is, those rules and regulations which bind nation states in their relations with each other. International law exists because it is to the benefit of all states that some sort of order should govern their international

dealings. Though states may disagree about what law applies to given situation, there is a consensus about the fact that some set of rules are necessary. Hence the rules of international law can be so framed that a policy of conflict cannot be worked out except through open violation of international law which will meet with protest, condemnation and action by members of the world community at large.

Perhaps the most acceptable sets of rules so far is the constitution of the United Nations, that is the Charter. Drawn and adopted at San,Francisco on June 26, 1945, the Charter enumerated the various mechanisms for managing conflict based largely on past experience. The Founding Fathers' philosophy as far as conflict management is concerned is, freedom of action based on equal and inalienable rights and the dignity inherent in all men that Member States should settle conflict peacefully by the common consent of the adversaries. These mechanisms include peace making, the use of force (war), peace-keeping and disarmament and arms control.

Although the United Nations is not and is not intended to be a world government, because it is based on the principle of soveriegnty of States, the obligations of states under the Charter have modifed their soveriegnty. Thus; the United Nations is now a symbol of world unity, a unity towards international peace and security. This was demonstrated during the Congo experiment.

The Congo crisis was a unique example of a situation which called for the United Nations' action. The United Nations filled the vacuum created by the Belgian abrupt grant of independence in July 1960. This action prevented any of the blocs from taking over from the Belgians. Under the authority of the Security Council, the Secretary-General despatched military assistance to the beleaguered Congolese government. This was called operation des Nations Unies au Congo (ONUC).

ONUC, the largest of all United Nations operations was called into being within forty-eight hours of request by Chief of State (Joseph Kasavubu) and Prime Minister (Patrice Lumumba). The request became necessary following the collapse of the Force Publique and the introduction of Belgian metropolitan troop3 to 'Protect' Belgian lives and property in the Congo.

The establishment of ONUG was based on the fact that the Congo crisis was characterized as a threat to international peace and security. ONUC was complex, expensive and the most controversial operation ever managed by the secretariat of an international institution. It was full of irony and paradox. There was no truce to observe, and no line to patrol. It spread all over the country for about four years with opposition from various groups at different times.

But in the face of incredible difficulties and frustrations, ONUG discharged its main purpose to accede to the request of the Congolese central government for the restoration of a united stable Congo without taking sides. ONUC demonstrated, though challenged and critized, the ability of the United Nations to take collective military measures to maintain law and order within the territory of a Member state, albeit, as a means of preserving international peace and security.

In the final analysis, the United Nations mechanisms will nonetheless not serve to lower the level of international conflict unless the Member states rededicate themselves to the principles enshrined in the United Nations Charter. With what happened

during the Congo operation, we submit that Charter revision is no guarantee for better conflict management. It is our contention that, education, necessary political will, unilateral disarmament, co-operation, preventive measures, functional internationalism and unswerving support for the Secretary-General by Member States, will go along way in conflict management under the United Nations system.

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ABBREVIATIONS

AAPC	-	All-African Peoples Conference.
ABAKO	-	Alliance des Ba-Kongo.
ADF	-	Arab Deterrance Forces.
ANC	-	Armee Nationale Congolaise.
A & P	-	Administration and Personnel.
C/ADMIN	-	Civilian Administration.
CAC	-	Congo Advisory Committee.
CAO	-	Chief Administrative Officer.
CD	-	United Nations Conference on Disarmament.
CONAKAT	-	Confederation des Association Tribals du Katanga.
COS	-	Chief of Staff.
CRISP	-	Centre de Recherche et d'Information Socio-Politiques.
DFC	-	Deputy Force Commander.
DOMREP	-	Mission of the Representative of the Secretary-General in Dominican Republic.
FAO	-	Food and Agricultural Organization.
FC	-	Force Commander.
F/C	-	Functional Commissions.
GAOR	-	General Assembly Official Records.
GATT	-	General Agreement on Tariffs and Trade.
HABITAT	-	United Nations Centre for Human Stettlements.
IAEA	-	International Atomic Energy Authority.
IBRD	-	International Bank for Reconstruction and Development.
ICAO	-	International Civil Aviation Organization.
ICB	-	International Conciliation Bureau.

ICJ	-	International Court of Justice.
IDA	-	International Development Association.
IDF	-	Israeli Defence Forces.
IFAD	-	International Fund for Agriculture Development.
IFC	-	International Finance Corporation.
ILC	-	International Law Commission.
ILO	-	International Labour Organization.
IMCO	-	Inter-Government Maritime Consultative Organization.
IMF	-	International Monetary Fund.
INFBn	-	Infantry Battalion.
IPA	-	International Peace Academy.
ITU	-	International Telecommunication Union.
LA	-	Legal Adviser.
LNTS	-	League of Nations Treaty Series.
Log	-	Logistic.
MAD	-	Mutual Assured Destruction.
M/C	-	Main Committee.
MFO	-	Multinational Force and Observers.
MNC	-	Mouvement National Congolais.
MNC(K)	-	Mouvement National Congolais(Kalonji)
MNF	-	Multi-National Force.
MSC	-	Military Staff Committee.
NATO	-	North Atlantic Treaty Organization.
OAS	-	Organization of American States.

OAU	-	Organization of African Unity.
OFOESA	-	Office of Field Operational and External Support Activities.
ONUC	-	Operation des Nations Unies au Congo.
OPS	-	Operations.
ORAE	-	Operational Research and Analysis Establishment.
OSO	-	Other Subsidiary Organs.
OUSGSPA	-	Office of the Under Secretaries General for Special Political Affairs.
PCIJ	-	Permanent Court of International Justice.
PIO	-	Principal Information Officer.
PLO	-	Palestine Liberation Organization.
PNP	-	Parti National du Progress.
PSA	-	Parti Solidaire Africain.
R/C	-	Regional Commissions.
RIAA	-	Report of International Arbitration Awards.
RTC	-	Round Table Conference.
SCOR	-	Security Council Official Records.
SOFA	-	Status of Force Agreement.
SPA	-	Special Political Adviser.
S & P/C	-	Standing and Procedural Committee.
S,S & ad hoc/C	-	Sessional, standing and ad hoc Committee.
SSOD I	-	Final document of the First Special Session on Disarmament.
SSOD II	-	Final document of the Second Special Session on Disarmament.

UK	-	United Kingdom of Great Britain and Northern Ireland.
UPU	-	Universal Postal Union.
USA	-	United States of America.
USSR	-	The Union of Soviet Socialist Republic.
UN	-	United Nations-Organization.
UNCIO	-	United Nations Conference on International Organization.
UNCIPOL	-	Special Civilian Police Force in Cyprus.
UNCTAD	-	United Nations Conference on Trade and Development.
UNDOF	-	United Nations Disengagement Observer Force.
UNDP	-	United Nations Development Programme.
UNEF	-	United Nations Emergency Force.
UNEP	-	United Nations Environment Programme.
UNESCO	-	United Nations Educational, Scientific and Cultural Organization.
UNFICYP	-	United Nations Fund for Population Activities.
UNHCR	-	Office of the United Nations High Commissioner for Refugees.
UNICEF	-	United Nations Children's Fund.
UNIDO	-	United Nations Industrial Development Organization.
UNIDIR	-	United Nations Interim Force in Lebanon.
UNIPOM	-	United Nations India - Pakistan Observation Mission.
UNITAR	-	United Nations Institute for Training and Research.

UNMOGIL	-	United Nations Observer Group in Lebanon.
UNMOGIP	-	United Nations Military Observer Group in India and Pakistan.
UNRWA	-	United Nations Relief and Works Agency for Palestine Refugees in the Near East.
UNSCOB	-	United Nations Special Committee on the Balkan.
UNSF	-	United Nations Special Fund.
UNTS	-	United Nations Treaty Series.
UNTSO	-	United Nations Truce Supervision Organization in Palestine.
UNU	-	United Nations University.
WFC	-	World Food Council.
WHO	-	World Health Organization.
WIPO	-	World Intellectual Property Organization.
WMO	-	World Meteorological Organization.

INTRODUCTION

It is the contention of this work that the establishment and development of international institutions like the United Nations is a core element in any noble campaign for conflict management. This is even more so in a world of some 169 states stained by the blood of over 300 wars, death of about 80 million people, an expenditure of about 800 billion a year for military programmes and over 50,000 stockpile of nuclear warheads which is enough to kill every person alive 12 times over.[1] However, there is no need to be dissillusioned or cynical or even fearful, so long as cognisance is taken of the limitation set by the legal and political context within which the system operates.

We believe as Frederic W. Ilfeld did when he said, "not all people are equally violent, violent behaviours which are learned can be unlearned, frustrations can be alleviated, weapons can be limited and men can find peaceful alternatives for resolving conflicts.[2] We intend to demonstrate the validity of this statement in the light of the abundant management procedures available under the United Nations system.

Before examining what the United Nations has been able to do or can do in the field of conflict management

we delved a little into the history of international institutions and their legacies to the United Nations.

In addition to these international institutions, the concept of conflict will be examined in the context of the United Nations. We will in the process appraise the utilisation of the existing conflict management procedures within the United Nations as well as within regional arrangements associated with the United Nations.

Our case study in this regard is the Congo experiment. There, we shall examine what can be done to prevent conflict and secondly, conflict having arisen, what can be done to arrest it. The Congo operation was a classical case of an experiment that succeeded given the present day realities of power politics, selfish national interest and almost total neglect of the interests of the under privileged nations (Group of 77)[3] by the so called super powers.

Having considered the role of the United Nations in conflict management as far as recorded history is concerned, attempt will then be made to assess the future of conflicts among nations in the light of what has been learnt. This will place one in a good position to suggest ways and means of strengthening conflict

resolution procedures of the United Nations system in a way to make them more relevant to contemporary times.

To that extent, our study can be said to have been beautifully summarized by Inis Claude Jr, when he said:

> International organisations are neither sacred nor diabolical ideological inventions, but a part of the political and administrative apparatus of human society made necessary by the complexity and interdependence of that society. The appropriate questions relate not to their status as objects of reverence or the reverse, but to their utility and to one's approval or disapproval of the policies that they serve. [4]

Thus faced with the current state of deranging uncertainty and the issue of finding the real meaning and significance of events and development in the international field, our first working assumption is the use of "institution" as against the conventional word "organisation". For ease of objective understanding and appraisal, "institution" is used because it is in the coming together as an institution that mankind can help organise the world community into a better place. This can also be seen in the light of the various organs within the United Nations system.

The second assumption is the use of conflict as the all embracing word for dispute, situation and crisis.

These three words are various degrees of the same issue of conflict. Suffice it to say here that from their accepted usage, they have something in common, namely, a claim of right or interest by states at a point in time over a particular issue or thing, as a result of which attitudes change from co-operation to confrontation and competition. The aftermath of this is conflict which may require managerial intervention by a disinterested party.

Assumption number three is that "management" will be used instead of the traditional terms like 'resolution' or 'settlement' and 'regulations'. It has been shown that most of the conflicts that have faced mankind could have been better managed than resolved or regulated by states. In the first instance, no conflict would occur if there were consensus on management techniques. And if it did occur, as a result of poor management, it could easily be rectified by resort to an alternative management technique.

The fourth assumption is that no deliberate attempt will be made to distinguish between legal and political conflicts. It is the assumption here that in international conflicts, the dividing line is very thin. It is unlikely

that rigid separation between legal and political questions can ever be achieved so as to allocate the former exclusively to judicial tribunals. Politics are rarely "pure" and political matters do not cease to be such because they involve legal rights. The parties, to a large extent, determine what to call their conflict. For instance, the positivists argue that there is no international law per se, as all international legal issues are solved through the political goodwill of the parties concerned. In this work, attempt will however, be made to de-emphasize the place of politics in international conflict management.

Having enumerated these basic working assumptions, it is comforting to note that the United Nations is a firmly established and recognized international institution. But the question is, has it found its true role as envisaged by the founding fathers some four decades ago? Is it not true that the world certainly would have been a much more dangerous and disorderly place without the United Nations? What has kept it afloat in the seas of global turbulence? And these are many. They include the rapidly escalating arms race, the increasing danger of proliferation of nuclear weapons, shortages or maldistribution of food, the persistence

of massive poverty, the issue of unstable commodity and money markets and of course, the search for a working balance between sovereignty and valued national vital interests on the one hand and international peace and security and long-term interests of the international community on the other.

No adequate answers can be found to these questions without delving into the history of international institutions even well beyond the foundation of the United Nations.

INTRODUCTION: Footnotes

1. 30,000 owned by the United States of America, about 22,000 by the Union of Soviet Socialist Republics, about 1,000 by United Kingdom and China and France each own several hundreds. See generally Ruth Leger Sivard, World Military and Social Expenditure, 1985, World Priorities, Washington DC.

2. "Overview of the Causes and Prevention of Violence", in Archives of General Psychiatry, Vol. 20, June 1965, p. 545 - 689.

3. These are African, Asian and Latin American Countries. The number has increased to 128 but they still maintain the name, Group of 77.

4. Inis L. Claude, Jr., Swords into Plowshares, 1984, 4th ed Random House, New York, P 5.

CHAPTER ONE
HISTORICAL DEVELOPMENT

1 - 1: Brief History of International Institutions.

The history of international institutions can be traced to the peace of Westphalia of 1648.[1] However, as early as the Greek and Roman civilizations, the institution of the consul was recognized. Commerce, thus became the first area where interest of states were represented by their citizens in foreign lands. In the same vein, Ambassadors were appointed to oversee the general interest of states. It is on these two legacies that can be found the true origin of the subsequent and more complex international institutions.

The failure of consular/diplomatic intercourse in its early development to settle inter-state problems led to a search for alternatives. An international conference with representatives from several states was the beginning. And as far back as the Confederation of Greek city States under the leadership of Athens, the Delian League was formed with the main aim of opposing Persia while at the same time, solving together other specific problems.

Also, in the twelveth century, we had the Mercantile league of medieval German towns and cities called Hanseatic League. This consisted of merchant guilds and

town associations with the purpose of providing security for the trade of members and secured trading rights and trade monopoly.

Following these were the peace of Westphalia in 1648 and the Treaty of Utrecht in 1713 which came as a result of the Thirty Years War between the German Reich and France/Sweden and the break-up of the unity of medieval European Christendom. Thus, Hugo, Grotius, opined that

> It would be advantageous, indeed in a degree necessary, to hold certain conferences of Christian powers, where those who have no interest at stake may settle the disputes of others, and where, in fact steps may be taken to compel parties to accept peace on fair terms.[2]

From these early gatherings, commentators have linked modern international institutions to three streams of development before the First World War. These were the Concert of Europe, the Hague Peace Conferences and the Public International Unions.

1 - 1(a): <u>The Concert of Europe:</u>

Suffice to say that the Concert of Europe took the form of congresses and diplomatic exchanges after the disastrous Napoleonic wars. The various powers at the time were interested in preserving peace among

themselves through negotiations. Series of conferences were held which aided the development and modification of the rules relating to war and peace. Such conferences included the Congress of Vienna 1815, London Protocol and Conference 1830, Congress of Paris 1856, Congresses of Berlin 1878 and 1884 - 85 which respectively ended the war between Turkey and Russia and sealed the scramble for Africa that was leading to commercial rivalry and political antagonism between the European powers. And finally, the Algeciras Conference of 1906.[3] Thus, diplomacy by conferences became an established fact of life in Europe during the nineteenth century. The concert of Europe was an exclusive club for great powers whose members were self-appointed guardians of the European Community and executive directors of its affairs. It was, as Claude put it-

"the manifestation of a rudimentary, but growing sense of interdependence and community of interest among the states of Europe."[4]

The result of the Concert of Europe was that for the first time, Europe had something resembling an international parliament, which undertook to deal with current problems ranging from the regulation of international traffic on the great rivers of the continent

Concert was restricted to a few states, the Hague Peace Conferences were more universal, they included states from the Latin American Republics.

The Hague Peace Conferences thus focused on the problems between great and small states and how to solve them. The Conferences concentrated more on general principles rather than specific issues. They gave indication of the possibilities of using international institutions as instruments of world peace. They also showed the need to solve the instrumental problems of internal institutions before tackling the substantive problems of international relations.

Looking back today, the Hague Peace Conferences bequeathed to international institutions the idea that war was the product of misunderstanding and that it could be eliminated by the elucidation of the facts in conflict, clarification of the applicable law and the invocation of reason.

Other efforts brought out by the Hague Peace Conferences included the apparatus of Chairman, committees and roll calls, passing of recommendations/ resolutions of conferences by a mere majority vote, the establishment of a preparatory committee, the idea

of a permanent home for a permanently functioning organ and efficiently organised mechanism for the maintenance of world peace. Others were the erection of agencies for use by states involved in particular conflicts such as ad hoc International Commission of Inquiry, the Permanent Court of Arbitration, a Court of Arbitral Justice and an International Prize Court. All these have now been incorporated into the United Nations system as we shall see later in this work.

The most important achievement of the Hague Peace Conferences was that they rested on international law as a basis for reducing tension among states and averting resort to war by them. The Conferences made the first attempt to discuss the issue of disarmament, though with little success, as the main means for achieving global peace and security.[6]

1 - 1(c): International Unions:

Whereas the Concert of Europe and the Hague Peace Conferences dealt with security and political issues, the third phenomenon, the international unions, was concerned with the increasing complexity of the economic, social, technical and cultural inter-connections of the peoples of the world.

The first product of the grouping of states into international union for administrative purposes were the various international river commissions of Europe,[7] the International Telegraphic Union and the Universal Postal Union. Others were International Union of Railway, Freight Transportation, Radio Telegraphic Union, International Office of Public Health, Metric Union, the International Copyright Union, the International Sugar Union and the International Commission of Agriculture.

These Public International Unions illustrate constitutional developments and innovations of which the present day inter-governmental institutions and the United Nations are based. The trend towards permanency of association was very marked whether in the form of permanent deliberative or legislative organs working with administrative organs as in the Telegraphic Union, or of periodic conferences working in conjunction with a permanent bureau as the Railway Freight Transportation. The representation of interests other than those of states, whether they be dependent territories, private companies, or associations and with or without the right to vote injected a realism and a degree of practicality which was to be of the

utmost significance for later development.

Even though there were problems of proper co-ordination of the activities of these Unions they did serve as collection points and clearing houses for information. They were centers for discussion of common problems by governments. In addition, they were the instruments for achieving the co-ordination by agreement of national policies and practices. They were agencies for promoting the formulation and acceptance of uniform or minimum standard in the field of their concern.

The co-operative concept of the Unions focussed on the satisfaction of the needs which demanded not so much the sacrifice of sovereignty as the utilization of the resources of sovereignty to create institutions and methods capable of supplementing the functional activities of national governments.

From the above history of the development of international institutions, it can be seen that past centuries have influenced the present by providing the broad base of a general system of international institutions combining great councils, universal conferences, specialized functional agencies and

permanent staff. Perhaps the most significant contribution of these unions has been the broadening concept of the nature and subject - matter of international affairs; an evolving sense of the need for joint decisions and actions by states and a growing recognition of the potential usefulness of international machinery.

1 - 1(d): The League of Nations:

These developments before the first War World converged in the set up known as the League of Nations. The Council of the League represented the first stream in the development of international institutions, the Assembly stood for the Hague Peace Conferences while the Secretariat delineated the third stream which was co-operation on non-political issues for the purpose of jointly solving the problems which affected the international community. This last stream manifested itself in the international unions.

In the main, the League of Nations owed its origin to a variety of contributions and sources ranging from private and public groups to individuals in many countries during the planning period of 1914 - 18.[8] These included the private movement founded in Philadelphia in June, 1915, namely, League to Enforce

Peace, of former President William Howard. In January, 1917, President Woodrow Wilson who had identified with the League to Enforce Peace, advocated a "League for Peace Backed by Superior Collective Force." A year later, in an address to congress, he presented his famous /Fourteen Points" as the war aims of the United States Government.[9] The last of the "Fourteen Points" called for a league of Nations in the following words, "a general association of nations must be formed under specific covenants for the purpose of affording mutual guarantee of political independence and territorial intergrity to great and small states alike."[10] The "Fourteen Points" were subsequently adopted with minor amendments as the war aims of all the Allied Powers during the First World War. United States of America was thus committed to the establishment of a security institution as part of their peace plans.

In Britain, the first government sponsored plan for a League of Nations was initiated by a committee of historians, diplomats and lawyers under the chairmanship of Lord Phillimore, a judge and professor of international law. The equivalent in France was produced by a ministerial commission under the

Chairmanship of Leon Bourgeous. This laid considerable stress on a eleborate system of sanctions.

A month before the peace conference in Paris, another plan for the proposed League authored by General Jan Christian Smuts of South Africa was released. The plan attracted wide attention because it was clearly and persuasively presented with each proposal accompanied by supporting explanation. Tagged, "League of Nations; Practical Suggestion", General Smuts' plan had among its innovations a suggestion for a mandate system for the colonies of the defeated powers, a council of permanent and rotating members, and a series of technical committees to carry on the economic and social work of the institution.

With this last plan, the peace conference convened in Paris on January 18, 1919. A resolution sponsored by United States of America and Britain was adopted a week later which provided that the plans for a League of Nations would become an integral part of the peace treaties and that a commission should be created to work out the details of the League's constitution.

President Wilson was appointed the Chairman of a nineteen-member commission composed of two members from each of the great powers and one each from nine smaller States. A draft proposal of the covenant was produced by David Hunter Miller of United States of America dnd Cecil Hurst of Britain. This was used as the working document for all future commission's deliberations until a draft Covenant was presented to the plenary conference and to neutral and other smaller states for their comments and suggestions. Unfortunately, United States' Senators were opposed to the idea of the League and demanded some revisions.

The most important were:

1. Specific mention of the Monroe Doctrine's consistency with Covenant obligations.
2. Recognition of the right of withdrawal from League membership.
3. A statement that unanimity in voting was required except in cases exempted by the terms of the Covenant or peace treaty.
4. A safeguard against inteference in domestic questions of member states.

These points were subsequently incorporated into the Covenant. Decisions were also made concerning the location of the seat of the League in Geneva. There was also agreement on the appointment of Sir Eric Drummond as the first Secretary-General of the

League. Others were with the provision for an organizing committee to plan for the permanent establishment of the League, the selection of the four States which would serve as initial non-permanent members of the Council and the agreement upon a list of neutral states that would be invited to become original members of the institution by acceding to the Covenant.

On April, 28, 1919, the planary session of the Peace Conference unanimously approved the Covenant and all the supporting agreements. Thus, Wilson, Cecil and Smuts earned the title "fathers of the League" because of their contributions. The League Covenant was part of the Treaty of Versailles and as such the official birthday of the Institution was delayed for eight additional months until the treaty was ratified and took effect on January 10, 1920. And so it was that the first attempt at a universal institution found its practical expression in the League of Nations. There were 45 original signatory states.

It is however ironic that the United States could not become a member of the League because the United States Senate failed to ratify the Treaty of

Versailles, the prominent role of President Wilson in drafting the Covenant not with-standing. Inspite of United States non-membership, it must be noted that throughout the life span of the League, the official attitude of the United States towards the League gradually changed from one of hostility and aloofness to that of increasing co-operation in a veriety of League activities.

The League was in terms of its direct derivations, the product of specific war-time planning and post-war negotiations. In a more fundamental note, it was a product of history, of contemporary circumstances and of an emergent trend in international life. The creation may also be regarded as a rationalization, focalization and consolidation of previous institutional developments, that is pulling together the separate lines of developments already discussed into a coherent system. General Smuts appreciated this when he wrote in 1918:

> It is not sufficient for the League merely to be a sort of deus ex machina, called in, in every grave emergencies when the spectre of war appear; if it is to last, it must be much more. It must become part and parcel of the common international life of states, it must be an ever visible living, working organ of the polity of civilization. It must function so strongly in the ordinary peaceful intercourse of states that it becomes unresistable in their disputes; its Peace activity must be the foundation and guarantee of its war power.[11]

Finally, it must be noted that Germany and Soviet Union were admitted in 1926 and 1934 respectively and given permanent seats on the Council in recognition of their importance.

What then were the disabilities of the League of Nations that led mankind to look for another international institution in the United Nations? The League's objective was to promote international peace and security by preventing war among its members. Thus, as the first effective move toward a worldwide political and legal order, the League Covenant was geared towards serving the common interests of humanity across the barriers of national custom, racial difference and geographical separation. It was the embodiment in constitutional forms of mankind's aspirations toward peaceful and secured world. Although war was not totally outlawed by the Covenant, the intention was clear that through peaceful settlement of conflicts wars should be prevented and that any aggressor who resorted to war in violation of the Covenant should be dealt with promptly and effectively by the collective action of all other members.

The first seven articles laid down the constitutional framework of the new international institution. Article 1 described the conditions of membership, admission and withdrawal. Articles 2 to 5 laid down the character and powers of the Assembly and the Council. Articles 6 to 7 provided for the appointment of a Secretary-General and his staff, establishment of the League's headquarters at Geneva and funds required for its work.

Articles 8 and 9 dealt with disarmament while by Article 10, members promised to respect the territorial integrity and political independence of other members and to join in protecting them against external aggression.

Article 11 gave each member the right to call upon the Council and the Assembly to discuss any serious differences including any threatened attack which might arise between itself and any other member or between other members.

Article 12 to 15 described the various ways in which conflicts might be settled peacefully. They contain also the definite pledge not to resort to war

until the question at issue had been submitted to one or another of these procedures of peaceful settlement, and then only in certain defined circumstances and after three months additional delay can a state resort to war. Under Article 16, each member accepted the obligation to take prompt action against any fellow member which went to war in violation of the Covenant. Such action may include the breaking off of all financial and economic relations with it, the prevention of others from maintaining such relations and if necessary, the use of military force against it. Members promised also to help each other to bear the financial loss which they might suffer through carrying out these measures. The Article also gave the Council power to expel a member which had violated the Covenant.

The remaining ten articles provided for relationship with fellow member, effect of the Covenant on other treaties, the mandate systems, transfer to the League of the management of agencies such as the Universal Postal Union, which had already been established before the war. And lastly, the procedure to be followed in order to amend the Covenant was also provided for.

In addition to these provisions, the League established the Arbitration and Security Committee to prepare model treaties as guide for members to adopt in the peaceful settlement of their international conflicts.[12]

From the above outline of the nature of the League, it is obvious that the system of collective security envisaged in the Covenant rested essentially on the notions of pacific settlement of conflicts, a collective guarantee of the independence of each members, the outlawing of war, disarmament and sanctions. It is however on record that these were left to each member to decide whether in its own view, a violation of the Covenant had occured which warrant any form of sanction.

After an initial success in dealing with the Greco-Bulgarian border crisis of 1925, and a less spectacular achievement in the Chaco conflict of 1928 between Bolivia and Paraguay, the League witnessed the invasion of Manchuria in 1931; the Italo-Abyssinian (Ethopia) war of 1934 - 5; the internationalization of the Spanish civil war through Italian, German and Soviet involvement; the German march into the Rhineland in 1936,

into Austria in 1938, into Czechoslovakia in 1939; the Japanese invasion of China in 1937; the Soviet invasion of Finland in 1939; and finally the German invasion of Poland in 1939.

Apart from the half-hearted economic sanction against Italy in 1935, no sanctions were ever really applied by the League in all these cases of the breach of the Covenant. Among the sanctions applied against Italy were, stopping of arms sale, cut off of credit to Italian government and businessmen, prohibition of imports from Italy and embargo on the sale to Italy of strategic war materials (rubber, tin, aluminium and manganese). Although they dealt a severe blow on the Italian economy, they were not enough to prevent the conquest of Abyssinia.

Additional effective sanctions which, undoubtedly, could have stopped Italy's military action were rejected. For example, embargos were excluded on food, coal, steel and oil. The sanctions Committee refused to cut off Italian access to the Suez Canal or to blockade the Italian manland. Diplomatic relations were continued with Italy by members of the League.

In July 1936, sanctions against Italy were abandoned just two months after Mussolini's announcement of victory and his assumption of the title 'Emperor of Abyssinia. The call off was at the instance of Britain which was courting at that time, Italy's support in view of the resurgence of German threat and Hitler's remilitarization of the Rhineland. The disappointing result was expressed in a warning by the Haitian delegate to the Assembly when he said, "let us never forget that one day we may be somebody's Abyssinia",[13]

It must be stated that no special attention seemed have been paid to economic and social matters of the League. However, a vast amount of valuable work was carried on in these areas. In the 1930's these activities became the most successful contributions of the League to the attempted solution of the world's problems.

On the whole, it was the lack of will of the members, as demonstrated on the issue of sanction against Italy, rather than of available devices or absence of major states that accounted for the ineffectiveness of the League in area of peaceful settlement of disputes. As Bennett put it, "All

national confederations have collapsed or been transformed due to lack of centralized power and due to rivalries among the component units. An international organisation with real enforcement powers is incompatible with the principle of absolute national sovereignty."[14] And so the League died on April 18, 1946.[15]

The submission, therefore, is that the states were not ready in 1919 and it is doubtful if they were in 1945, as we shall soon show, to transfer effective control over military forces and compulsory jurisdiction over conflicts to the international arena. And so, if the League were to be measured against the yardstick of hopes and possibilities for achieving world peace and co-operation, it fell short of its goal. On the other hand if measured by the standard of previous advances toward world order, it represented a break break-through in the development of international institutions thus standing out as a landmark in the evalutionary process of achieving a new world order.[16]

1 - 1(e): The United Nations:

When the United Nations Conference on International Organization (UNCIO) converged at San Francisco on

June 26, 1945, the delegates' chorus was:-

> We the people of the United Nations
> DETERMINED
> To save succeeding generation from the scourge of war, which twice in our life time has brought untold sorrow to mankind,
> And to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,
> And to establish conditions under which justice, and respect for the obligations arising from treaties and other sources of international law can be maintained,
> And to promote social progress and better standards of life in larger freedom,
> And for these ends to practice tolerance and live to-gether in peace with one another as good neighbours,
> And to unite our strength to maintain International peace and security,
> And to ensure, by the acceptance of principles and the institution of methods that armed force shall not be used, save in the common interest,
> And to employ international machinery for the promotion of the economic and social advancement of all peoples
> Have resolved to combine our efforts to accomplish these aims.[17]

So began the story of the second attempt by the states of the world to organize themselves into a true community of states with conflict management mechanisms. Today, the United Nations is an international person, independent of its members, possessing sufficient international personality to enable it to fulfil its purposes provided the Members are willing.[18] How then did the United Nations evolve?

As the soldiers were fighting for honours in the battle fields all over Europe and the Pacific, the political overlords were busy attending conferences and issuing wartime declarations on the need for the Allied Powers to come together on a joint front to preserve the peace after the war would have been fought and won.

The first indication of this came in June 1941 with the Inter-Allied Declarations signed in London by representatives of British Commonwealth governments and European government-in-exile. Without referring specifically to the establishment of an international institution, the signatories pledged their co-operation in working for the elimination of the threat of aggression and in striving for economic and social security for all free peoples.

After the Japanese attack on Pearl Harbour on December 7, 1941, the United States of America entered the Second World War as an ally of Britain, China, and the Soviet Union against the Axis powers of Germany, Italy and Japan. Two weeks later, Winstons Churchill, arrived in Washington for talks with President Franklin Roosevelt and other Allied leaders. The result was the historic "Declaration by the United Nations" pledging

the twenty-six signatory nations to a unified struggle against the common enemy. This was the first public use of the words "United Nations", a phrase attributed to President Roosevelt. It was accepted by the Allied leaders that once the war was won, an entirely new world institution would have to be established.

The next major move was made on October 30, 1943, with the "Moscow Declaration of the Four Nations on General Security." In it, the Big Four of the United States of America, Soviet Union, Britain and China announced that they "recognize the necessity of establishing at the earliest practicable date a general international organization based on the principle of the sovereign equality of all peace-loving States and, open to membership by all such States large and small, for the maintenance of international peace and security."[19]

A month after that, President Roosevelt, Premier Marshal Stalin and Prime Minister Churchill met again in Teheran and announced in their final communique,

> We recognize fully the supreme responsibility resting upon us and the United Nations to make a peace which will command the goodwill of the overwhelming masses of the peoples of the World and banish the scourge and terror of war for many generations... We shall seek the co-operation and active participation of all nations large and small... (for) the

> elimination of tyranny and slavery, oppression and intolerance. We will welcome them, as they may choose to come into a world family of Democratic Nations.[20]

A side step relevant to these peace and security conferences was the United Nations Monetary and Financial Conference of July, 1944. Representatives of forty-four nations and a small army of one thousand two hundred experts met in Bretton Woods, New Hampshire United States of America, to discuss financial matters. They came up with proposals for the establishment of:

1. An International Monetary Fund (IMF) of $8.8 billion to make loans that would help countries stabilize their currencies, remedy their trade deficits and generally stimulate trade.

2. A World Bank with an initial capital of $9.1 billion to make loans to needy countries for reconstruction and development projects.

The political counterpart of the Bretton Woods Conference convened at Dumbarton Oaks Washington DC on August 21, 1944 and lasted until October 7, 1944.[21] The representatives of the United States of America, Soviet Union, Britain and China hammered together a tentative draft of a 'Charter' for a new world institution. It provided for an Assembly in which all "peace-loving States" would be represented and have one vote each. It also envisaged a Security Council which

would bear primary responsibility for the maintenance of peace and security in the world. It was agreed that the Big Four and a postwar liberated France would be given special weight on the Council. But the representatives failed to resolve fully the problem posed by the Soviet's insistence that each of the major power should have a 'veto' over all decisions of the Security Council.

And so with the imminent collapse of Germany and the reeling of Japan, Roosevelt met with Churchill and Stalin at Yalta, a resort on the Crimean Peninsula of the Soviet Union. France was not represented because it was not yet liberated while China was absent because it was not on the European front.

Of importance to the three leaders was the historic task of restructuring the political map of much of Central Europe for the Post-war world. The question of 'United Nations' was also touched upon as the United States of America and Britain accepted the modified Soviet position on the Security Council voting system. Except on purely procedural matters, each of the major powers it was agreed, would have a 'veto' over all decisions. This was the "Yalta Voting Formula."[22]

At Yalta, it was agreed that all members of the 'United Nations' should convene in San Francisco on

April 25, 1945 to draft the Charter of the United Nations. It was further agreed that China and France would be asked to co-sponsor the conference if they so desired. France subsequently attended but did not act as sponsor but China did. It was also agreed that the Dumbarton Oaks proposals and the Yalta Voting Formula would serve as a basis for conference discussion.

Two additional conference were held before San Francisco. In February 1945, the United States of America held consultations at Mexico City with its fellow members of the Inter-American System in order to gain support for the Dumbarton Oaks proposals and to promote the formulation of general hemispheric positon on questions of international institutions, especially those involving the status of regional systems. The second meeting was that of a committee of jurists, representing virtually all the nations which were to participate in the San Francisco conference. They met in March 1945 in Washington DC and drafted a statute for a judicial agency to be submitted to the United Nationa Conference on International Organization (UNCIO).

It is also relevant to mention some of the private groupings that contributed to the plan of the post war peace. These included:

Commission to study the Organization of Peace, established in 1939 and still in existence;

Commission for just and Durable Peace, founded by the Federal Council of Churches of Christ in America;

Declaration on World Peace Sponsored by Catholic, Jewish and Protestan Religious Leaders in October 1943;

World Peace Foundation in Boston;

American United for International Peace 1940;

United States of America and Canada Co-operative Enterprises Sponsor of the International Law of the Future.[23]

The road was ultimately set for San Francisco with Roosevelt's declaration to Congress that, "This time, we shall not make mistake waiting until the end of the war to set up the machinery of peace. This time, as we fight together to get the war over quickly, we work together to keep it from happening again."[24] Unfortunately, as preparation for the San Francisco Conference were proceeding smoothly, Roosevelt suddenly died on April 12, 1945. However, within an hour after his succession to the presidency, Harry S. Truman announced that the conference would go on as scheduled. And so the meeting began on 25th April, 1945 while the war in Eurpoe and Asia was still raging.

The Conference faced not only the issues of reconciling opposing positions among participating States but also issues of size, effective organization, communications and national pride and prestige. All forty-six States that had adhered to the United Nations Declaration and that had declared war on one or more of the Axis powers participated. And by agreement of the participants, Argentina, Byelorussia, the Ukrania and Denmark were added to the list.

The Soviet Union urged the inclusion of the provisional government of Poland, but that recommendation was rejected, although Poland was later allowed to sign the Charter as one of the fifty-one original members.

The fifty participating states were represented by 282 official delegates and by more than 1,400 delegation advisers and staff members.

A secretariat of more than 1,000 furnished by the United States of America as host country served the Conference in official roles and more than 4,000 auxiliary personnel provided less professional services. News coverage was provided by more than 2,600 accredited press and radio personnel.[25] After some

debate over the languages to be used, English and French were adopted as the working languages of the Conference, and these two plus Russian, Chinese and Spanish were accepted as official languages. Arabic has no been added as one of the official languages of the United Nations.

In two months of arduous negotiations and debate, the delegates created the Charter of the United Nations and its integral supplement, the Statute of the International Court of Justice (ICJ) out of the Dumbarton Oaks and Yalta proposals. The draft Statute supplied by the Committee of Jurists and the plethora of supplementary papers and amendments produced at the Conference, by both great and small states proved useful proposals to the drafters.

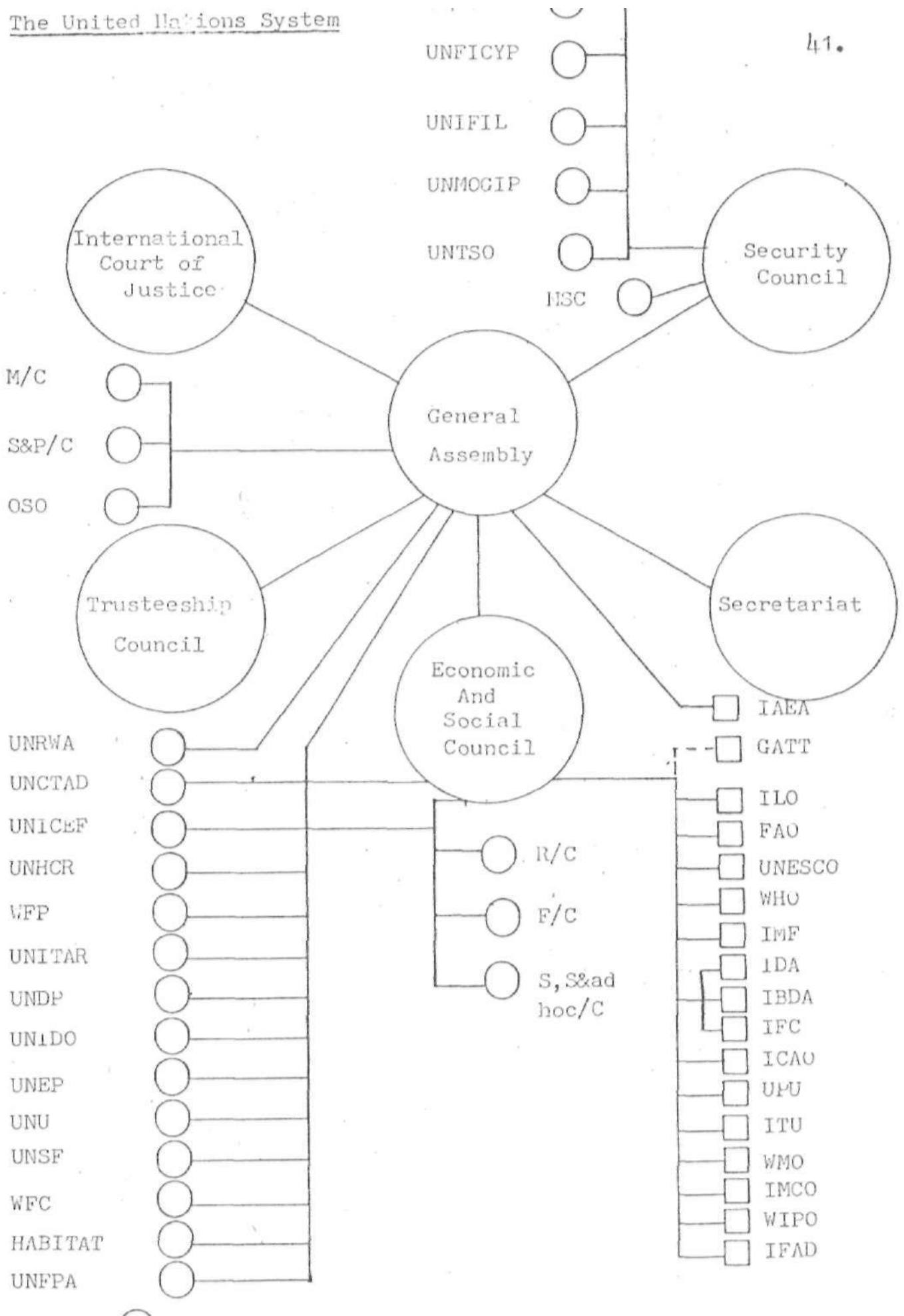
The formal completion of mankind's most ambitious international system was celebrated on June 26, 1945 with the signing of the Charter, the constitution of the United Nations. The United Nations Day, October 24, has been celebrated since 1948 to commemorate the entry into force of the United Nations Charter.

In the main, the Charter designates the objectives and rules of conduct of the new institution in its chapter 1. The main objective being maintenance of international peace and security while the principal organs of the United Nations are illustrated in figure 1.

The compositions, functions and powers, voting rules and procedures of these organs are contained under different chapters of the Charter.

Other specific provisions of the Charter are:

1. Pacific Settlement of Disputes, Chapter VI.
2. Action with respect to threats to the peace, breaches of the peace and acts of aggression, Chapter VII.
3. Regional Arrangements, Chapter VIII.
4. International Economic and Social Co-operation, Chapter IX.
5. Declaration regarding non-self-governing territories, Chapter XI.
6. International Trusteeship system, Chapter XII.
7. Miscellaneous Provisions, Chapter XVI.
8. Transitional Security Arrangements, Chapter XVII
9. Amendments, Chapter XVIII.
10. Ratification and Signature, Chapter XIX.


UNFICYP
UNIFIL
UNMOGIP
UNTSO
MSC
International Court of Justice
Security Council
M/C
S&P/C
OSO
General Assembly
Trusteeship Council
Secretariat
Economic And Social Council
IAEA
GATT
UNRWA
UNCTAD
UNICEF
UNHCR
WFP
UNITAR
UNDP
UNIDO
UNEP
UNU
UNSF
WFC
HABITAT
UNFPA
R/C
F/C
S, S&ad hoc/C
ILO
FAO
UNESCO
WHO
IMF
IDA
IBDA
IFC
ICAO
UPU
ITU
WMO
IMCO
WIPO
IFAD
Principal Organs
Other United Nations Organs
Specialized Agencies/Autonomous Organizations

Two issues which were raised during the deliberations at San Francisco which deserved some examination at this juncture were, the Veto and Regional Arrangements. These issues are of importance because of their effects on conflict management procedures under the United Nations System.

1 - 1(e): The Veto:

In San Francisco, the smaller states made their most concerted attack on the Yalta Voting Formular' (Veto) in the Security Council. The attack was led by H.V. Eratt, Australian Minister of External Affairs and was joined by spokepersons from most of the other medium and small powers. They denounced the privileged position the five permanent members of the Security Council had carved for themselves and called for clarification of the application of the Veto in specific situations.[28]

What then was the Yalta Voting Formula? The Yalta 'Voting Formula or the Veto as contained in Article 27 of the United Nations Charter indicates that a negative vote of a permanent member has the effect of preventing the adoption of a non-procedural proposal that has received the necessary number of

affirmative vote in the Council. The provision inserted in Article 27 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 any party to a dispute shall abstain from voting.

The special interest here and its highly controversial nature arises from the provisions of paragraphs 2 and 3 which determine voting procedure. They also provide that in votes on non-procedural matters, different consequences attached to the votes of permanent and non-permanent members. Anyone of the Council to be taken on a non-procedural matter.

The justification for it at the time the Charter was adopted was the special responsibility which was to be assumed by and placed upon the major powers for the maintenance of international peace and security. On the question of veto, Senator Connelly of the United

States dramatized the intransigence of the major powers by tearing to pieces a copy of the proposed Charter and announcing that without the veto, there would be no Charter and of course no United Nations as an international institution.[29]

During the initial discussion in the technical committee on voting procedure, the representatives of the Sponsoring States were asked to interpret their proposal. There was no uniformity among them in their interpretations. A sub-committee was set up consisting of the Sponsoring States and a limited number of the other conference participants to seek clarifications. The sub-committee submitted to the Sponsoring States, a twenty-three part questionnaire requesting answers to questions concerning the applicability of the veto in specific situations. There was some disagreement among the Big Four over the issue of the right to use the Veto to block preliminary discussion of a conflict.

It was resolved after two weeks discussion and only after a direct appeal had been made to Marshal Stalin in Moscow to relax the Soviet hard line position. The Sponsoring States reply took the form of a statement with which France later associated itself.[30] Unfortunately, the statement did not address itself directly to the specific questions that had been posed by the sub-committee.

The smaller states were dissatisfied with the general rigidity of the application of the veto but had to accept the interpretation as representing the limits of big-power concessions. They were particularly disappointed over the issue of whether a question was substantive or procedural. The sponsoring powers stated that, that preliminary question would be sttled by a substantive vote, thus using the so-called "Double Veto."

The statement however listed matters that could be decided by a procedural vote of any nine of the fifteen Security Council Members, for example, the question of reminding members of their obligations under the Charter. The list became the future guarantee against future invasions of the procedural areas through interpretation by the permanent members and also limited the range of future possibilities for using the "Double Veto". In general, the big powers have treated their published statement in San Francisco as binding as the Charter itself even though it was not endorsed by the technical committee or Commission III of the Conference.[31]

While the Veto remained, the only concession was the provision in Chapter XVIII dealing with the

revision of the Charter. It is our submission that nothing was actually achieved by the smaller states because in the final analysis, nothing can be changed by an amendment without the acceptance and ratification by all the permanent members of the Security Council as well as by two-thirds of all members of the United Nations.

As at July 26, 1986, a total of 206 Vetos have been cast in the Security Council, an indication that no structural change can really effect any meaningful results without the co-operation of the permanent members.[32] The argument for more permanent members in the Security Council to neutralise the use of veto cannot help the situation, infact, it may have the tendency to further worsen the already terrible trend of happenings in the area of peace and security. The implication of all these will be seen when we come to examine the Congo crisis in the light of the United nations practice.

1 - 1(e) ii: Regional Arrangement:

The struggle at San Francisco on regional arrangements was between regionalism and universalism. The adversaries agreed on the goal of world peace and security and on the inadequacy of the State-centered

system for this purpose. Both advocates also concurred that the international system must eventually be modified from the primacy of the nation-state in the direction of a partial surrender of State sovereignty to larger political unit either regionally or universally. At the end of the day, the forces favouring regionalism were sufficiently strong and diverse to require an accommodation for conditional regional organisation within the universal framework of the United Nations. The concession was due mostly to those states that had alread made heavy political investments in such arrangements e.g. the Inter-American system, the Commonwealth and the Arab League.[33]

Suffice to say that Winston Churchill at first favoured the regionalist over the universalist approach to world issues arguing that "it was only the countries whose interests were directly affected by a dispute who could be expected to apply themselves with sufficient vigour to secure a settlement."[34] His wartime view was best summed up in his speech at the Hague on May 6, 1948 when he said, "there should be several regional councils, august but subordinate, (and) that these should form the massive pillar upon which the organization could be founded in majesty and calm.[35]

The Latin Americans also formed a strong pressure block for a recognition of the legitimacy and importance of the role of regional agencies in the maintenance of international peace and security.

On the whole, regionalism won on the peace and security ground but failed in the attempt to extend the coverage to economic and social matters.[36] In practice, however, regional agencies have extensively been utilized in economic and social spheres, since nothing in the Charter precludes their establishment and since their utility is now widely recognized.

At San Francisco, the question of what constitued a regional arrangement was considered. A proposal by the Egypitian delegation to introduce a definition into the Charter that would emphasize as requirements such factors as permanent organization, geographical proximity, community of interest and cultural and historical affinities was rejected on the ground that while it "clearly defined obvious legitimate and eligible factors", it failed to cover all possible cases.[37] Nevertheless, from usage, the term has come to be defined as a segment of the world bound together by a common set of objectives based on geographical, social, cultural, economic or political ties and

possessing a formal structure provided for in formal inter-governmental agreements. A regional arrangement is expected to appeal only to a specified category of States, less than global in scope.

The finished Charter conferred general approval upon existing and anticipated regional arrangements, but contained provisions in Chapter VIII indicating the purpose of making them serve as adjuncts to the United Nations system and subjugating them, theoretically, in considerable measure, to the direction and control of the central organization. The Charter reflected the premise that the United Nations should be supreme and accepted regionalism conditionally, with evidence of anxious concern that lesser agencies should be subordinated to and harmonized with the United Nations. It did not however provide as Churchill had urged, a United Nations that is fundamentally relying upon regional agencies as the "massive pillars" of the world system.

The main principles of Chapter VIII are,

(1) Regional arrangements may exist for dealing with such issues as international peace and security as are appropriate for regional action as long as their activities are consistent with the purposes and principles of the United Nations,

(2) States are encouraged to settle local disputes through regional agencies before referring them to the Security Council,

(3) The Security Council may, in turn, utilize such arrangements for the settlement of local disputes,

(4) With the exception of action against enemy States resulting from World War II no enforcement action shall be taken by regional agencies without the authorization of the Security Council,

(5) The Security Council shall be kept fully informed of activities undertaken or contemplated under regional arrangements or by regional agencies for the maintenance of international peace and security.

Finally, it must be stated that while it is generally recognized that disputes between parties to regional arrangements are appropriate for settlement or adjustment by regional agencies, this does not necessarily exclude the possibility of Security Council consideration at the request of one of the parties. This is more so where the possibility exists that a powerful State may use a regional agency for coercing a smaller member. Also States within a regional arrangement may run away from the over-riding control and authority of the United Nations by relying largely on the provisions of Articles 51 and 107 of the Charter which provide a convenient loophole for their actions without reference to any higher authority. The undefined

relationship between regional agencies and the United Nations is perhaps not a problem to be solved, but as we shall demonstrate later, rather a process to be managed through the use of the settlement procedures in the Charter.

CHAPTER ONE: Footnotes

1. See Gross, "The Peace of Westphalia" 1948, 42 AJIL, p.20. See also Reuter P, International Institution, 1950, George Allen and Union Ltd P.55.

2. Cited in H. Lauterpacht, The Function of Law in the International Community, 1933, Oxford Clarendon Press, P.7.

3. E. Jan Osmanczyk, Encyclopeida of United Nations and International Agreement, 1985, Taylor and Francis, Philadelphia/London, P.22.

4. Inis L. Claude, Jr., op cit, p. 26.

5. A Le-Roy Bennett, International Organization, 1984, Prentice-Hall Inc, 3rd Ed, p.9. See generally, S.J. Hemleben, Plans For World Peace Through Six Centuries, 1943, Chicago University Press.

6. For detail see, J.H. Coate, The Two Hague Conferences, 1913 Princeton and The Proceedings of the Hague Peace Conferences, 1920, N.Y.

7. The rivers were, the Rhine, Daunbe, Elbe, the Douro, the Po and the Pruth.

8. For detail see Leonard, International Organization 1951, Chapter 1 and C. Eagleton, International Government, 1948, p.247.

9. Ray S. Baker and William E. Dadd eds, The Public Papers of Woodrow Wilson, War and Peace, Harper New York, p.161.

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11. Cited in F. P. Walters, A History of the League of Nations, 1952, London Oxford Univesity Press, I p.59.

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15. D. W. Bowett, The Law of International Institutions, 1982, Stevens and Sons Limited, p.377.

16. See generally Geogi Sharikmazarov, The Coming World Order, 1981, Progress Publishers.

17. Preamble to the United Nations Charter.

18. See the Reparations for Injuries case, ICJ Reports, 1949, p.174. See also International Status of Southwest Africa, ICJ Reports, 1958, p.128.

19. See Moscow Conference 1943 (Moscow Declaration) Diplomaticheski Slovar, Moskva, 1971, Vol.2.

20. Tehran Declaration, 1943, War Documents, Washington DC, 1984, p.27.

21. Dumbarton Oaks, Documents on International Organisations, US Department of State, Washington DC, October 9, 1944.

22. See Yuen Li Liang "The Yalta Voting Formula", 1947, 24 BYIL, p.330.

23. A LeRoy Bennett, Op Cit, p.36.

24. State Department, Postwar Foreign Policy Preparation, 1939 - 1945, p.270. See generally Rosenman S.J., The Public Papers and Addresses of F.D. Roosevelt, 1950, New York.

25. Adopted from Clyde Eagleton, "The Charter Adopted at San Francisco", American Political Science Review, October 29, 1945, p. 935.

26. Inis L. Claude Jr., op cit. p.60.

27. Ezequiel Padillam UNCIO Selected Documents, 1946, Department of State Publication 2490, Washington DC, p.932.

28. Ruth B. Russell, A History of the United Nations Charter, 1958, Washington Brookings Institution, pp.716-35.

29. For details see UNCIO Documents XI, 1945, See also Department of State Publication, Malta and Yalta Documents.

30. L.M. Goodrich, E. Hambro and A.P. Simons, Charter of the United Nations, 1969, Columbia University Press, p.217.

31. Ibid, p.221.

32. The break down is as follows, USSR, 115, USA, 49, China (Beijing), 1; China (Taiwan),1; France, 16 and UK, 24.

33. Max Sørensen ed, Manual of Public International Law, 1968 St Martins Press New York p.107.

34. Ruth B. Russel, op cit, p.107.

35. Randolph S. Churchill, ed, Europe Unite, 1950, Boston Honghton Mittlin, p.314.

36. L.M. Goodrich & Co, op.cit., p.354.

37. For details, See UNCIO Documents XII, pp.673, 833 and 550.

CHAPTER TWO

CONCEPT OF CONFLICT

2-1: Definition of Conflict

Having examined the development of international institutions, we shall now attempt to examine the concept of conflict in its various dimensions.

Conflict as used in this work can mean a "dispute", "situation" or "crisis". Nevertheless, the fundamental premises on which conflict is based cannot be removed despite these characterizations.

For "dispute", the Permanent Court of International Justice (PCIJ) saw it as: "a disagreement on point of law or fact, a conflict of legal views or of interests between two persons (states)".[1] Dispute manifests when one party (state or institution) puts up a claim and the other party refutes it. According to Judge Moore dissenting in the Mavrommatis case-

> It (dispute) must be one which arises out of either a claim of right or a claim of interest, it must be a pre-existing difference certainly in the sense and to the extent that the government which professes to have been aggrieved should have stated its claims and the grounds on which they rest and that the other government should have had an opportunity to reply and if it rejects the demands to give its reason for so doing. [2]

And in their book, Bentwich and Martin define the term "dispute" simply as a "formulated difference of opinion as to matters of law, fact or justice arising in the mutual relations of states".[3]

A "situation" or "situation of friction" on the other hand may be described as a diffuse condition of tension or potential tension between two nations or communities within states coming out of deeper incompatibilities of culture, ideology, psychology or historical experience. Simply put; 'situation' is a state of affairs from which a formulated dispute may later emerge. Because of the uncertainty associated with "situation", all members of the international community have general interest. It must however, be noted that, to all intent and purpose, situations are generally indistinguishable from dispute in the strict sense of the word.[4] At the same time, one must not overlook the provisions of the United Nations Charter. The provisions tend to draw a dividing line between the two words especially when it come to action by the Security Council and the General Assembly.

For "crisis", the word has been used in so many different ways, in international affairs that it has no generally accepted meaning. Consequently, it is

desirable to examine some of these meanings in the light of the place of crisis in the overall concept of conflict. Neuhold sees crisis as prevailing "Whenever an international conflict reaches a level of hostility at which the use of large scale force seems to be imminent or at least highly probable to the decision makers concerned or has already occured".[5] To Richard G. Head, "a crisis is caused by a change in the international or domestic environment that generates a perception in the minds of policy makers of a threat to important goals or values, with significantly increased probability of hostilities and a short time for response."[6] Glenn H. Snyder and Paul Diesing advance the view that crisis are conflict episodes par excellence, hence, "an international crisis is a sequence of interactions between the governments of two or more sovereign states in severe conflict, short of actual war, but involving the perception of a dangerously high probability of war."[7] Charles F. Hermann, looking at the effect of crisis on decision - making behaviour defines crisis as a situation that -

(1) threatens high - priority goals of the decision-making unit;

(2) restricts the amount of time available for response before the decision is transformed, and

(3) surprises the members of the decision making unit by its occurrence.[8]

One of the more complete systemic definitions of crisis is offer by Young. It reads - An international crisis, then is a set of rapidly unfolding events which raises the impact of establishing forces in the general international system or any of its subsystems substantially above 'normal' (i.e. average) levels and increases the likelihood of international violence occuring in the system.[9] To him, the essence of the crisis is its unpredictability. It is a sort of hybrid condition, of neither peace nor war. Nevertheless, it contains elements of both and comprising the potential for transformation from peace to war.

So far,we have seen that there is no consensus on the fundamentals of theory and procedure in the definitions of conflict related terms. One thing that is, however, certain is the coherent tradition of research on the terms. The pivot of these various attempts is man himself - man in the nation, man in the institutions of nations, man controlling the destiny of mankind through his decision or policy at various levels of man's relationship. Man's perception, therefore, determines what definition is applicable in a given circumstance.

From the above attempt, we can identify five common variables in the definition of "dispute", "situation" and "crisis". These are:-

(1) Parties - States,

(2) Interests,

(3) Correlation,

(4) Incongruity and

(5) Reaction which could be coercion or violence or both.

Our preferred definition of conflict therefore is, a relationship among states in which actions and interactions are mutually opposed on a particular issue(s) at a point in time. Thus conflict requires management as against resolution which presupposes the possibility of complete elimination of conflict. There is thus the need for a 'process of finding a balance between the numerous power groups culminating in conflict amongst them.

Conflict management therefore, is something which does not necessarily arise out of the conduct of conflict itself.[10] It has to be fed into it from outside, that is a neutral third party which could be a state, or an institution. Figure 2 shows a possible working model of conflict management.[11] It is our firm belief that the major task facing humanity today is the restructuring of the international system along lines which makes its conflicts more manageable and less costly, hence the role of the United Nations in conflict management, which is the essence of this work.

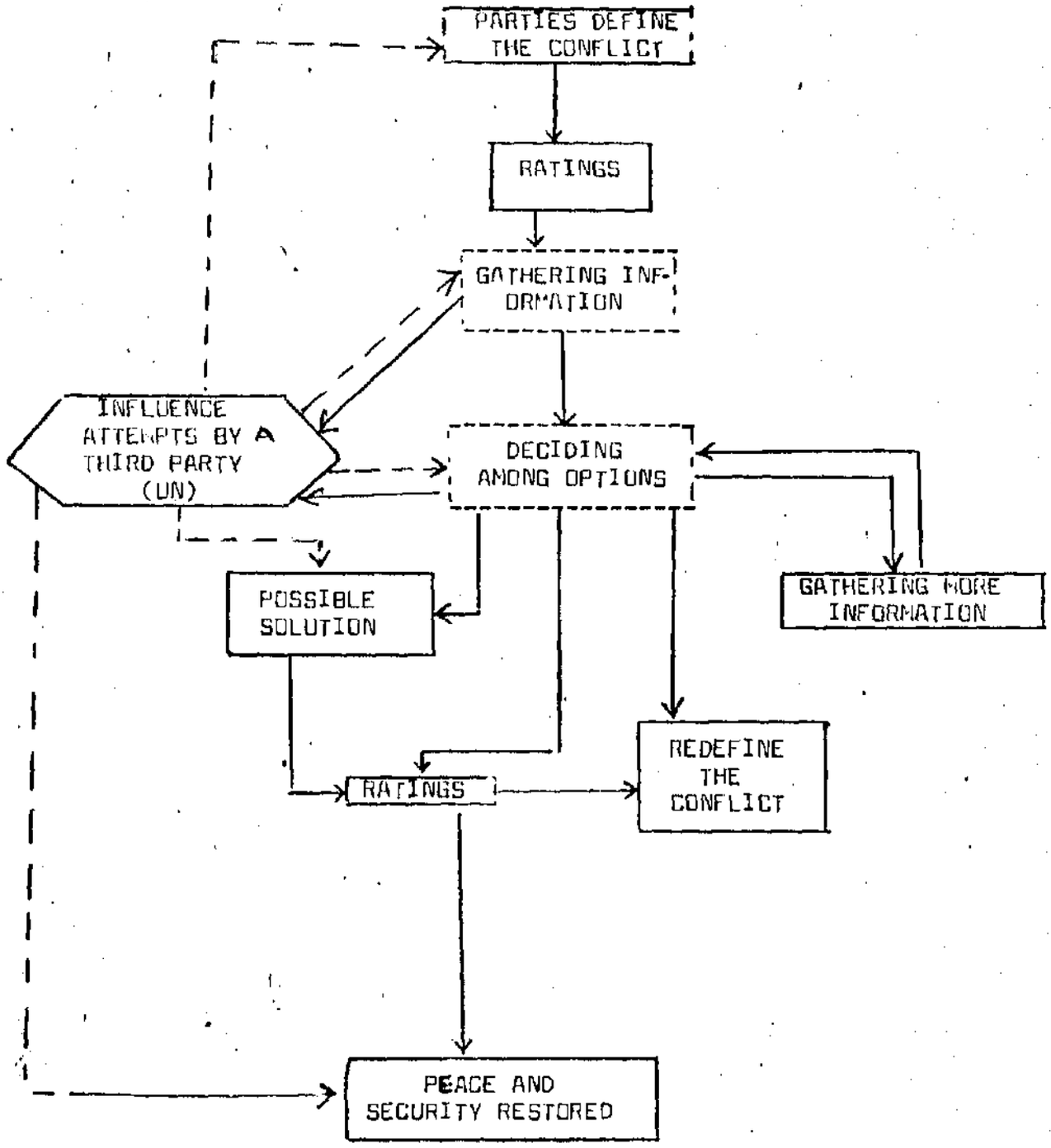


Fig. 2: The Conflict Management Model.

2-2: Causes of Conflict

Approaches to the causes of conflicts are numerous and diverse, but we shall examine the most basic of these.

A number of authors say it is the "role - playing" of states, that is, the expected behaviour of a state, the predictable behaviour to which adjustment has been made by others; the acts and functions of each state taken together that create the structure of international society.

This role is determined in the main by the static elements of the environment in which it exists and the interplay of foreign influences. Complimentary to this 'role-playing' is 'power' which the power theorists say is, that which is introduced by a state when it wishes to continue the enactment of an unacceptable role. When this occurs, the egalitarian nature of international community is in some areas destroyed, tension appears and the cumulative elements of power enter into the relationship. It is interesting that under this school, the term "authority" is used for "power" associated with acceptable role-playing and that no role remains acceptable permanently.[12] Flowing from this, therefore, is that conflict will always occur, thus calling for management.

Another view on the causes of conflict is that expressed by K.E. Boulding.[13] He sees conflict arising when a party makes a "move" which makes the other party worse off. He explained this with an abstract description known as an "utilityfield". Illustrating, Boulding says if we assume we have two parties called Party A and Party B; and that it would be possible to devise some kind of objectives or formal measure of thier utility. This could be cardinal or ordinal; Explaining the cardinal measure as an index of real per capital income in Figure 3, he says party A's interest (welfare) is measured in the vertical direction parallel to OA and party B's in the horizontal direction parallel to OB. Any point in such a field such as Po then represents a combination of their interest PoM for party B and PoN for party A. With this position there can be no conflict between the parties. But any change say Po to P1, is called a "move" if the slope of the line PoP1 is negative, this is defined as a "conflict move" since the move makes one party worse off and the other party better off. In figure 3, the move makes party B better off and party A worse off. This could cause conflict if party A resists the move and party B remains adamant. Similarly, a "move from P1 to Po would make

party A better off and party B worse off. Two other kinds of 'moves' are also possible. When the line joining the two positions has a positive slope, such as a move from Po to Pb this is called a benign 'move' because it makes both parties better off. The Second one is a move such as from Po to Pm called 'malign because it makes both parties worse off which could result in conflict when one party tries to improve the situation at the expense of the other.

The point to note here is the aggravation of the conflict when there is an unfavourable outside influence in three of the four possible "moves" under this theory.

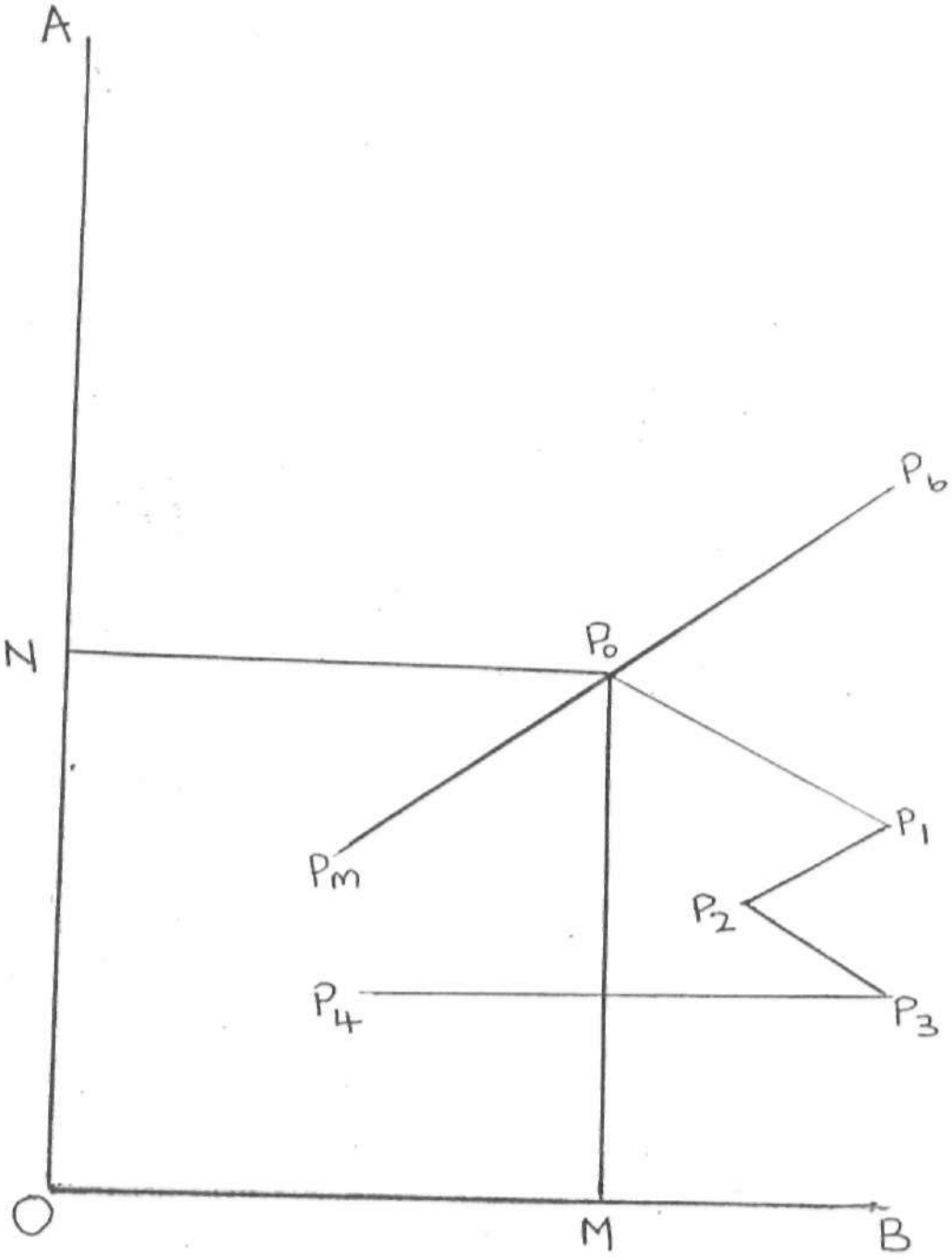


Figure 3: Utility Field.

Finally, to K.S. Holsti the basis of most international conflicts between interacting states is incompatible objectives (interests) and policy actions.[14] He propounded the theory that most international conflicts also have sources which are relatively easy to identify. These could be demands by one political group for territorial rights or resources controlled by another or the effort by one group to impose military, political or economic controls over alien populations. These demands according to Holsti, cannot be satisfied except at the sacrifice of the other state's "core values and interests". Thus conflict arises and continues until the initiator withdraws its demands or induces the other state to compromise or forces it to submit through threats or military action. Perhaps the most frequent source of international conflict according to Holsti, is domestic rebellion. This attracts outside intervention under the umbrella of "humanity and justice" especially when the intervening party may gain directly or by necessary implications, or nothing to gain, except maintenance of international peace and security.

From the above examples of causes of conflict we can rightly maintain that the all embracing cause of conflict is "power-play" by states over what they call "vital national interest" be it within or outside their sphere of influence. "Vital National Interest" could either be political, economic, military, religious or any combination of these. Again, management procedures are required to balance the "power-play" of states to the extent that peace and security is not endangered. And an ideal player in this balancing process is a third party, preferably an international institution like the United Nations Organization. It is our contention in this work that conflicts are relatively easy to manage once the causes are clearly identifiable.

2-3. Characteristics of Conflict

Even though each conflict situation is unique there are still common attributes whose presence or absence can be identified in many if not every conflict. Commentators have divided these into three.[15]

Firstly, we have systemic structural characteristics of the underlying system from which the participants come, for instance, cultural, social psychology, social groups and social organizations, economic system, and

political system. Secondly, we have the non-systemic structural attributes like nature of disagreement (issues and stakes), participants involved, coalition related properties, nature of reference point, policy options, time related properties and information available. The behavioural attributes of the participants also come into reckoning, for example, level of education, control of resources, perception, psychology and reception.

These characteristics further manifest in any of the following conflict indicators in the interaction of states:

1. Physical aggression. This is the actual use of force (military activities) by a party or both parties to make a point on the issue. This is resorted to when all other forms of action to remove the cause of the conflict have failed.

2. Public verbal dispute. This is the use of all available media and diplomatic procedures to attack the adversary in a conflict situation. Also if the parties have defined the conflict as a legal one, than the procedures for arbitration and judicial settlement fall under this head. Public verbal dispute is sometimes called the "high tension level" in a conflict situation.

3. Covert verbal aggression. This is mainly undertaken by security agencies of the parties. For instance, misinformation of the adversary population through pamphlets and propaganda machineries. Also under this head could be classified the instigation of dissident groups in the adversary states.

With this examination, we now have our concept of conflict which requires management through acceptable norms by recognized bodies, states or/and international institutions. However, parties to a conflict do have a number of options. They may decide to eliminate the causes of the conflict or threat through standardized procedures or to oppose the challenge by adequate power through military activities. Another option is to neutralise the challenge by a compromise through judicial settlement or negotiation using the good offices of a third neutral state or international institution. This last option can only be meaningful in an international community that accepts a body of rules to guide it as well as individual members of the community.

2-4: The Role of International Law in Conflict Management.

For effective management, there must be a means of regulating the practices of states in their relations with one another. One cannot, therefore, overemphasis the position of law in such relations.

Without going into the various theories and schools generally associated with the jurisprudential

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development of international law, there is a widespread agreement among states that rules are necessary in order to control and govern international conduct. A difference of opinion often results when attempts are made to articulate these rules and define the process through which they are formulated. To us, international law consists of those rules and regulations which bind nation states in their relations with one another. Far from being simply an amorphous collection of vague concepts and principles as some would want us to believe, international law comprises distinct component parts. As such, it is a body of law which has evolved out of the experiences and necessities of situations that have involved members of the world community over the years. International law exists because it is to the benefit of all states that some sort of order should govern their international dealings. There may be disagreement among them as to what law applies to a given situation, but there is no disagreement as to the fact that some set of rules are necessary. In the absence of a world government, these rules are made by the states themselves. States are therefore, the ultimate drafters and interpreters of international law. It is, therefore, our firm belief that only when a sound legal advice is

given in a conflict setting that the policy makers can best understand the options open to them and the consequences of such options.[16]

Figure 4 depicts our concept of international law particularly in the context of the United Nations Charter provisions. These provisions were developed for the purpose of eliminating or substantially reducing conflict within the international community.

At this juncture, it must be noted that politics is much closer to the heart of the international system than is perceived within national legal order. And that "Power" is much more in evidence in the international scene. There is thus the need to de-emphasize the political aspects of a conflict for fruitful management even though the interplay of law and politics in world affairs is much more complex than in the national system. "Power politics" stresses competition, conflict and supremacy and adopts as its core the struggle for survival and influence. International law on the other hand aims for harmony and the Management of conflicts. It attempts to create a framwork, no matter how basic, which can act as a kind of shock-absorber, clarifying and moderating claims and

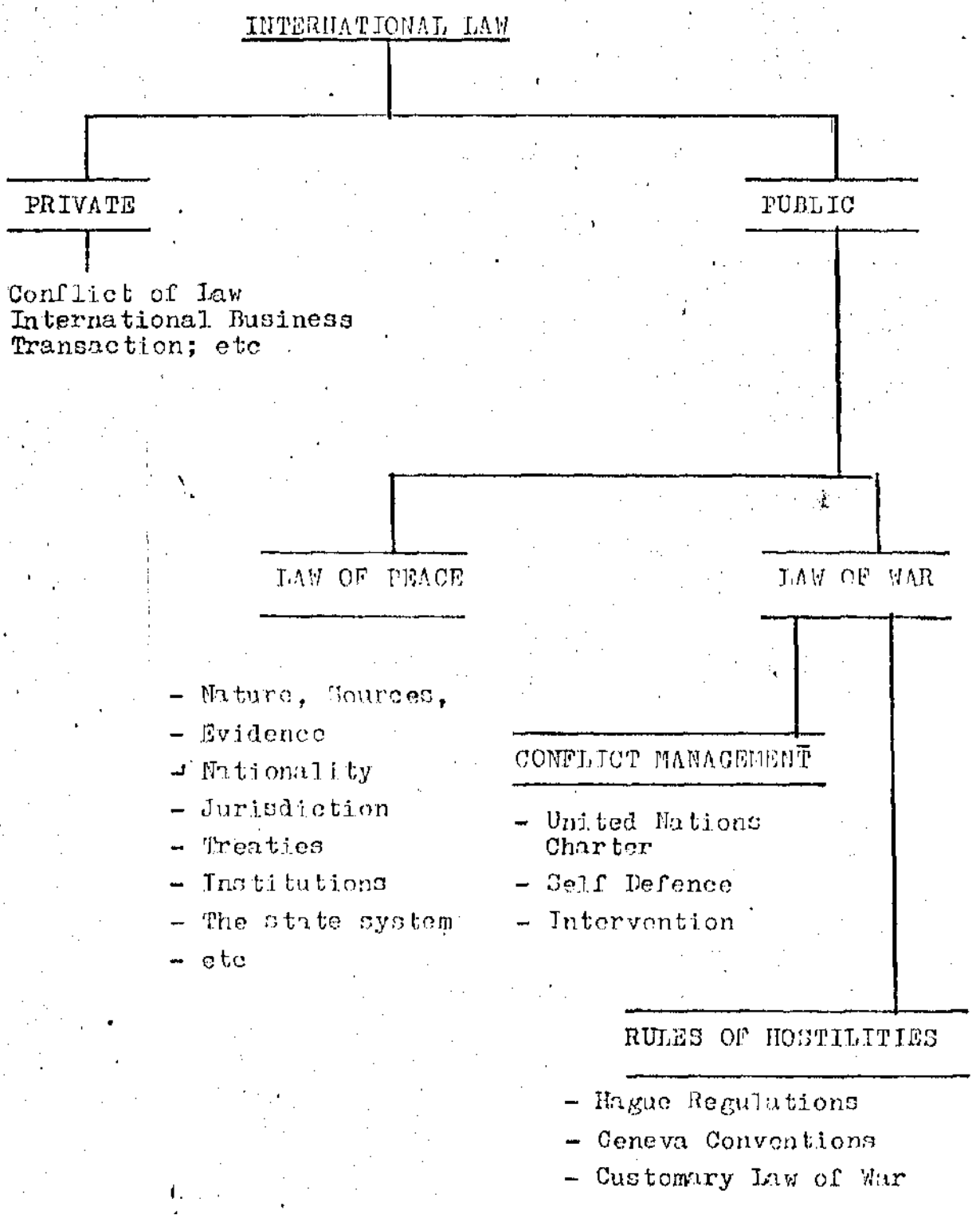


Fig 4 International Law Chart in Outline

endeavouring to balance interests. Consequently, it sets down a series of principles towards which society should move. Nevertheless, we must not forget its own inherent weakness in structure and content.

While accepting the place of politics in international conflict, contemporary events have shown that international law must be given its rightful place also. For instance, one of the chief advocates of international politics, Professor Hans Morgenthau made a complete about turn just before he died. He realized the need for an international norm in the relation of states to safeguard mankind in the face of the overwhelming killing capacity of modern weaponry.

Professor Morgenthau, was by training and temperament an international lawyer. Shortly after the outbreak of World War II, he wrote an article in which he demonstrated the level of positivist international legal sutdies.[17]

According to him, by the late 1930's, positivist international legal studies had reached a point where it partook of the worst elements of medieval scholasticism. The discipline had become so detached from the reality of its surrounding historical conditions that it lived in its own metaphysical world of delusions where theory had long ago replaced fact as the ultimate raison detre.

He felt that a positivist approach to international law had to be replaced by a functionalist analysis that would first explain and then attempt to narrow the gap that exists between law and politics in the realm of international relations. A functionalist analysis according to Morgenthau, would discard all tenets of international legal positivism that prevent an understanding of these undeniable multiface relationships between social forces and international law. He went further that by means of functionalism, the theory of public international law must and could be joined with its social context in order to survive and have meaning in a post war world organized around the twin principles of power politics and national interest. Unfortunately, he never wrote on his methodology of devising a functionalist analysis of international law.

But by the time the horrors of World War II were fully revealed, he and others like him had become thoroughly disillusioned over the chances of international law and institutions ever playing a meaningful role in the management of international conflict. He admitted that the Second World War played a decisive role in his transition from an international lawyer to a political realist.

Instead of developing a functionalist jurisprudence of international law, Morgenthau and his colleagues founded the "realist" or "power politics" school of international political science which in the main decried the relevance of international law and institutions in matters of vital national interest or of high international politics.[18] Morgenthau thus did to legalism/moralism in the study of international relations what Machiavelli's "The prince" did to the Christian ethos in politics.[19]

Nevertheless, his volte-face came in May 1978 when he delivered a stunning presentation before Stanley Hoffamnn's Seminar on American Foreign Policy at the Center for International Affairs of Harvard University. His basic thesis was that in a world of nuclear weapon, developed to current leval of technical expertise, power politics as the guiding principle for the conduct of international relations has become fatally defective. This could ultimately result in the destruction of the human race through precipitation of a suicidal Third World War between 1994 and 1999 as predicted by Nostradamus. He then proceeded to delineate what he believed to be the only possible solution to this overarching dilemma of the international political system. This he contended is the formation of a world government based on international law.

> more frequently than they are, if not in final settlement of all the issues in disputes between nations, at least on the judicial level in clarification of certain issues involved, so rendering disputes more amenable to complete and final settlement. It is to be observed that the Charter enjoins the settlement by peaceful means of disputes the continuance of which is likely to endanger the maintenance of international peace and security, and lays it down that legal dispute between states should be referred as a general rule, to this court to be dealt with in accordance with international law.[20]

Finally, it follows therefore that if it is possible to devise a means of enforcement, international law can control the external steps by which a nation seeks to follow a policy. Rules may be so framed or agreed upon that a policy of conflict cannot be worked out except through open violation of international law which will meet with protest and condemnation of the world at large. This could then be backed by whatever means have been devised for collective law enforcement. This is still possible despite the fact that it is a well established rule of international law that no state can without its consent be compelled to submit its conflict with other states to any kind of settlement.[21]

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The possibility lies on the fact that the procedure can be so worked out by the states themselves and it will be difficult to resist.

It is our submission that a new conflict management procedure based on law rather than the interplay of politics is desirable now much more than ever before. It could be established under the usage of the United Nations by way of prior consent freely undertaken by states once and forall for the mutual benefit of states and international community at large. President J.F. Kennedy summed up the position as far back as 1963 when he said:

> In a time when all men are properly concerned lest nations forgetting law, reason and moral existence, turn to mutual destruction, we have all the more need to work for a day when law may govern nations as it does men within nation.[22]

We will now go into the procedures available for management of conflicts before giving a case study of states practices in this regard.

CHAPTER TWO: Footnotes

1. See Mavrommatis Palestine Concession (Preliminary Objection) Case, PCIJ Series A No.2 p.11.

2. Ibid P.61

3. See Bentwich and Martin, A Commentary on the Charter of the United Nations, 1951, London, p80.

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6. See Head R. G., etal, Crisis Resolution: Presidential Decision Making in the Mayaguez and Korean Confrontation, 1978, Westview Press Inc, Boulder Colorado.

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9. See Oran R. Young, The Intermediaries: Third Parties, in International Crisis, 1967, Princeton University Press, p.10.

10. For details see Tery Nardin, "Theories of Conflict Management", 1971, Peace Research Reviews, Vol. IV No.2.

11. For a slightly different model see Barbara J. Hill, "Problem-Solving Workshops", Journal of Conflict Resolution, Vol.26, No.1 March 1982,p.116.

12. See generally Thomas C. Schelling, The Strategy of Conflict, 2nd ed. 1980, Harvard University Press; Steven J. Brams, Superpower Games, 1985, Yale University Press and R. J. Rummel, Understanding Conflict and War: Conflict in Perspective, 1977, Sage Publication Beverly Hills.

13. See generally K.E. Boulding, Stable Peace, 1974, University of Texas Press.

14. K.S. Holsti, "Resolving International Conflicts", Journal of Conflict Resolution, Vol X, No.3, 1965, p.272.

15. Walter Isard and Christine Smith, "Matching Conflict Situations and Conflict Management Procedures", Journal of Conflict Management and Peace Science, Vol.5, No.1, Fall 1980, p.1.

16. Godon A. Craig and Alexander L. George, Force and Statecraft: Diplomatic Problems of out Time, 1983, Oxford University Press P.205.

17. H. J, Morgenthau, "Positivism, Functionalism and International Law." AJIL, Vol.34, 1940, p 260.

18. See generally, H.J. Morgenthau, Politics Among Nations: The struggle for power and Peace, 5th ed., 1973, New York, Alfred A. Knoffa and George Schwarzenberger, Power Politics: A study of World Society 3rd ed., 1964, Stevens and Sons Ltd London.

19. George Bull, Niccolo Machiavelli: The Prince, 1985, Penguin Classics.

20. By Judge Sir Percy Spender in ICJ Communique No.65/3, March 15, 1965 p.3.

21. Eastern Carelia Advisory Opinion, PCIJ, Series B 8, No.5, P.27.

22. J.F. Kennedy, "Law Day USA 1963," No.3515 Federal Register, XXVIII, 1963, p.817.

CHAPTER THREE

MECHANISMS FOR CONFLICT MANAGEMENT

3-1. Peace Making

The obligations of Member States under the United Nations Charter specify the types of behaviour required to meet the purpose of international peace and security. Thus, "all Members shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered."[1] To that end, Chapter VI of the United Nations Charter enumerates adequate procedures which can be utilized so that conflict, when it occurs, can be reasonably managed. Article 33 in particular states:

> 1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
>
> 2. The Security Council shall, when it deems necessary call upon the parties to settle their dispute by such means.

The Charter has, therefore, made available peace making mechanisms for peaceful settlement; and these are in line with contemporary international law and numerous bipartite and multipartite treaties for pacific settlement of conflicts in existence today. These can be divided into three broad headings:

1. Diplomatic procedures, namely, negotiation, good offices, mediation, enquiry and conciliation.

2. Adjudication procedures, namely, determination of the question of law and fact by a third party arbitration and judicial settlement.

3. Institutional intervention by which the intervening institution could call the parties in dispute to utilize procedures under 1 or 2 above.

3-1-a. Negotiation

Negotiation is the most common procedure for conflict management. It is the traditional mechanism for peaceful settlement of conflicts. This is normally carried out by diplomats or representatives of the parties with "full power" to act for the states concerned. As Judge J.B. Moore observed, "there is nothing that so much conduces to adjustment of differences as a full and frank discussion of them". He then went further to describe negotiation as "the Legal and orderly administrative process by which governments in exercise of their unquestionable powers, conduct their relations one with another and discuss, adjust and settle, their differences."[2] Simply put, therefore, negotiation is the direct inter-course between representatives of two or more states initiated and directed for the purpose of either effecting an understanding between them or settling a dispute. It is a discussion of possible solutions to the

conflict, in a conference room by diplomats and/or representatives of the arring states.

Hardly a day passes without one or more agreements being reached through patient negotiation between Foreign Officers. Both oral discussions and exchanges of letters and memoranda are involved in negotiation. As most of these negotiation are conducted quietly without provoking the attention of the media, it is seldom realised how much has been and is still being accomplished through such ordinary diplomatic channels.

The United Nations has published in its Treaty Series more than 300 volumes of international agreements containing over 5,000 such negotiated agreements. A high number of conflicts have therefore, been managed by less formal agreements through negotiation.

There is no doubt that diplomatic negotiation still constitute the preferred method for settling conflicts. This view is supported by innumerable provisions of international treaties containing pacific management of conflicts.[3] Also, the court in Mavrommatis Palestine Concessions case, held that - "before a dispute can be made subject of an action at law, its subject-matter should have been clearly defined by means of diplomatic negotiations."[4]

Today, the United Nations has persistently called and encouraged Member States to negotiate and settle their conflicts peacefully. There is a continuous search for peaceful solutions to the underlying political problems of the world. These efforts have been pursued, not only in the Security Council and the General Assembly, through negotiated resolutions, but also through the good offices of the Secretary-General and his special representatives.

3-1b. Good Offices

Good offices is an offer by a third state or a prominent individual such as the Secretary-General to bring the adversaries together again when negotiations have broken down and effort is made to revive them. It is one way of preventing differences between States from developing into a major conflict. It also helps in getting results on sensitive problems before they reach an insoluble stage.

This mechanism can only be exercised when the offer is accepted by both parties.

The right of one or more States not parties to a conflict to offer their good offices on their own initiative was recognized in the Hague Conventions for the Pacific Settlement of Disputes of 1899 and 1907.[5]

Although there is no clear provision for good offices of the Secretary-General in the United Nations Charter, the procedure has been accapted as one of the peace making efforts through usage.[6] Article 99 of the United Nations Charter gives the Secretary-General a unique right and responsibility to bring to the attention of the Security Council any matter which in his opinion might threaten the maintenance of international peace and security. For this to be meaningful, it is only reasonable that he should be able to get all the facts before concluding that the conflict constitute a threat to international peace and security. It is also reasonable for him to apply this quiet approach which often hold out better hope of success.

Good offices can, therefore, be regarded as at the other end of the spectrum from the use of Article 99 when the Secretary-General or his representative acts as a go between. The Good Offices makes it possible to avoid public confrontation of the parties in the Security Council at the General Assembly and indeed other forum where disputants could be tempted to be intransigent or take rigid possitions. The exercise of good offices is a friendly and unofficial measure. It is not intervention within the meaning of Article 2(7) of the United Nations Charter.

Good Offices usually ends as soon as the parties have been brought together and have resumed direct negotiation. The parties, may, if they so wish, invite the third party to be present at the negotiation.[7]

The first Secretary-General to use good offices was Dag Hammarskjold, who held office from 1953 to 1961.[8] This was in connection with his effort to secure the release of 15 United States of America airmen held captive by the Peoples Republic of China in 1955. There have since been a variety of situations when good offices have been employed in management of conflicts between States or in helping to release individuals held captive.[9]

That good offices of the Secretary-General absorbs a large part ofthe Secretary-General's time and energy was confirmed recently by Mr. Liu Fon-tchin, one of his deputies.[10] It is not surprising therefore, that the current incumbent, Javier Perez de Cueller coined the term "good officer" in referring to himself on many occasions. Mr. Liu Fon-tchin conceded that the growth of multilateral diplomacy has enhanced the Secretary-General's position as far as good offices is concerned. And that by force of both the personal institutional respect the Secretary-General commands as well as by the judicious accumulation of precedents, he has come to assume an important role as guardian of the interests of

and spokesman for the international community as a whole. The Secretary-General's influence has been strengthened by the broader composition of the United Nations since the 1960's.

It is our submission that the use of the good offices of the Secretary-General in particular should be encouraged. Member States should be made to see the long term advantages of this procedure.

It is our submission that the use of the good offices of the Secretary-General in particular should be encouraged. Member States should be made to see the long term advantages of this procedure.

However, the prerequisite for successful use of the good offices should be noted. These include sufficient concurrence of interest to make it acceptable, discretion, restraint, a degree of goodwill, super power acquiescence and a measure of statesmanship, courage and vision.

3-1c. Enquiry. (Commission of Enquiry)

In line with the good offices procedure is enquiry or commission of enquiry. In conflicts, which involve a difference of opinion on points of fact, the parties may agree that a third party facilitate a solution by elucidating

the facts in an impartial and conscientious investigation.[11] This could be one or more persons appointed jointly by the parties to the conflict. The result of the enquiry once accepted by the parties, then the matter is settled.

In arriving at their conclusion, the Commission of Enquiry may hear the parties and examine witnesses and experts. It may, with the consent of the parties conduct an on-the-spot enquiry. An enquiry does not fix responsibility that may result from the facts.

Under the UN system, the Secretary-General has the responsibility in practice to set this procedure in motion. This he does either on his own initiative or on direction from the Security Council or General Assembly as the case may be. This position was amplified during the Greek question in 1946. In the course of the Security Council's consideration, a United States sponsored resolution asked that a Commission of three individuals be nominated by the Secretary-General to investigate the Greek compaint.

Before the vote on the draft resolution was taken, the Secretary-General intervened in the discussion and stated:

> ... should the proposal of the United States not be carried, I hope that the Secretary-General may reserve his right to make such inquiries or investigation as he may think necessary in order to determine whether or not he should consider bringing any aspect of this matter to the attention of the Council under the provisions of the Charter. [12]

The statement had far-reaching implications for the future developments of the Secretary-General's function. This was clearly demonstrated during the Congo crisis. By making the statement quoted above, Mr. Trygve Lie affirmed his right to conduct enquiry even in situation where there is no authorization from the Security Council or General Assembly. To him, this was a direct corollary of Ariticle 99 of the Charter and that assertion has remained unchallenged. Ironically, he was supported by the representative of the Soviet Union who said:

> I think that Mr. Lie was right in raising the question of his rights. It seems to me that in this case as in all other cases, the Secretary-General must act. I have no doubt that he will do so in accordance with the rights and powers of the Secretary-General as defined in the Charter of the United Nations. [13]

Commenting on Article 99, Dag Hammarskjold enunciated, in 1961 in his Oxford Address, that it would authorize the Secretary-General; to start the whole United Nations machinery moving on the basis of his own judgement regarding what is a threat to peace and security. [14]

This according to him: "implies a broad discretion to conduct inquiries and to engage in informal diplomatic activity (good offices) in regard to matters which may threaten the maintenance of international peace and security."[15]

It is instructive to note that in his 1982 report, Secretary-General, Perez de Cueller went further in endorsing the right of the Secretary-General to ascertain fact, the essence of enquiry. He wrote: "I intend to develop a wider and more systematic capacity for fact finding in potential conflict areas."[16]

It is, therefore, our submission that the Member States will be making tomorrow's world a better one by giving their unflinching support to the Secretary-General's effort to ascertain facts in troubled areas. For instance, by the General Assembly Resolution 2329 (XXII), the Secretary-General was requested to prepare a register of experts whose services parties to a dispute may use for fact-finding. These experts who were to be nominated by Member State of the United Nation would not be limited to any single category of discipline.

So far, about forty-two Member States have already nominated in all about 189 experts to the register. It is now left for the Foreign Offices of Member States to remind their policy makers of the existence of these experts. Policy makers should, therefore, use these experts for the peaceful settlement of their conflicts.

Nevertheless, it is evident on the basis of past experience that the Secretary-General's success in executing an enquiry mission, even when armed by a mandate from the Security Council, depends primarily on the willingness of the parties directly concerned to furnish him with the facilities necessary to accomplish his task.

3-1(d) Mediation

Mediation is a process by which the third party (mediator) actively helps the parties in dispute to reach an amicable agreement. The function of a mediator has been defined as "reconciling the oppossing claims and appeasing the feelings of resentment which may have arisen between the States at variance."[17] He assists the parties in the simplest and most direct manner while avoiding formalities.

Though not required to make a report, the proceeding usually suggests a possible solution that the parties can use.

The functions of the mediator come to an end either when a settlement has been reached or when one of the parties declares that the suggested solution is unacceptable. The mediator's suggestions are mere advice and they do not have any binding force.

In practice, the functions of good offices and mediation are often exercised simultaneously by the same state, person or group of persons without any clear distinction being made between them. A typical example was the 1947 Committee of Good Offices on the Indonesian Question.[18] The Committee engaged in good offices, mediation and investigation.

3. 1 1(e) Conciliation:

Conciliation has no technical meaning like the other peaceful procedures for conflict management we have been discussing. We talk about conciliation when a third party tries to persuade the parties to the dispute to accept a settlement.

The mechanism of conciliation is often combined with that of investigation hence, the appointment of "Commission". It follows therefore that in addition to persuading the parties to accept a settlement, a conciliation commission often goes further into gathering more information about the questions in dispute.[19] Thereafter, the commission informs the parties of the terms of settlement it deems suitable. In practice, a conciliation commission is empowered to make proposals not only with respect to an equitable and mutually satisfactory solution of the questions submitted to it, but also on any future differences of opinion between the parties on the same questions.[20]

The reports and conclusion of a Conciliation Commission are not binding on the parties even with respect to the settlements of facts. They are mere recommendations submitted for the consideration of the parties in order to facilitate a peaceful management of the controversy.[21]

Nevertheless, it is our submission that conciliation is a useful method of peaceful settlement and as such should be encouraged.

Today, there are numerous treaties which provide for the creation of permanent conciliation commissions. When established, they could offer their services spontaneously in cases of disputes which the parties have failed to adjust by other diplomatic procedures. An example of a permanent conciliation of the OAU is the Commission of Mediation, Conciliation and Arbitration. Other treaties do provide for the establishment of an ad hoc conciliation commission after a dispute has arisen, as was the case in the Congo and this we shall see in the next Chapter.[22]

Contemporary development on conciliation at the United Nations was the call in 1984 by Nigeria, Philippines and Romania for the establishment by the United Nations of 'A Commission for Good Offices Mediation and Conciliation. The working paper submitted by the 3 countries called for a permanent conciliation procedure by the United Nations to facilitate an early and equitable solution to international conflicts.[23] They felt that such a procedure could help diffuse situations which could lead to international friction and a breach of international peace and security. It was further felt that a permanent concliliation procedure could help prevent conflicts among Member States.

The issue is still being debated within the United Nations.

It is our contention that a recognized permanent conciliation procedure would go a long way in helping to reduce international tension. The existence of such a body would be a constant reminder that there is still the last option when all other diplomatic procedures have failed to resolve the conflicts.

3-1(f) International Arbitration:

International Arbitration is one of the methods under international adjudication. International adjudication is a concept used in describing the management of conflicts by permanent or ad hoc international tribunals. The concept embraces three main elements, namely:

1. An impartial judge or judges, who may, without a change of the nature of their functions, be described as arbitrators, commissioners, or umpires.

2. A procedure that allows the parties to present fully and on an equal footing their views on the questions submitted for decision.

3. A decision on the basis of respect for law, which, given with all the trapping of judicial process after a full and fair hearing, is binding in substance.

International arbitration therefore is the method by which parties to a dispute agree to submit their differences to an arbitrator or a body of arbitrators specially constituted for the purpose of making an award. The award is usually based on such rules as the parties might specify, though the principles of international law and justice are normally applicable.

International arbitration has a long history dating back to the Amphictyonic Council of ancient Greece. However, modern international arbitrations based on the application of rules of law began with the Jay Treaty of 1794.[24] The Jay Treaty inaugurated the tradition of recourse to arbitration as the recognized method of managing disputes between Great Britain and the United States which could not be adjusted by negotiation. In the nineteenth century, the practice of arbitration become widespread. Eventually, the Hague Peace Conference of 1899 and 1907 succeeded in creating the Permanent Court of Arbitration (PCA).[25] It was provided that in question of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the signatory Powers as the most

effective and at the same time the most equitable means of settling disputes which diplomacy has failed to settle. It must however be noted that the Permanent Court of Arbitration is not a permanent court but a standing panel of arbitrators from which ad hoc tribunals could be drawn for a particular dispute. Also to be noted is the fact that though arbitral procedures have been codified, there is nothing under international law to make arbitration obligatory.

Between 1902 and 1914, 14 cases were decided by tribunals acting under the auspices of the Permanent Court of Arbitration. Between 1914 and 1932, six cases were submitted to the tribunal of the Permanent Court of Arbitration. Some of the cases include:

1. The Venezuelan Preferential case, which grew out of the pacific blockade of the ports of Venezuela by Great Britain, Germany and Italy.[26]

2. The Casablanca Case which resolved a ticklish diplomatic episode between France and Germany.[27]

3. The North Atlantic Coast Fisheries Case, which resolved a century-old dispute between Great Britain and the United States concerning fishing rights off the Canadian Coast.[28]

4. The Islamd of Palmas Case between the United States and the Netherlands.[29]

Since 1932 no case has come before the court. However, the national groups on the Panel of arbitrators have been assigned a function in the procedure of the election of the judges of the International Court of Justice. They nominate a list of persons from which the Security Council and the General Assembly elect the judges of the International court of justice. There is no doubt that the process of international arbitration has been increasing. This is evident by the considerable number of bilateral arbitration treaties now in existence. Inspite of this proliferation, States still feel reluctant to submit their differences of major importance to arbitration. One reason for this, is the difficulty in distinguishing legal and political disputes. Another reason is that provisions for obligatory settlement of legal differences have failed to materialise. For instance, the Revised General Act for Pacific Settlement of International Disputes of April 28, 1949 provided for arbitration only when diplomacy or procedure of conciliation has failed. Also, the attempt by the International Law Commission (ILC) in its Draft Convention on Arbitral Procedure of 1953, to make arbitration obligatory has not been welcomed by Member States of the United Nations.

States usually maintain that arbitration should not be recast into a mold approximating to that of "international adjudication" but that it should be flexible.

There are, therefore, still great difficulties in international arbitration since states prefer to maintain the option to decide whether to go to arbitration or not. This in turn prevents a definite body of rules that can be universally applied to adjudication. There is yet to be a general international agreement providing for the selection of arbitrators, procedures, limits of subject matter, site of tribunal, presentation of evidence and finally, determination of applicable laws or time-tables for rendering awards.

Perhaps, the greatest obstacle to resolving disputes peacefully through international arbitration is the infrequency of its practice. The custom of most nations is to reject arbitration procedure if there is no assurance of a favourable outcome or if either party is unwilling to comply with an unfavourable decision. The trend today is that states remain masters of the agreement to arbitrate, the procedure to follow and the selection of judges thereof.

Our submission is that, as masters, states should consider the great advantages of arguing their cases before a panel selected by them. International arbitration should be used by states in their international effort to live together in peace.

3-1(g): Judicial Settlement:

Because of the deficiencies in arbitration as a mode for the pacific settlement of conflicts, efforts were made to establish a permanent international court. The court so established was to have jurisdiction and procedures similar to those of national courts. Though unsuccessful, it did pave the way for the establishment of the Permanent Court of International Justice (PCIJ) in 1922 after the First World War.

The League of Nations Covenant made provisions tothe effect that Members were bound to submit to arbitration or judicial settlement, conflicts that could not be settled by diplomacy. On judicial settlement, the Assembly of the League of Nations approved in 1920 the Statute of the Permanent Court of International Justice. Judges of the Court were to be elected by an absolute majority of votes in independent elections in both the Assembly and the Council of the League of Nations.

The Permanent Court of International Justice was a court in the real sense of the term. Though all members of the League of Nations were parties to the statute, its jurisdiction depended solely upon the consent of the parties to a dispute. On the other hand, the fact that the court was open to states at all times made it possible for them to accept its jurisdiction. This extended not only to a particular dispute that had arisen, but also to all disputes which might arise in the future.

It was therefore possible, for the first time, for a state to bring a dispute by means of a unilateral application calling upon another state to appear before the Permanent Court of International Justice. There was no longer any need for the parties to the dispute to reach a prior agreement on the composition of the tribunal and the questions to be submitted to it.

During its life span, the PCIJ gave 33 judgements and 27 advisory opinions. A substantial proportion of these related to the interpretation and application of the 1919 Peace settlement.[30] Nevertheless, the principles formulated in its decisions were more important and permanent than the context in which they were given.

For instance, in the case of the S.S. Wimbledon,[31] the principle that the conclusion of a treaty is to be interpreted as an exercise rather than a restriction of sovereignty is still very much valid today. This is shown by the fact that treaties must be construed so as to give effect to their terms rather than preserve the sovereignity of the parties. Another principle was that enuciated in the Nationality Decree in Tunis and Morocco case.[32] Here it was decided that the question of domestic jurisdiction was an essentially relative concept, the content of which at any particular time depended on the development of international relations.

The acceptance of the optional clause of the statute of the PCIJ in 1929, by France, the British Commonwealth Countries and other states, further widened the scope of the compulsory jurisdiction of the court. It must be noted that in hundreds of treaties, provisions were made enabling states to bring disputes before the court by unilateral application.

However, with the tense political atmospher of the 1930's, States became very sceptical about submitting their disputes to the Permanent Court of International Justice.

This became more obvious with what was widely regarded as a political alignment in the Austro-German Customs Union Case.[33]

The activities of the Permanent Court of International Justice was interrupted by the Second World War. It was dissolved in consequence of the dissolution of the League in 1946. It was a step ahead of international arbitration. It was the first judicial mechanism with which states could settle their international disputes with due regards for law.

On the founding of the United Nations in 1945, the Permanent Court of International Justice was reconstituted as the International Court of Justice (ICJ) by a statute annexed to the United Nations Charter. The International Court of Justice Statute forms an integral part of the United Nations Charter with binding force on all United Nations members. Except for a few changes, most of which are purely formal, it is similar to the statute of the Permanent Court of International Justice.

The International Court of Justice consists of 15 judges elected by the General Assembly and the Security Council for terms of nine years.

Only states may be parties in cases before the court but public international institutions may furnish information. Advisory opinions may be requested by the General Assembly, the Security Council and other organs of the United Nations and specialized agencies so authorised. Though the court is not open to individuals, nothing prevents private interests from being the subject of proceedings before the Court. It is always open to a state to take up the complaint of one of its nationals against another State.

The International Court of Justice is the principal judicial organ of the United Nations. It is also one of the means of managing conflicts among states. Its role is to decide in accordance with international law such cases as are submitted to it. But the fact that the court is open to a state does not mean that the state is obliged to have its conflicts with other states decided by the Court. The Court's jurisdiction to try contentious cases depends upon the consent of states, since international justice, in contrast to municipal justice, is still optional.

The consent of states may be expressed in many ways. First, states in conilict may agree to reier it to the court. In such a situation, the matter is brought before the court by the notification oi a special agreement concluded for the purpose by the two states. Another way is an undertaking to appear before the Court if a dispute should arise. In such cases, the matter is brought beiore the Court by one state's unilateral application against another. Likewise, states which are parties to the statute may give a very broad undertaking declaring that they recognise as compulsory ipso iacto,and without speciai agreement in relation to any other state accepting the same obligation, the jurisdiction oi the court in all legal disputes concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence oi any iact which, if established, would constitute a breach of an international obligation and

(d) the nature or extent oi the reparation to be made for the breach oi an international obligation.34

Such declarations are generally accompanied by conditions, limited duration, nature of the dispute etc. As at January, 1983, 47 States, including Nigeria, have accepted the compulsory jurisdiction of the Court. United States in its declaration excluded matters of domestic jurisdiction as determined by it.

The court also have compulsory jurisdiction where the parties concerned are under obligations arising from treaties or conventions. Here the parties submitt to the jurisdiction of the ICJ over certain categories of disputes which could not be resolved under the treaties or conventions. Examples of such treaties or conventions include, The European convention for Peaceful Settlement of Disputes, the Constitution of the International Labour Organization and the Convention of the International Civil Aviation Organization.[35]

Similarly, there are bilateral arbitration conventions and clauses providing for compulsory jurisdiction of the ICJ contained in a number of general treaties. For instance, Article 66 of the Vienna Convention on the Law of Treaties, 1969. However, in recent years, there has been a marked

decline in the practice of including such clauses in newly negotiated general international agreement.

The seat of the International Court of Justice is at the Hague, Netherlands. In deciding cases, it is to apply: international conventions, whether general or particular that establish rules expressly recognized by the contesting states; international custom as evidence of a general practice accepted as law; the general principles of law accepted by nations and subject to the rule that a decision had no binding force except between the parties and in respect of the particular case, judicial decisions and the teachings of the most highly qualified publicists of the various nation's as subsidiary means for the determination of the Law.[36]

Between 1946 and 1983, the International Court of Justice dealt with 48 contentious cases, delivering 42 judgements and making 174 orders. These include:

1. The Corfu Channel case, which arose out of the explosion of mines by which some British warships suffered damages while passing through the Corfu Channel in 1946, in Albanian waters previously swept,[37]

2. The Asylum Case which arose in 1949 from the granting of asylum in the Colombian Embassy at Lima to a Peruvian national, Victor Raul Haya de la Torre, a political leader accused of having instigated a military rebellion.[38]

3. Anglo-Iranian Oil Company Case which arose as a result of dispute between Iran and an Oil Company in respect of an agreement between them. The United Kingdom took up the company's case and instituted proceedings before the Court.[39]

4. South West Africa Case, in which Ethiopia and Liberia requested the Court to make declarations to the effect that South West Africa remained a Territory under a mandate, that South Africa had been in breach of its obligations under that mandate, and that the mandate and hence the mandatory authority were subject to the supervision of the United Nations.[40]

5. United States Diplomatic and Consular Staff in Tehran, which arose from the occupation of the American Embassy in Tehran by Iranian militants in 1979 and the capture and holding as hostages of its diplomatic and consular staff.[41]

On the other hand, the Court dealt with 17 requests for advisory opinions, delivering 18 such opinions and making 25 orders in the cases concerned. They include the Reparation for Injuries suffered in the Service of the United Nations,[42] Interpretation of Peace Treaties with Bulgaria, Hungary and Romania,[43] and Certain Expenses of the United Nations.[44]

Despite these provisions and decisions, states have refused to submit most of their major conflicts to judicial settlement by the International Court of Justice. One can only note that the cold war between the West and the East has reduced the relations between most countries to that of power struggle with all differences assuming political importance. This "power-play" makes it difficult to apply acceptable rules of conduct before the chosen instrument of judicial settlement.

Progress can be made if the rigid position of placing politics above legal issues in conflict is relaxed. We must therefore distinguish between legal and political disputes at international level. Having done that, we must then apply the rules accordingly thus accepting the mechanism of judicial settlement of all disputes.

It is our contention that the basis of almost all conflicts is the failure of states to conduct their affairs in such a manner as to avoid a feeling of grievance and intolerable unfairness by others. It is a breach of the norms which can only be best corrected through legal processes. No social order can remain secure unless it accords with the sense of justice of most of the states most of the time. We must therefore be prepared to alter the shape of the international system, which puts too much reliance on power politics as against international law and justice. The system must be made just and fair to all Nations big or small, weak or strong, through the rule of law.

3 - 1(h): Regional Agencies or Arrangements

This Regional Procedure for peace making is provided to localise conflict.

To that end, regional agencies or arrangements utilize all the procedures we have discussed above. For instance, the Charter of the Organization of African Unity (OAU) adopted in Addis Ababa in 1963, mentions as one of its principles, the settlement of disputes by negotiation, mediation, conciliation and arbitration.[45] In 1964, a Protocol adopted in Cairo, established, a Commission of Mediation, Conciliation and Arbitration, for use in conflict management by the Organization of African Unity[46]. In the absence of agreement between the parties to adopt any of the procedure under the Commission, either party to conflict may bring the matter before the Council or the Assembly of the Organization of African Unity. Cases dealt with by the Commission include the Somali-Ethiopia boundary dispute and that of Morocco and the Popular Front for the Liberation of Saguia al Hamra and Rio de Oro (Polisario) over Saharan Arab Democratic Republic after Spain left the territory in 1976.[47]

Settlement of conflict through regional agencies or arrangements is also found under the Charter of the Organization of American States. (OAS)[48]

The members are bound to submit disputes that may arise between them to the peaceful procedures set forth under the Organization of American States Charter. Where these fail to adjust the conflict, then the matter may be referred to the Security Council of the United Nations. If one of the parties to a dispute is of the opinion that a conflict cannot be settled by nomal displomacy, the parties are required to enter into an agreement for the adoption of some other peaceful procedure. In pursuance of the Organization of American States Charter provisions, the American Treaty of Pacific Settlement of Disputes was concluded in 1948 (Pact of Bogota). It provides for the procedures of good office, mediation and judicial settlement.

Again, during one of the Organization of American States meeting of consultation of Ministers of Foreign Affairs, a resolution was adopted setting up an Inter-American Peace Committee.[49] The main function of the committee was conciliation among members during conflict. The Peace Committee was formally established in 1948 with its seat at Washington DC. Members of the Committee consists of two representative each from North and South

America and one from Central America. They conduct an on-the-spot investigation and conciliation. For instance, the 1955 Peru-Ecuader border dispute, and the 1957-61 Honduran border conflict between Honduran and Nicaragua.[50]

3-1(i): The Security Council and the General Assembly:

The Security Council or the General Assembly intervenes in disputes between members where the procedures discussed above could not resolved the matters.

The Security Council has the responsibility under the Charter to call on the parties again to settle their disputes in accordance with the provisions of Articles 33 of the Charter. Where this initiative fails the Security Council may take it upon itself to investigate the dispute,[51] This is particularly so when the dispute might lead to international friction thereby endangering the maintenance of international peace and security. Based on its investigation, the Council may recommend to the parties appropriate methods of adjustment.[52] Where, for one reason or another, parties refused to comply with the recommendations of the Council and the dispute persists the Security Council may take further action under Chapter VII.

This we shall examine further under the next two sections.

Disputes which parties are unable to resolve among themselves may be brought to the General Assembly. The General Assembly may deal with such disputes subject to the provisions of Articles 11 and 12 of the Charter. Thus the Assembly has additional responsibility under Article 14 to call on the parties to settle their dispute peacefully.

To this end, the General Assembly has adopted several declarations and resolutions on peace, peaceful settlement of dispute and international co-operation in strengthening peace. These include the followings:-

1. The 1957 resolution on Peace and Neighbourly relations Among States, which stresses the need to develop friendly co-operation and peaceful relations among states irrespective of their divergencies.

2. The 1965 Declaration On The Inadmissibility of intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, which condemns all forms of such intervention as contrary to

principles of the Charter and a threat to universal peace.

3. The 1970 Declaration on the Strengthening of International Security, in which Member States were urged to make full use of the means and methods provided for in the Charter for the peaceful settlement of disputes and to agree on guidelines of more effective peace-keeping operations.

4. The 1970 Declaration on principles of International Law concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, which sets forth seven principles, including the principle that states shall refrain from the threat or use of force against any State and the principle that states shall settle their international conflicts by peaceful means.

5. The 1972 Declaration on the Deepening and Consolidation of International Detente, in which Member States declare

their determination to strive to remove both causes and effects of international tension and to strengthen the role of the United Nations in maintaining international peace.

6. The 1982 Manila Declaration on the Peaceful Settlement of International Disputes, which reaffirms the principle of the Charter that all States shall settle their international disputes by peaceful means, and recognizes the importance of enhancing the effectiveness of the United Nations in the peaceful settlement of disputes and in the maintenance of international peace and security.

In addition to these resolutions and declarations, the Assembly, at its 2018th Plenary meeting on 14 December, 1971 adopted resolution 2817 (XXVI), requesting the Secretary-General to submit to the Assembly at its twenty-eight session, and every second year thereafter an informative report on scientific works produced in the field of peace research. The resolution also requested that the United Nations Institute for Training and Research (UNITAR) and those specialized

agencies active in the field of peace research should lend their assistance in the preparation of the report. Many states, non-governmental organizations, public and private institutions, UNITAR, and the United Nations Educational Scientific and Cultural Organization (UNESCO) have submitted reports on their peace and security research to the Assembly.[53]

While conceding that the General Assembly has done more talking than action, there are instances when the Assembly's intervention has helped to resolve disputes. The first dispute which was handled by the Assembly was that concerning the position of Italy's former colonies. The Assembly took up this case in April, 1949 and gave its recommendation as to the future of Ethiopia Libya and Somaliland. This subsequently led to their independence. Another politically important dispute handled by the General Assembly was the dispute concerning the French territories in North Africa. When the conflict was being debated, the French Government insisted that it was a purely internal dispute and that the Assembly had no jurisdiction over it. With cautious attitude, the Assembly was able to manage the dispute which resulted in the independence of Morocco and Tunisia in 1956.

On the whole one should not be surprised at the low level of results from the Assembly. This is so because of the wider powers of the Security Council as compared with the powers of the General Assembly. The Member States thus have the ultimate responsibility to give their fullest practical supports to the Assembly in its effort to resolve disputes peacefully.

3-2: Use of Force, (War):

When peace-making discussed in section 3-1 above fails, the other method open to the parties to a dispute is the use of force, that is war. War therefore becomes, the "ultima ratio ragis", meaning the final court of princes. The resolution ofthe dispute is thus achieved by might rather than right.

War is commonly defined to be a contest between nations, states, or parts of states, carried on by force. In its highest form, it is a fight between armies.[54] An army is made up of simple or indivisible elements of military power such as the infantryman with his rifle, the artillery with its gun, the armoured man with his tanks, the pilot with his fighter jets and the navy with its ships.

These elements are formed into groups, and these groups subordinated to certain officers charged with directing them and providing for them. The groups as a whole is subject to the direction and control of one will, the Commander-in-Chief who in most case is the President of the State.

War has been the method actually used for achieving the major political changes of the modern world. These include, the building of nation-states, the expansion of modern civilization throughout the world and the changing of the dominant interest of that civilization. War has influenced intellectual history by promoting a synthesis of conflicting opinions.[55] It is a continuation of political struggle through other means. A thorough understanding of war, its chronic and complex role in human endeavours is therefore an absolute condition for its control and use as a mechanism of conflict Management. There is a consensus today to use such terminology as "armed conflict", "armed hostility", "collective military measure" or"use of force" as synonymous with war.

For our purpose, it is enough to know that both inter-state and intrastate wars are not to be thought of as something autonomous.

They are instruments of policies of the parties. Thus wars usually vary with the nature of their motives and of the situations which gave rise to them. Characterising war tendencies, the 19th Century Prusian military philospher, Carl Von Clausewitz said,

> War is more than a true chamelon that slightly adopts its characteristics to the given case. As a total phenomenon, its dominant tendencies always make war a paradoxical trinity, composed of primordial violence, hatred and enmity which are to be regarded as a blind natural force (the people); of the play of chance and probability within which the creative spirit is free to roam (the commander and his army); and of its element of subordination as an instrument of policy which makes it subject to reason alone. (The government)56.

In other words, the passions that are to be kindled in war must already be inherent in the people. The character of the commander and the army goes a long way in determining the success or otherwise of the war. However the political decision to go to war rest squarely on the government as the decision maker. These three tendencies of Carl Von are like three separate rules of law, deep-rooted in their coverage and yet variable in their relationship to one another. It is our submission therefore that decision maker should be guided by law when contemplating war as an instrument of international policy.

Wars have occured throughout the long history of mankind. It is one ofthe characteristics of human species. As civilization grew, war became more and more a mode of enforcing a state's political and legal rights. Force thus became a monopoly of the organized community requiring moderation by acceptable rules. It is not surprising therefore that "jus in bello" that is law of war, was the first aspect of international law to develop. This came immediately after the inhuman treatment during the Thirty Years War.[57] Though total prohibition of war would have been the best, it has only been possible to regulate the use of force. These attempts to regulate war include:

1. The Geneva and Hague Conventions on the law of War.
2. The Kellog - Briand Pact.
3. The League of Nations Covenant.
4. The Charter of the International Military Tribunal and
5. The Charter of the United Nations.

Under the United Nations system, Members are not allowed to use threat or force against the territorial intergrity or political independence of any state, in their international relations.[58]

However, a member state may resort to use of force when an armed attack occurs against it.[59] Nevertheless, the United Nations as an institution is authorised to muster forces and use 'war' to manage the conflict that has degenerated to war among states.[60] This is what is called collective military measure under the Charter to restore international peace and security. This involves the establishment and operation of a complex scheme of national commitments and international mechanism. This is designed to suppress use of force by any state against any other state. Member states are therefore aware of collective military meansures as a means of resolving conflict. Unfortunately, this has not served as a deterrent to potential aggressor. Reason being the unwillingness of members to honour their Charter obligations to the letter.

The essential commitments of a system of collective military meansure require the willingness of member states to fight together to retain the status quo. War thus acting to combat assults on the currently legitimate pattern of national rights. The obligation of those taking part is merely to co-operate in the venture regardless of any underlying sympathies they may have for either of the parties in conflict.

Although peace through justice is our general proposition, we do not see why peace through collective military measures cannot be supported by the international community. This is more so, since states have recognized war as a means of obtaining their political objective. President J.F. Kennedy put it more vividly in one of his speeches that:

> Diplomacy and defense are not substitutes for one another. Either alone would fail. A willingness to resist force unaccompanied by a willingness to talk could provoke belligerence - while a willingness to resist force could invite disaster.
>
> While we shall negotiate freely, we shall not negotiate freedom. Our answer to the classic question of Patrick Henry is still no - life is not so dear and peace is not so precious, "as to be purchased at the price of chains and slavery." And that is our answer even though, for the first time since the ancient battles between Greek city-states, war entails the threat of total annihilation of everything we know of, society itself. For to save mankinds future freedom, we must face up to any risk that is necessary. We will always seek peace - but we will never surrender.61

3 - 2(a) The Security Council and Use of Force

The Founding Fathers of the United Nations were committed to the pragmatic exploration of the feasibility of collective military measures. They provided in the Charter that should a Member State fail to honour its obligation under Article 2(4) (non-use of force), the Security Council shall have the power to identify the aggressor. It shall also have the authority to order Members to engage in non-military coercion and take collective military measures using military forces from Members States. Article 42 of the Charter in particular states:

> Should the Security Council consider that measures provided for in Article 41 (Complete or Partial interruption of economic relations and means of communication, and the severance of diplomatic relations) would be inadequate, it may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and secuity. Such action may include demonstrations, blockade, and other operations by air, sea or land forces of Members of the United Nations.

The degree of force to be used by the United Nations forces is what is necessary to restore international peace and security. It will not therefore be too much for Member states to contribute a little for the good of all in a conflict situation that may threaten our very existence.

To assist the Security Council in this task of collective military measures is the Military Staff Committee (MSC). Article 47 of the Charter establishes the Military Staff Committee. The members consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. The functions of the Military Staff Committee include:

1. To advise and assist the Security Council on all questions relating to the Security Council's Military requirements for the maintenance of international peace and security and in particular, the prevention and suppression of aggression.
2. To prepare plans for the use of armed forces placed at the disposal of the Security Council.
3. To make recommendations to the Security Council for employment and command and designation of commanders for forces placed at its disposal.
4. To advise and assist the Security Council on all questions relating to armaments and disarmament.

5. To exercise strategic direction of armed forces placed at the disposal of the Security Council.

6. To establish regional Military Staff Committee sub-committees and direct their activities.

7. To perform such other functions as the Security Council may require.

Unfortunately, in practice the Military Staff Committee has not function as stated above. In an interview with the Military Staff Committee liaison officer it was contended that the Security Council has not set the organ in motion. That is to say, the permanent members ofthe Security Council are unwilling to take the decision that would make it function. He went further to say that even the Member States were not ready to make available armed forces for use by the United Nations He however believes that the medium and shall states can put pressure on the Security Council to unchain the Military Staff Committee. On the question of finance and which state will give its soldiers up first, the liaison officer maintained that the first thing is to give the Military Staff Committee a mandate.

And like other subsidiary organs, it will work out the details of implementation. It is therefore the contention in this work that the Military Staff Committee should be organized first and then the modalities for use of international force should come later. The current members of the Military Staff Committee are professional men who know the value of planning ahead. They are in good position for instance to work out plans on troubled areas of the world like Namibia. With the proper functioning of the Military Staff Committee, it is our view that the United Nations would have got itself a "think tank". A unit that can help the organs in the system to work better. Member States should be made to know the implication of the in effectiveness of the Military Staff Committee, for instance, the inability of the Security Council to make projections ahead on potentially dengerous situations. Perhaps, circulation of publication on the potential ofthe Military Staff Committee may be a way out.

Nonetheless, contemporary events have shown that the Security Council may be paralized and indeed has been paralized by the veto. A veto, as we have shown, will make the provision of Article 42 useless.

In such a situation, the matter may be effectively handled by the General Assembly if member states are willing. Because in the final analysis, the success or failure of any action by the Security Council or General Assembly depends on the willingness of member states to stop an aggressor.

3 - 2(b) The General Assembly and Use of Force:

The argument that only the Security Council has the primary responsibility for peace and Security can no longer stop the General Assembly, with the support of Member States, from initiating collective military measures. Article 24, which gave the Council primary responsibility does not exclude the power of the Assembly to deal with matters of peace and Security. Articles 10, 11, 12 and 14 are clear and unambiguous on the powers and functions of the Assembly. A liberal interpretation of these articles would accord residual or secondary responsibility to the Assembly.

The Charter is the constitution of the United Nations. As a constitution, we must look at its end result vis-a-vis the principal organs when interpreting the provisions therein.

Justice John Marshal, the distinguished Chief Justice of the United States Supreme Court pointed out in 1819 with reference to the United States Constitution that:

> A constitution, to contain an accurate detail of all the sub-divisions of which its great power will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects deduced from the nature of the objects themseleves.. We must never forget that it is a constitution we are expounding... let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adopted to that end, which are not prohibited, but consistent with the letters and spirit of the constitution are constitutional.[62]

This liberal principle of constitutional interpretation practised by Justice Marshal has been general accepted by the organs of the United Nations as applicable to the construction of the Charter. Professor A.F. Ross of Copenhagen applied a similar standard to the Charter. When he said:

> You cannot appraise the Charter in the same manner as you appraise a scientific exposition. What from a formal point of view is a deficiency may from another point of view be an advantage.

> Too great clearity, too rigid exactness is not always desirable in a legal instrument. This applies especially to a text which is not destined to regular application by the Courts, but as a constitution to serve as a basis for the legal life of a nation or commonwealth of nations under ever-changing conditions. In such a case, the flexibility conditioned by a certain vagueness and malleability in the drafting will be a far higher value than logical perfection[63].

And finally, the International Court of Justice did advise in the Certain Expenses Case that the maintence of international peace and security was not exclusively the responsibility of the Security Council. Thus it is our submission that when the Security Council fails to act, the Assembly can set on the machinery of collective military measures to maintain international peace and security. This confirms the power to take collective measure by the Assembly under the Uniting for Peace Resolution of 1950.[64]

By that resolution, the Members of the United Nations resolved that,

> If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of peace and security in any case where there appears to be a threat to the peace, breach of the peace or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate

> recommendations to members for collective measures, including in the case of a breach of the peace or act of aggression, the use of armed forces when necessary to maintain or restore international peace and security.

The Uniting for Peace Resolution has shifted the center of gravity from the veto-ridden Security Council to the veto-free General Assembly. The Resolution was properly used to establish the United Nations Emergency Force during the 1956 suez crisis and the later part of the United Nation Force in Congo in 1960. However, the Assembly would require as an essential pre-requisite the backing of a sufficient number of members and weight of Member States to assure the success of any given action under the Resolution.

3-2(c) Use of Force by United Nations:

So far, the records show one full fledged collective military measures and two semi-military operations by the United Nations since its inception in 1945. These relate to the Korean question, the Congo crisis and the Cyprus crisis. The Congo crisis is the case study in this work and will be discussed in the next Chapter.

The Korean question will be examined here, while that of Cyprus will be discussed in the next section.

During the 1950-53 Korean question, ground forces were contributed to a total strength of 740,000 troops by Member States of the United Nations. They were organized to fight conventional battle under the command of an American General. The force was raised for collective military measures by the Security Council during the absence of the Soviet Union.

It is interesting to note the circumstances that led to the absence of the Soviet Union, which infact largely made it possible for the United Nations collective military action in Korea. Normally, the Chairmanship of the Council rotates every month among the members of the council. On this occasion, it was the turn of China, represented in the United Nations by the delegate of General Cluaing Kai-Shek's Nationalist Government, Dr. T.S. Psiang. When he took his place on January 10 1950, the Russian delegate, Mr. Jacob Malik, immediately challenged Dr. Psiang's credentials as the representative of China in the United Nations. Mr. Malik argued that Dr. T.S. Psiang was only the representative of the Kuouin-tong and not of the Republic of China led by Mao Tse-Tung.

This apparently long overdue disclaimer by the Russians had been precipitated by a letter received by the Secretary-General from Premier Chon En-Lai of the Republic of China. The letter was to the effect that the People's Government of the Republic of China held as illegal the presence of the delegate of Nationalist China in the Security Council. It demanded that he should be expelled.

Mr. Malik now made it clear that if the Council fails to take the appropriate measures for the exclusion from its membership of Dr. Psiang, the delegation of the Soviet Union would not participate in the work of the Council. He then presented a short resolution to that effect. In reply. Dr. Psiang speaking as the Council's presiding President, ruled that Mr. Malik's proposal be printed and circulated to the members for subsequent consideration. That did not satisfy the Russian and Mr. Malik maintained that he could not accept a ruling from a president he did not recognize. Dr. Psiang declared that his ruling was being challenged and asked the Council to vote upon it.

The vote strongly supported Dr. Psiang's ruling. Mr. Malik cast a negative vote which did not count as a veto since the issue was one of procedure. At the next meeting, Mr. Malik's proposal was debated and defeated by 6 votes to 3 with 2 absentions. Mr. Malik left the Council with his entire delegations after delivering a strong condemnation of the Council's vote. He did not return until after eight months of which time the United Nations force was fully established in Korea.

The question of Korea was first discussed in 1947 by the General Assembly. The Assembly sought unsuccessfully to bring about a unified Korean State through nationwide free elections. In 1948, separate governments came into being in South Korea and North Korea.

On June 25, 1950, both the United States and the United Nations Commission, established by the Assembly in 1948, informed the United Nations that the Republic of Korea had been attacked that morning by North Korean forces.

The Security Council, with the Union of Soviet Socialist Republics absence, declared the armed attack as a breach of the peace and called for a cease-fire and withdrawal of North Korean forces to the 38th parallel. Two days later, as fighting continued, the Security Council recommended that Member States provide such assistance to the Republic of Korea as might be necessary to repel the armed attack and restore international peace and security in the region. The United States announced that it had ordered its air and sea forces to give cover and support to the troops of the South Korean government. The United States later authorized the use of its ground forces by South Korean Government.

On July 7, the Council voted to ask all member States providing military forces in accordance with the earlier resolutions to make them available to a unified command under the United States. This command was then authorized to fly the United Nations flag. In all 16 nations sent troops and 5 others supplied medical units. The Republic of Korea also placed all its military forces under the command.

The Soviet Union and the Republic of China considered the Council's decisions illegal. And in November 1950, a Chinese volunteer force entered the fighting on the side of North Korea. Fighting continued until July 27, 1953, when an Armistic Agreement was signed.

A United Nations Commission for the Unification and Rehabilitation was established to replace the United Nations Commission on Korea. This was again dissolved in 1973 by the Assembly in a consensus decision. The Assembly voted with satisfaction that a joint communique issued by North and South Korea on July 4, 1972 had provided for the reunification of the Korea. The communique enumerated three principles:

(a) the reunification should be achieved independently without reliance upon outside force or its interference.

(b) it should be achieved by peaceful means and

(c) national unity should be promoted.

It must be noted that the return of the Soviet Union in August 1950 meant that thereafter, the United Nations' decision on the Korean operation had to be taken by the Assembly.

In fact, it led to the adoption of the Uniting for Peace Resolution of 1950.

The United Nations operation in Korea demonstrated that collective military measures (war) can be realistically used as a mechanism for conflict management. It showed that the United Nations could act as the vigilant guardian of the international community with the active support of Member States.

3-3: Peace-Keeping

We have seen that when peace making fails, parties often than not, resort to use of force. Also we have shown that thereafter, the conflict can be resolved by collective military meansures. Nevertheless one of the parties, usually the winning one, may decide to heed the good advice of the international community to stop the fighting and give peaceful means a chance again. When this occurs, an innovation called Peace-keeping may be used to manage the conflict. Dag Hammarskjold was said to have called Peace-keeping Chapter 6½ of the United Nations Charter. Peace-keeping is a process which creates an opportunity for time and patience to contribute to the success of reapplying the

peace making mechanisms. Thus peace-keeping and peace-making are complementary mechanism to achieve pacific settlement of disputes.

The evolution of peace-keeping operation dates back to 1920. That year, the League of Nations organised a force of 1,000 men drawn from 9 States to assist the International Commission conduct a plebiscite. The plebiscite was at Vilna, over which Lithuana and Poland contested sovereignty. The role of the peace-keeping force was designated as being "a peace force not a fighting force simply there to perform police duties.[65]

Although the plebiscite was cancelled, as a plan, the peace-keeping force provided a precedent for the Saar Basin plebiscite in 1935. Under the Saar Basin plebiscite, the League raised an international force of 3,000 troops drawn from Great Britain, Italy, the Netherlands and Sweden. The role of the force was to help with the maintenance of peace and security before, during and after the plebiscite.

Since the Saar Basin Plebiscite, peace-keeping has taken a new turn, especially under the United Nations system.

To that extent, it is pertinent to draw the distinction between collective military measures (enforcement military operations), observation and suppervision missions and peace-keeping operation per se.

A collective military measure by the United Nations contemplates the type of action envisaged under Chapter VII of the Charter, which we considered in the last section.

Observation and supervision missions are groups of unarmed military men operating under the Secretary-General by, the authority of the Security Council or General Assembly. They are normally dispatched to crisis areas to obtain impartial first hand information and/or supervise compliance with agreed arrangements. The results from the mission help the United Nations to take further actions to maintain international peace and security in the areas. The allegations, by Greece, of illegal border incursions from Albania, Bulgeria and Yugoslavia, gave the United Nations the first opportunity to use observation mission.

That was the United Nations Special Committee on the Balkan 1946 - (UNSCOB). Since then, several observation and supervision missions have been established. These include:

1. The United Nations Truce Supervision Organization,(UNTSO) 1948 todate, UNTSO was set up in Palestine to supervise the truce called for by the Security Council during the first Arab-Israeli war. In 1949, its responsibility changed to that of assisting the parties in supervising the application and observance of the four General Armistice Agreements between Israel and the four neighouring Arab countries.

2. United Nations Military Observer Group in India and Pakistan (UNMOGIP) which were deployed in 1949 to assist in the observance of the cease-fire between India and Pakistan. This followed the hostilities in Jammu and Kashmir.

3. The United Nations India-Pakistan Observation Mission (UNIPOM) established in 1965 to consolidate the cease-fire following border war between India and Pakistan.

4. United Nations Observation Group inn Lebanon (UNOGIL) deployed in 1958 to ensure that there was no illegal infiltration of personnel or supply of arms or other material across the Lebanese borders with Syria.

Peace-keeping Operation on the other hand invoies the use of contingent of national armies made available under agreements between the contributing States and the Secretary-General.

This is based upon request by the Security Council or General Assembly. It embraces the inter-position of an international presence with the objective of preventing violence from breaking out or to contain it where it has already broken out. It is designed not to enforce peace but to contain explosive situations and give peace making a chance. It is essentially a holding action capable of providing the time and creating the climate necessary to bring about a peaceful settlement.

Though armed, peace-keeping forces are authorized to fight only in self-defence. They must at all times maintain complete impartiality and avoid any action that might affect the claims or position of the parties. To achieve their mandates they use negotiation, persuation, observation and fact finding in their day to day activities. Hence the term "soldier without enemies" has become synonymous with members of peace-keeping operations.

It must be noted that from usage observation and supervision missions and peace-keeping operations go under the same name of peace-keeping.

They are seen as two broad categories of an operation involving military personnel from Member States of the United Nations. In either form, the same basic principles apply. These are:

1. An attempt to create the conditions or environment in which pacific settlement can occur.
2. An international military or quasi-military presence.
3. The consent of the State or States in which the operation will take place and of the troops contributing.
4. The objective of preventing violence and
5. Strictly limited use of force to achieve objective or self-defence.

Thus professional soldiers who as members of a nationalistic institution per excellence are brought together in an ad hoc created force. A force without tradition or colour yet motivated to operate in the service of maintaining international peace and security. They have earned the name of "soldiers of peace" with their United Nations blue helmets.

Of all the United Nations efforts at maintaining international peace and security, its role in peace keeping is probably the best known and the most misunderstood.

This is so because there is no clear provisions for it in the Charter. Today, peace-keeping operation is seen as a stop-gap effort to manage internal and international conflicts. Perhaps a brief examination of some United Nations peace-keeping operation will show the effectiveness of this mechanism.

3-3(a) The United Nations Emergency Force(UNEF)

Peace-keeping operation as we know it today evolved from the Suez crisis of 1956 with the establishment of UNEF.

The Suez crisis began on July 26, 1956, when the Egyptian President, Gamel Abdel Nasser, nationalized the Suez Canal Company. The Company, an Anglo-French Consortium, ran the Canal under a ninety-nine-year lease from Egypt.

At the peak of the crisis, the Secretary-General's private initiative and the Security Council sessions proved fruitless in resolving the effect of the nationalization. On October 29, words came that Isreal had invaded the Sinai to stop Fedayeen raids

into Isreal.[66] Two days later, after publicly warning Isreal and Egypt to stop fighting and to guarantee free passage through Suez Canal, Britain and France attacked Egypt by air. Egypt responded by sinking vessels along the Canal to block it. The matter was taken to the Security Council. The Council was only able to vote to refer the matter to the General Assembly on Yugoslavia's initiative. This was in line with the Uniting for Peace Resolution of 1950.

The General Assembly held its first Emergency Special Session throughout the first ten days of November 1956. With the possibility of the war spreading, there was a need of urgency in the proceedings. The Assembly almost immediately passed a resolution calling for a cease-fire to which only Egypt agreed. It was a period of intense and creative diplomacy. It was towards the end of the first meeting in the early hours of the morning of November 2, that Canada's United Nations Ambassador, Lester Pearson first suggested the idea of a United Nations peace keeping force.

He proposed that the Assembly authorises the Secretary-General (Dag Hammarskjold), "to begin to make arrangements with the Member States for a United Nations force large enough to keep these borders at peace while a political settlement is being worked out... a truly international peace and police force"[67]. This was a new daring idea. While in 1948 the United Nations, had sent unarmed military observers to supervice armistices and cease fire in South Asia and the Middle East, it had never deployed armed troops to act as a buffer. There were no precedents to follow, in fact, the legality of such an action by the Assembly was unclear then and even now.

Again we must note that it is the Security Council that has the authority under the Charter to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace.[68] Nevertheless, the Uniting for Peace Resolution of 1950 as we discussed, has arrogated to the Assembly the power to act when the Security Council can not as a result of the veto.

By November 3, Britain and France had agreed in the General Assembly to halt military action if and only if Isreal and Egypt accepted a United Nations force to keep the peace and to ensure an acceptable arrangement on the Suez Canal. The Assembly passed two resolutions that day. One reaffirmed its earlier call for cease fire. The other asked the Secretary-General to submit within forty-eight hours a plan for the setting up of a United Nations force. Dag Hammarskjold and his staff had prepared a report recommending steps to be taken immediately to establish a United Nations Command. All his recommendations were endorsed by the General Assembly and included in resolution 1000 (ES-1). It was adopted on November 5, 1956 and provided for:

1. Establishment of a United Nations Command for an emergency international force to secure and supervice the cessation of hostilities in accordance with all the terms of General Assembly resolution 997 (ES-1) of November 2, 1956.

2. Appointment, on an emergency basis, the Chief of Staff of UNTSO, Magor General (Later Lieutenant-General) E.L.M. Burns as as Chief of the Command.

3. Authorization for the Chief of the Command to recruit from the observer corps of UNTSO, a limited number of officers who were to be nationals of countries other than those having permanent membership in the Council. In consultation with the Secretary-General, the Chief of Command was to undertake the recruitment directly from various Member States other than the Permanent Members of the Council, of the additional number of officers needed

4. The Secretary-General to take such administrative measures as might be necessary for prompt execution of the actions envisaged.

By November 5, Egypt and Isreal had agreed to a cease-fire. And by 2 a.m. on November 6, Dag Hammarskjold had completed his second and more extensive report on the establishment of the United Nations Emergency Force. In the report, he defined the concept of the new force and certain guiding principles for its organization and functioning. These principles have served as precedents for all subsequent peace keeping operations.

After considering the Secretary-General's report, the Assembly adopted resolution 1001 (ES-1) on November 7.

The resolution approved the guiding principles and basic rule concerning the financing of the emergency international United Nations Force. It also concured with the definition of the functions of the Force contained in the report. Thereafter, the Assembly established an Advisory Committee composed of Brazil, Canada, Ceylon (now Sri Lanka), Colombia, India, Norway and Pakistan. The Committee, under the Chairmanship of the Secretary-General was requested to undertake the development of those aspects of the planning of the Force which had not been dealt with by the Assembly and did not fall within the area of the direct responsibility of the Chief of Command.

The Assembly authorized the Secretary-General, in consultation with the Committee, to issue all regulations and instructions essential to the effective functioning of the force. He was to take all other necessary administrative and executive action in respect of the force.

The Assembly also requested all Member States to give necessary assistance to the United Nations Command in the performance of its functions, including arrangements for passage to and from the area of operation.

It is interesting to note the pattern of voting in the Assembly when resolution 1001(ES-1) was adopted. It was adopted by 64 votes to none, with 12 abstentions. France and the United Kingdom voted with the majority. Egypt and Isreal remained with the abstainers together with South Africa, the Soviet Union and Eastern European States. The representatives of France and the United Kingdom indicated that the resolution was acceptable to their governments because it provided, as they had urged, for an effective international force in the area. The representative of the Soviet Union stated that the establishment of the Force under resolution 1000 (ES-1) (which he voted against) and the plan for its implementation in resolution (1001 ES-1) were contrary to the Charter. He went further that, the only reason for abstaining rather than voting against the draft resolution lay in the hope of preventing any further extension of the aggression against Egypt.

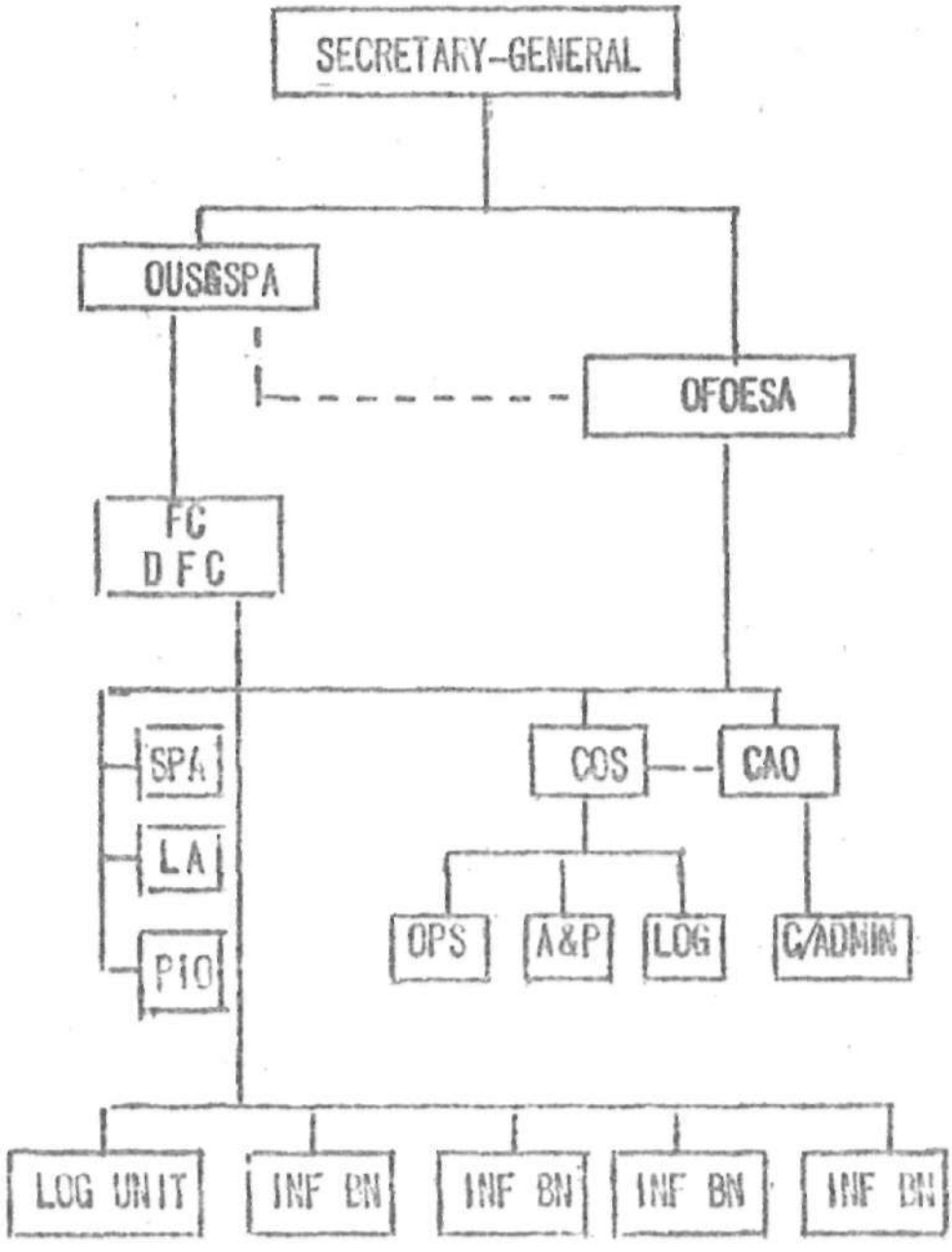
Thus during the First Emergency Special Session, the General Assembly had adopted a total of 7 resolutions. The sum total of these resolutions was that the Assembly gave the Secretary-General the authority

But in February 1957, UNEF was given the Longer-term task of remaining as a buffer force on the armistice demarcation line on the Gaza strip and on the international frontier in the Sinai. UNEF, the first United Nations peace-keeping force whose size ranged from 3,000 to 6,000 from 10 countries, carried out these tasks for 10½ years. Its withdrawal cleared the way for the six-day war of June, 1967

UNEF is a practical demonstration of United Nations peace-keeping operations and their limitations. Its establishment in November 1956 put an end to a destructive war and for more than 10 years it effectively maintained peace in that area of the world. But in the absence of a complementary peace-making effort, the root cause of the conflict between the parties remained unresolved. It however, provided enough structural and procedural model for later United Nations peace-keeping operations.

In addition, UNEF, established by the Assembly, functioned as a subsidiary organ of the Assembly under Article 22 of the Charter. It also brought into being, institutional structures and one new committee.

The office of the Under-Secretary-General for Special Political Affairs became the Political/Military headquarters for the day to day command and control of all peace-keeping operations. There was also the office of Under-Secretary-General for Security Council Affairs. Field services was established as an administrative unit to manage procurement and provide logistical and technical support for peace-keeping operations. A Committee of 33 was also established to construct a firmer political foundation for future peace-keeping operations. The Committee continues to meet to help produce a guideline for peace-keeping operations by the United Nations. Today, there is an arrangement for a command structure of a United Nations peace-keeping operation. This is shown in figure 5.



LEGEND

a.——— Command lines
b.- - - Liaison lines
c. Inf Bn.could be increased depending on approved strenght of the force

Figure 5: The chain of Command of UN Peacekeeping Force

It was anticipated that such a system would balance the rights of the Greek (80 per cent) and Turkish (20 per cent) populations on the Island. It was inherently unstable and inter communal violence occurred in December 1962 and escalated in 1964. Two alternate means of managing the violence were, the joint intervention by the three guarantor powers or the establishment of a NATO peace-keeping force on the Island. These were politically unthinkable and so the issue was placed before the Security Council.

On March 4, 1964, the Council unanimously called upon the parties to take all measures necessary to stop the violence that threatened international peace and security. Thereafter, it created a United Nations peace-keeping force "to use its best efforts to prevent a recurrence of fighting and as necessary, to contribute to the maintenance and restoration of law and order and a return to normal conditions."[70] As usual, the Secretary-General was authorised to organise and manage the force.

The basic function of UNFICYP was interposition along the buffer zone between the Greek and Turkish Communities, with freedom of movement throughout the Island. The initial size ofthe force was approximately 6,500 drawn from the Western and Scandinavian countries. The largest numbers however, came from the United Kingdom. In the course of the operation, the functions of UNFICYP expanded from direct interposition along the dividing line to resolving various clashes between the two communities, the adjudication of local disputes and in general maintenance of law and order in conjunction with a Special Civilian Police Force (UNCIPOL). A mediator designated by the Secretary-General was also catered for. He was to seek a political solution to the problem. The current Secretary-General, Javier Perez de Cuellar was one time the Mediator in Cyprus (1975 - 1977).

This technique of conflict management has not helped because of the deep-seated antagonism between the communities and the outside intervention by Greece and Turkey in particular.

Although UNFICYP was able to maintain overall peace, the Turkish invasion of the Island in 1974, which engaged UNFICYP in a fire fight, has shattered the available peace. The invasion saw the "semi-use of force" by a United Nations contingent. Here a United Nations force already on a peace-keeping mission went beyond what could be regarded as the normal peace-keeping principles. UNFICYP resisted with force, the attempt by the invading Turkish troops to wrest the country's main airport at Nicosia from the forces of the Cypriot Government. An agreement was later reached with the Local Commanders of both sides which made the airport a United Nations protected Area, with UNFICYP personnel deployed there. Further attempts to throw UNFICYP personnel out of the airport met with stiff resistance. In fact, some urgent appeals were made for powerfully reinforced British troops by UNFICYP. Aircrafts were actually flown in from Britain. With these, the Turkish had further thoughts on the matter, and ever since, the airport has remained in United Nations hands. But an army of Turkey still occupy the Eastern part ofthe Island.

On the whole, attempts at mediation have remained unsuccessful despite round of resolutions by the Security Council. Nevertheless, UNFICYP has contributed to the peace in the Eastern Mediterranean, an area close to the already volatile Middle East. Though the size was reduced to less than 2,500 in 1982, UNFICYP remains in place because of the greater danger that could result from its withdrawal.

3-3(c). United Nations Emergency Force II 1973 - (UNEF II)

UNEF II was established again in Sinai following the October 1973 Yom kippur war between Egypt and Syria on one hand and Israel on the other. During the first days of the war, Egypt and then Syria, made far-reaching advances into Israeli-held territories. This was followed by dramatic and successful Israeli counter-attacks. The Soviet Union threatened direct military intervention. The United States of America went on military alert all over the world where its forces were deployed. Under these circumstances, the Secretary-General drew the attention of the Security Council to the happenings which were likely to endanger international peace and security.

The Council was called into session. Debate was marked by anger, accusation and counter accusation. Nevertheless, there was swift adoption of three successive resolutions on October 22, 23, and 25 1973, with the support of both the Soviet Union and the United States of America. The vote was 14 for, none against with China abstaining.[71] These resolutions led to cessation of hostilities. It is noteworthy that the last resolution was sponsored by 8 non-permanent members of the Council. The most important point however, was the joint United States of America-Soviet determination to halt the hostilities.

The first resolution called for a cease fire. The second called again for a cease fire and requested the Secretary-General to dispatch observers to supervice the cease fire. The third resolution called on the parties to honour the cease fire and established a United Nations Emergency Force. The Force was to be composed of personnel drawn from Member States except the permanent members of the Council.

It further requested the Secretary-General to report within 24 hours on the steps taken to put the Force in position. The Secretary-General's report proved to be far more comprehensive than any similar report to that time.[72]

The report was accepted without dissent. UNEF II with a size of 7,000 and an estimated cost of $30million for the first six months was established. There was full agreement on the central interpository functions of the force. It was also to supervise the implementation and maintenance of the cease fire and the return ofthe parties to their positions of October 22. Later, arrangements were concluded for a sizeable disengagement or buffer zone controlled exclusively by the United Nations force. Also included was United Nations monitored limited armament zones of the parties on both sides of the buffer zone.

One of the most productive aspects of UNEF II was that it provided a support base and functional participation in the process of peace-making that followed. It assisted in the negotiations at Kilometer 101 for the supply and release of the Egyptian Third Army encircled by Israeli Forces.

It was also party to the negotiations of the Interim Agreement of September 1975, for the partial withdrawal of Israeli forces from the Sinai. The latter agreement included the very novel arrangement of an early warning United States of America manned and controlled field mission for the electronic surveillance of the Mitta and Giddi peasses. This was an added measures of security to the military patrols conducted by UNEF II.

UNEF II did contribute to the climate of trust that resulted in the historic Egyptian-Israeli Peace Treaty of March 1979 (Camp David Accord). The Treaty provided for Israelis withdrawal from Egyptian territory and for the United Nations Peace-Keeping Forces supervision of the withdrawal. It also provided for the supervision of particular sectors of the legal and defecto international boundary betwen the two countries. Provision was made, however, for the creation of an independent force to fulfil these tasks should the Council decide not to renew the mandate of UNEF II.

Because of Arab and Soviet objection to the Peace Treaty of 1979, UNEF II could not receive the votes needed for renewal. It was terminated in 1979. The alternative was therefore the creation in 1981, of a non-United Nations Peace-Keeping operation. This was the Multinational Force and Observers (MFO) composed mostly of United States of America personnel and under the authority of a United States of America Director-General.

The withdrawal notwithstanding, UNEF II is a historical force. This is due to the fact, that, it was a product of joint United States of America and Societ Union agreement to save the world the agony of a third World War. UNEF ranks as one ofthe most extensive, sophisticated and successful United Nations peace-keeping operations to the present time.

3-3(d). United Nations Disengagement Observer Force(UNDOF)

While all military activities on the Egyptian front ended in October 1973, small scale hostilities persisted on the Syrian Front. It was not until May 1974, in Geneva that a disengagement agreement was signed between Syria and Israel.[73]

This set the stage for the Security Council adoption on May 31 1974, of Resolution 350 jointly sponsored by the United States of America and Soviet Union. It called for the establishment under the authority of the Council, a United Nations Disengagement Force.

The principal structure of UNDOF was the same with that of UNEF II. It was to control the neutral zone between the parties, supervision of limited armament zones on either side and the establishment of an Israeli-Syria Mixed Armistice Commission. With a strength of about 1,250, UNDOF, on the Golan Height continues to receive the cooperation of the parties despite the fact that technically, the state of belligency still exist between the parties.

Because ofthe continued state of belligency between the parties, UNDOF is extremely critical to the maintenance of peace in the area. As a matter of fact, Syria and Israel often requested UNDOF to inspect each others zone of limited arms to ascertain whether either was conducting secret mobilization.

Nevertheless, there have been several dog fights between Syrian and Israelis aircrafts amid continued political confrontations. Under such condition, UNDOF is likely to remain in place for sometime to come.

3-3(e). United Nations Interim Force In Lebanon 1978 Todate, (UNIFIL)

UNIFIL is the latest United Nations peace-keeping operation. It has not enjoyed the favourable conditions that enabled UNDOF and UNEF II to function creditably. The Security Council established UNIFIL in March 1978, following an Israeli invasion of Lebanon code named "OperationLitani". Operation Litani resulted in the occupation of all territory South of the Litani River except for a pocket around the City of Typre. The Israeli action had been preceded by a commando attack in Israel on March 11, 1978, in which 37 Israeli civilians were killed and 76 others wounded. The Palestine Liberation Organization (PLO) based in Lebanon had claimed responsibility for the commando attack.

On March 15, the Lebanese Government appealed to the Security Council to "let my people live." It stated that it was not responsible for the presence of PLO bases in Southern Lebanon and had no connection with the Palestinian Commando attack. It said it had exerted tremendous efforts on the PLO and the Arab States in order to keep matters under control. It said further that the Israeli objections regarding the entry of the Arab Deterent Force (ADF) into South Lebanon had prevented the accomplishment of Lebanon's desire to bring the border area under control.

On March 19, the Council adopted a proposal by the United States of America, as resolution 425. The Resolution called for strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries. It called upon Israel to immediately stop its military action against Lebanese territorial integrity and withdraw its forces from all Lebanese territories. Finally, it said in its decison paragraph:

> ... in the light of the request of the Government of Lebanon, to establish immediately under its authority a United Nations Interim Force for Southern Lebanon for the purpose of confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area, the force to be composed of personnel drawn from Member States. 74

Again, like previous operations, the Council requested the Secretary-General to submit a report to it within 24 hours on the implementation of the resolution. That same afternoon, the Secretary-General submitted a report to the Council. In the report, he set forth the terms of reference of the new force, guidelines and a plan of action for its speedy establishment. These were essentially the same as those applied in previous peace-keeping operations by the United Nations. The report was considered later on the same day. It was approved and contained in resolution 426 of March 19 1978. In the resolution, the Council decided to establish UNIFIL for an initial period of 6 months subject to further extension.

With a strength of about 6,100 from 9 countries, UNIFIL eventually found its foot in Southern Lebanon following the Israeli's phased partial withdrawal. Even with UNIFIL presence, Israeli and PLO continued persistent attempts to infiltrate and attack certain individuals or whole villages. The actions of one side inevitably produced reactions from the other. Thus creating a cycle of violence which was further fuelled by incidents and events that took place elsewhere.

Even under these conditions, UNIFIL brought an element of stability to Southern Lebanon. The presence of the force prevented, to some extent, confrontations on the ground. At the same time, the force rendered essential assistance in the restoration of public services and in efforts aimed at restoring the authority of the Government.

By July 1981, a de facto cease fire came into effect between the Israeli and the PLO. However, following terrorist attacks against Israeli personnel in Paris and London, Israel launched air raids against PLO targets in Lebanon on April 21, and May 9, 1982.

On the first case, the PLO did not response
In response to the second air raid, the PLO fired rockets into Northern Israel, which led to further attacks by the Israeli Defence Forces (IDF).

For the second time, the IDF invaded Lebanon in June 1982 in what was called "Operation Peace for Galilea."
The operation employed more than two mechanised divisions, with air and naval support. UNIFIL had neither the mandate nor the means to oppose a force of such over-whelming strength. Whereever UNIFIL attempted to halt the advance of the IDF, its positions in the line ofthe invasion were overrun or bye passed. The IDF occupied all of Southern Lebanon within few days. Advancing north, they reached the outskirts of the capital city of Beirut in early July and demanded for the total evacuation of PLO personnel in Lebanon as a whole.

The Israeli invasion radically altered the conditions in which UNIFIL had to operate.

Under these situations, the Secretary-General instructed the Force to continue to man its position. And as an interim task, UNIFIL was to provide protection and humanitarian services to the population in its area of deployment. United Nations Educational Scientific and Cultural Organization (UNESCO) and United Nations Children's Fund, (UNICEF) worked closely with UNIFIL in these areas. The Security Council subsequently endorsed these instructions. It has also continued to extend the mandate of the Force, bearing in mind the views of the Government of Lebanon that attaches great importance to the presence of UNIFIL.

Neither the Council nor UNIFIL could compel the Israeli and the PLO to withdraw from Lebanon. A new dimension however, came in and complicated the matter more in August 1982. This was a Multi-National Force (MNF) composed of troops from France, Italy and the United States of America and later the United Kingdom. The MNF was stationed in the Beirut area. It was to facilitate the evacuation of PLO fighters from Beirut and later to assist the Lebanese Government in maintaining peace in the area.

In May 1983, Israel and Lebanon concluded an agreement under the auspices of the United States but it was never carried out. In September 1983, as attacks by Lebanese resistance group increased, the IDF withdrew from Beirut area to a line along the Awali River. They remained there until the summer of 1984 when the Israeli Government indicated its intention to effect further withdrawals.

In November, the Secretary-General convoked a conference of military representative of Lebanon and Israel. The aims were to expedite the orderly withdrawal of IDF from Lebanon and to discuss security arrangements in Southern Lebanon. The conference was held under the United Nations auspices at UNIFIL headquarters in Naqoura. There was no positive results.

Later in the month, Israel announced a plan for the unilateral phased redeployment of its Forces. By June, 1985, the IDF were withdrawn from most of the occupied Lebanese territory. However, they have continued to maintain a security zone in the border areas.

This zone, has not enable UNIFIL to deploy to the border as required by its mandate.

UNIFIL is an example of when the Super powers are not in accord, then the essence of peace-keeping cannot be felt in its area of operation. Again, the PLO's question has been tired to UNIFIL. Until that question of homeland for the Palestanian is resolved, UNIFIL as a peace-keeping operation cannot provide the conducive atmosphere required for peace making between the parties. It, however, continue to maintain relative peace and security in that region.[75]

3-3(f). Regional Peacekeeping

As we have seen, the concept and practice of peace keeping are the creation of the United Nations. Nevertheless, other international institutions possess similar capabilities, though not well developed. Our examination of peace keeping operations outside the United Nations will, therefore, be limited to two regional organizations, namely, the Organization of African Unity (OAU) and the Organization of American States (OAS). None of the activities in the management of conflict by any other regional organizations correspond to the basic principle of peace keeping. They are more of military alliances.

The OAU was created to drive to completion the wave of emancipation that swept over Africa.[76] It was also aimed at the establishment of the structural modalities for African unity and cooperation. Sovereignty and non-interference in the internal affairs of States were its guiding principles while emphasis was on peaceful settlement of dispute by arbitration. There was no provision whatsoever for any kind of military action. However, there was provision for a Defence Commission to resist neocolonialism and eradicate all forms of colonialism. Notwithstanding these factors, the OAU has attempted three peace observation missions and two peace keeping operations.[77]

The peace observation attempts were:

1. The Algeria - Morocco border conflict of 1963. Here, the Heads of States negotiated an agreement for a supervised demilitarized zone. This was never realized and no supervisory commission was established.

2. The Council of Minister ordered a cease fire during the Ethiopia - Somali crisis of 1964. The Council then called upon African deplomats resident in the warring States to assist in the implementation of the cease fire. This failed as the proposal by Somali for demilitarized zone to be supervised by neutral observers was rejected by Ethiopia.

3. The Congo crisis of 1964 where the OAU considered the use of peace observer force to settle the ideological and secessionist struggles. These had threatened the very existence of the Congo after the departure of United Nations peace keeping force in June 1964. The efforts were rejected by the Congolese Prime Minister and the OAU discredited.

The first peace-keeping attempt by the OAU was in Chad in 1980[78]. This followed the failure of the 800 contingents from the Nigerian Armed Forces in 1979 to:

1. Monitor a demilitarized zone of 100 kilometers around the capital.

2. enforce the cease fire among the factions and

3. control the Chadian airforce.

At the meeting of the OAU Council of Ministers in 1980, Military observers from non-neighbouring States were considered. They were to supervice the cease fire, ensure freedom of movement throughout Chad, disarm the population, restore law and order and finally, help in the reorganization of the several armed factions into an integrated force. The proposal failed. In June 1982, the OAU reaffirmed the previous mandate and added an appeal to the United Nations for financial and logistic assistance in the establishment of a Pan-African Force.

Nothing came except $163 million from France and United States of America.

Nevertheless, a force of 3000 men under the command of a Nigerian General was established in November 1981 by the OAU to help restore peace and security in Chad. Due to interferences from outside, the OAU peace-keeping force could not contain the civil war in Chad.

In the wake of alleged interference in the internal affairs of Chad, the Interim Government in Chad called for the withdrawal of the force in June, 1982. The withdrawal saw the capture of the capital city N'djamena by the forces of one of the various factions.

It must be noted that the OAU peace-keeping operation in Chad failed partly because of the unclear mandates and the presence of foreign troops in Chad. Other factors included the weak financial position of the OAU and the unwillingness of some African States to commit their troops to the peace keeping due to their ideological leanings and camps.

Another attempt to mount a peace keeping in 1981 in Western Sahara never left the drawing board and OAU barely avoided being destroyed.

It is our submission, therefore, that the OAU can only contribute forces for United Nations peace-keeping operations. There is no likelihood that it would in the forseeable future gain the necessary organizational strength and commitment of its members to launch any peace keeping operation.

The OAS, the oldest regional organization has also used peace-keeping operation as a mechanism for conflict management. Its Charter and structure dating back to the Rio Treaty of 1947 and the Bogota Charter of Pacific Settlement of 1948 are designed to guarantee peace and security in the American hemisphere.[79] It also commits its members to collective security and peaceful settlement of conflicts.

However, Latin American nations have preferred to rely on judicial and political means of conflict management. This is reinforced by the firmly held principles of sovereignty and non-intervention in the domestic affairs of members.

There is also a general distrust of the use of military means for conflict management. The fear is born out of experience that such measures might be used or abused to serve the interest of the dominant member of the organization. Consequently, the only military organ available to the OAS is the Inter American Defence Board. The Board is almost totally ignored as an instrument of conflict management.

Despite these factors, we have cases where limited personnel, ranging from 5 to 50 were used in peace-keeping related operations. For an example, Peace Observer teams were placed on borders between Costa Rica and Nicaragua in 1955; between Ecuador and Peru in 1955, between Honduras and Nicaragua in 1957. The OAS peace-keeping force was used during the Dominican crisis of 1965 - 1966. This was when the United States of America unilaterally landed 1500 marines in the Dominican Republic. The number was later increased to 21,500 under the umbrella of an OAS after the fact resolution. The resolution called for the establishment of an Inter-American Peace Force. Brazil, Costa Rica, Honduras Nicaragua and Panama subsequently contributed a combined brigade of 2000 troops.

Other Member States should give anticipated consent by following the example of the Scandinavian countries. Figure 6 shows the composition of the Nordic United Nations Stand-by Forces.

Unit	Organizing Nation Denmark	Finland	Norway	Sweden
Army Units				
United Nations Battalion	1	1	1	2
Zone HQ Company	1	-	-	-
Workshop Unit	-	-	-	-
Medical Company	-	-	1	-
Movement Control Unit	1	1	1	-
Military Police Unit	1	1	1	1
Naval Unit				
Naval Vessel	-	-	1	-
Harbour Command	-	-	1	-
Airforce Unit				
Air Transport Unit	-	-	1	-
Helicopter Wing	-	-	1	-
Other Units				
Disaster Relief Unity Survival Unit	-	-	1	-
Health care Unit	-	-	-	1

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Unit	Organizing Nation			
	Denmark	Finland	Norway	Sweden
Technical Assistance Unit	-	-	-	1
Transportation and Stores Unit	-	-	-	1
Individuals				
Headquarters Staff Personnel	15	20	25	15
Observers	15	25	26	26
Movement Control Personnel	-	-	10	20

Figure 6: The Units of the Nordic United Nations Standby Forces

Finally, it must be noted that the Member States have continued to show interest in the concept and principles of peace-keeping, hence the General Assembly resolution 2006 (XIX) of February 18, 1965. The resolution mandated the Special Political Committee to carry out a "comprehensive review of the whole question of peace keeping operations in all their aspects."

The Committee is still working on an agreed guidelines for peace-keeping operation in conformity with the Charter of the United Nations. It has urged all Member States to demonstrate the political will and a spirit of conciliation to enable an agreed guidelines to be worked out in its continuous negotiations. At its 38 Session, the General Assembly requested the 33-Member Committee on peace keeping operations to submit a status report on its present situation.[80] This was to enable the Assembly determine the areas of possible progress and other areas where progress would be difficult to achieve or was still pending. It would also help in the consideration of proposals to reactivate and rationablise the work of the Committee. Up to date, the lack of political will is still holding back the work of the Committee.[81]

3-4 Disarmament and Arms Control

No discussion on conflict management can be complete without a reference to disarmament. Disarmament effort dates back to the Biblical periods when, as we know, the Jewish prophet Isaiah said, "they shall beat their swords into plowshares, and their spears into pruning hooks; Nation shall not lift up sword against Nation, neither shall they learn war any more."[82] Plate 1 below shows a man beating sword into plowshare.



PLATE 1: A man beating sword into ploughare.
Courtesy of United Nations Photo, Gift from USSR.

Also belonging to the classical period effort to regulate armament is the fable about the "Animals Disarmamemt Conference." There it was stated:

> When the animals had gathered, the lion looked at the eagle and said, gravely, 'We must abolish talons.' The elephant looked back at the tiger and said, 'we must abolish claws and jaws'. Thus each animal in turn proposed the abolition of the weapons he did not have until at last the bear rose up and said in tones of sweet resonableness, 'comrades, let us abolish everything - everything but the great universal embrace'. 83

This fable has been reflected in almost all disarmament efforts of the world community.

The term disarmament and arms control or the regulation of armaments are almost always used interchangeably to mean any agreement:

(a) to eliminate or reduce or freeze armies or armaments;

(b) to prohibit or limit their further production or development;

(c) to proscribe transfer of militarily important items;

(d) to reduce the risk of war;

(e) to govern the possession; or finally

(f) to build up confidence among States through greater openness in the military field.

The arms race has been the single most important cause of fear and suspicion between nations. It is the major cause of many wars since arms produce wars. Yet Nations have refused to be sincere in their negotiations. We know that Nations arm either because they fear or plan war. According to Rear Admiral Gene R. La Rocque,(Rtd), "nations arms and test because they want to use them as a result of the general mistrust among them. We should, therefore, seek a guaranted disarmament agreement in order to have a watertight mutual control of the use of arms."[84] Disarmament therefore has to be recognized as one of the basic means for the maintenance of international peace and security. Records have shown that the idea of a disarmed, peaceful world undoubtedly has a universal human appeal. This should be encouraged further by all United Nations Member States.

It was only during the second half of the 19th century that the practice of negotiating disarmament in inter-governmental forms was introduced. This was to make the measures adopted applicable to all nations. A fore-runner of such internationally agreed limitations was the Declaration of Saint Petersbourg of 1868, signed or acceded to by 19 States.[85]

The Declaration initiated by Russia, started the development of international conventional law in the form of multilateral treaties to supplement customary law of controlling the weapons of war. It proclaimed that the use of arms which "uselessly" aggravate the suffering of disabled men or render their deaths inevitable, contradicted the laws of humanity. It also forbid the use of projectile which have the same effect.

Other outstanding attempts ofthe 19th century activities include the two International Peace Conferences held at the Hague in 1899 and 1907. The goal of the conferences was that of bringing about the reduction of "excessive" armaments. These began shortly after the Spanish-American war. They were punctuated by the Boar War, the Boxer Rebellion, the Russo-Japanese war, Anglo-German naval rivalry and the Algeciras crisis. In the wake of the second conference came the Balkan wars which were a prelude to World War 1.

The call had come in 1898 by Czar Nicholas II of Russia for an international peace conference.

His Minister of War, General Kuropatkin, was anxious to prevent the Austrians from modernizing their artillery while the Finance Minister, Sergius Witte, hoped to reallocate economic resources from armaments to industrial and commercial expansions. 26 countries convened at the Hague in May, 1899. There was confusion as to what their mission was, that is whether to promote the practice of international arbitration or to achieve reductions in the levels of national armaments or to prevent the development of new weapons or make more humane the laws regulating the conduct of warfare.[86]

Proposals for weapons reduction and prevention bugged down over the issue of inspection (verification) and control. This, the delegates thought would violate the fundamental principle of national sovereignty. Although the conference voted to outlaw dumdum bullets, the use of asphyxiating gas and (for a period of five years) the launching of projectiles from balloons, while major issues were left untouched. Most of the delegates were convinced that other nations were, like the animal fable, concorting proposals solely for the purpose of gaining a unilateral strategic advantage for themselves. For instance, the Kaiser of Germany, was sure that the other powers, in proposing an international

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It must be recalled that one of the war aims of the allied was, "adequate guarantees... that national armaments will be reduced to the lowest point consistent with domestic safety." The Versailles Treaty imposed disarmament upon Germany, Austria, Bulgeria and Hungary. That of Germany was justified on the ground that it would "render possible the initiation of a general limitation of the armaments of all nations."[87]

Also, Article 8 of the Covenant of the League of Nations declared that "the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations." In fact, instead of reducing, nations embarked on "reasonable arming" since there would continue to be need, according to the wording of Article 8 above, to use armaments for "enforcement by common action." And so nothing was actually achieved despite the effect of the First World War.

Within the inter-war period, several attempts were made to move forward on disarmament and to outlaw war as an international crime.

These included:

1. the 1924 Geneva Protocol for the Pacific Settlement of International Dispute;
2. the Locarno Pact of 1925,
3. the Kellogg - Briand Pact of 1927, and
4. The 1928 Soviet Union Proposal for General and Complete Disarmament.(GCD)

We must, however, note that the the only arms limitation achieved during the period was that of the naval armament under the 1922 Washington Treaty and the 1930 and 1936 London Treaties.

Nevertheless, the League of Nations in fulfilment of its obligation, convened a Disarmament conference in 1932.[88] The aim was to consider the universal reduction and limitation of all types of armaments. 60 States were present, making it the largest international gathering up to that date. Their task was to examine in detail the following:

1. Establishment of a system of collective security,
2. Limitation of the strength of the armed forces,
3. Limitation of Land, naval and air armaments,
4. Limitation of national defence expenditures,
5. Prohibition of chemical, incentiary and bacteriological warfare,

6. Control of arms manufacture and trade,

7. Supervision and guarantee of the implementation ofthe obligations by the parties, and

8. Moral disarmament intended to create an atmosphere favourable to the peaceful solution of international problems.

A draft disarmement convention was made public in 1933 along with the amendments proposed and statements made by different delegation, However, the Conference failed in its objectives. Apart from the crucial technical problem of quantitative ratios of military strength, progress was also blocked because of the basic incompatibility in the national objectives of the delegates. There was the political disagreement between those countries concerned about security and determined to preserve the status quo, and those countries bent on aggression to alter the status quo. For instance, the quest of France for security against a future German invasion and the demand of the Germans for a formal recognition of the principle of arms equality, that is, either the victorous powers must disarm or German must be accorded the right to rearm.[89]

Before long, Germany withdraw from the League of Nations and rearmed in contravention of the Versailles Treaty. This finally caused the breakdown of international attempts to curb the arms race and prevent war from breaking out. And so come the unnecessary war of 1939 with Nations better armed despite all the efforts to disarm.

The period since World War II has witnessed renewed enthusiasm to regulate armaments on a world-wide scale within the United Nations system. Although the United Nations Charter only made few references to disarmament in Articles 11, 26 and 47, the explosion of the atomic bomb in August, 1945, have since changed the perception of Member States on disarmament. It can thus be argued that, had the atomic bombing of Hiroshima and Nagasaki in August 1945, taken place before the Charter, perhaps the Founding Fathers could have provided detailed obligations on disarmament than we now have. Nevertheless, a liberal construction of the Charter would satisfy the principles and purposes ofthe United Nations.

One is therefore, not surprised when the General Assembly unanimously adopted its first resolution on January 24 1946.[90]

Resolution 1(I) was on disarmament. It provided for the elimination of weapons of mass destruction and the peaceful use of nuclear energy. It further recommended that the Security Council formulates the necessary measure for the regulation of nuclear energy and reduction of armaments. In addition, it established the International Atomic Energy Commission, (now International Atomic Energy Authority, IAEA).[91] The IAEA was tasked with making specific proposals for the elimination from national armaments, atomic weapons and all other major weapons adaptable to mass destruction. From that moment on, the several hundred United Nations resolutions on the various aspects of disarmament have come to complement and expand the too general provisions contained in the Charter.[92]

The earliest endeavours towards disarmament under the auspices of the United Nations was the 1946 Baruch Plan.[93] The Plan, sponsored by the United States of America, called for the creation of an International Atomic Development Authority within the frame works ofthe United Nations.

While the plan was calling for "international control first", the Union of Soviet Socialist Republics submitted the Gromyko plan.[94] The Gromyko plan called for "banning of the bomb first" before any meaningful talk on disarmament. In December of the same year, the United Nations recommended a balanced reduction of national armed forces. Since then disarmament has been an item of central importance on the United Nations agenda. Unfortunately, very little progress has actually been recorded on disarmament. The sophistication of modern weapons gives no room for comfort. For instance, a single modern nuclear submarine possesses war heads with more explosive power than all the munitious used in the Second World War.[95]

The United Nations on its part, though unable to reverse or even halt the arms race, has kept a constant focus on what is perhaps the single most important question facing mankind today. Moreover, the United Nations has stimulated a series of partial measures of disarmament. But the ultimate aim is general and complete disarmament of both nuclear and conventional weapons under effective international control.

It has also continued to call on the super powers to negotiate seriously on disarmament. This is more so as the magnitude of power represented by the nuclear arsenals of the world is beyond anything that the world has experienced. In fact, it is no longer a question of mutual deterrence, but that of balance of terror with mutual assured destruction (MAD) of mankind should we go ahead and refuse to disarm.

Consequently, in 1947, another body for disarmament negotiations, the Commission for Conventional Armaments, was established by the Security Council.[96] It was called upon to submit to the Council proposals for the General reduction of armaments and armed forces. The proposals were to include practical and effective safeguards in connection with the general regulation and reduction of armaments. Like the IAEA, the differences of approach between the Western Powers and the Soviet Union, including the issue of verification and a general deterioration of the international situation, the Commission was unable to make progress in its work.[97]

In 1952, in an attempt to break the impasses, the General Assembly decided to consolidate the United Nations efforts by establishing a single Disarmament Commission.[98] Composed of the members of the Security Council and Canada, the Commission remained the main disarmament body until 1957. Its principal objective was the preparation of proposals for the regulation, limitation and balanced reduction by stages of all armed forces and all armaments in a co-ordinated comprehensive programme. These proposals were to include measures for the elimination of all major weapons adaptable to mass destruction and for effective international control of atomic energy to ensure the prohibition of atomic weapons. Measures for the peaceful uses of atomic energy was to be included in the proposals. But because of the lack of progress towards agreement, attention was gradually shifted towards various partial measures that might be implemented prior to a comprehensive plan. Disarmament was thus pursued through two distinct yet parallel approaches, namely 'general and complete' disarmament under effective international control and agreements on partial disarmament meansures.[99]

At the same time, disarmament issues were given renewed impetus within the bilateral and multilateral frame works. This led to the 1959 Ten-Nation Committee on Disarmament with the East and West equally represented. In 1962, it was enlarged to Eighten Nation Committee on Disarmament by the addition of eight non-aligned nations.[100] Again, in 1969, the number was expanded to 26 nations and its name changed to Conference of the Committee on Disarmament[101] By 1975, it had 31 members with the same aim of finding solution to the disarmament question. Though several important agreements for the regulation and limitation of armaments had been concluded, they were not sufficient to curb the arms race. Global expenditures on arms and armed Forces continued to mount.

This trend led the General Assembly to proclaim the 1970s as the First Disarmament Decade.[102] The Assembly urged Governments to intensify their efforts to achieve effective measures relating to the cessation of the nuclear arms race, to nuclear Disarmament and to the elimination of non-nuclear weapons of mass destruction.

It further urged them to conclude agreement on general and complete disarmament under effective international control. It recommended further that consideration be given to channelling a substantial part of the resources released from disarmament measures towards the promotion of the economic development of developing countries. Finally, it requested the Secretary-General and Member States to publicize the means at their disposal in order to acquaint public opinion with its purposes and objectives.

It is noteworthy to mention the efforts of the Centre for Defence Information, Washington, in the area of disarmament. It has for instance lobbied the United States of America's House of Representatives to cut down defence money for testing of nuclear weapon of the United States of America's military. It has also made contact with the United States of America and the Soviet Union Governments on the need to stop nuclear testing. This contact resulted in the Soviet Union unilateral moratorium to stop nuclear testing for one year in the first instance. Unfortunately, the Reagan Government has not done anything to follow the Russian example.

The Center's current effort is a draft treaty for the Union of Soviet Socialist Republics and United States of America to sign. Called OLOF PALME AGREEMENT,[103] the draft treaty seeks to cease for one year all explosions of nuclear weapons and to resume negotiations for a treaty banning all test explosions of nuclear weapons for all time.

In 1975, the General Assembly decided to examine the role of the United Nations in the area of disarmament, primarily with a view to strengthening that role. It invited all States to communicate to the Secretary-General, their views and suggestions on the issue. It established a specific Ad Hoc Committee on the Review of the Role of the United Nations in the Field of Disarmament.[104] The objectives of the Ad Hoc Committee were:

1. New approaches to achieve more effective procedures for organizing work in the field of disarmament in order to enable the United Nations to exercise its full role in multilateral disarmament efforts,

2. Find ways and means of improving United Nations facilities for the collection, compilation and dissemination of information on disarmament issues in order to keep Governments as well as world public opinion informed on progress in the field,

3. Find ways and means of enabling the Secretariat to assist on request, States parties to multilateral agreements in their duty to ensure their effective functioning.

To further fulfil its desire of strengthening its role in the field of disarmament, the General Assembly in 1976, at the initiative of the non-aligned countries and with widespread support from other Member States, decided to hold a Special Session devoted entirely to disarmament.[105] Referring to the little achievement during the opening of the Special Session, the Secretary-General said these accomplishments were dwarfed by the magnitude of what remained to be done. The Special Session was intended to set a new course in international affairs. It was to turn States away from the nuclear and conventional arms race by means of agreement on a global strategy for the future course of disarmament.

Between May 23 and July 1 1978, the Special Session of the General Assembly devoted to disarmament was held in New York. It was the largest, most representative meeting of nations ever gathered to deliberate on the question of disarmament. All Member States participated in the work of the Session. 126 representatives of Member States took part in the general debate and submitted views and ideas covering the whole range of disarmament matters.[106]

For the first time in the history of disarmament negotiations, the international community of States achieved consensus agreement on a comprehensive disarmament strategy. This was embodied in the Final Document of the Session (SSOD I).[107] SSOD I, was to be considered as the the guidelines for all future disarmament efforts within and outside the United Nations. SSOD I indicated that the United Nations has a central role and primary responsibility in the field of disarmament. It also contained specific measures intended to strengthen the machinery that dealt with disarmament issues within the United Nations System. Composed of 4 sections, SSOD I set out goals, principles and priorities in the field of disarmament.

In order to facilitate the attainment of the objectives set forth in the SSOD I, the General Assembly declared in 1979, the 1980's the Second Disarmament Decade.[108] The new Declaration stated that the goals of the Decade should remain consistent with the ultimate objective of the disarmament process - general and complete disarmament under effective international control.

The goals themselves were:

1. The halting and reversing of the arms race,
2. The conclusion of agreements on disarmament according to the objectives and priorities of the SSOD I,
3. The strengthening of international peace and security in keeping with the Charter of the United Nations and
4. The re-allocation of resources from Military to developmental purposes, particularly in favour of the developing countries.

After some initial progress, the negotiating process stalled on virtually all the important disarmament issues. As a result, the programme of action laid down in the SSOD I remained largely unimplemented.

To gear up the struggle, a Second Special Session of the Assembly devoted to disarmament was held in New York from June 7 to July 10 1982.[109] The Assembly was addressed by 18 Heads of State and Governments and 44 Foreign Ministers. More than 140 States took part in the general debate. They put forward their positions on questions of disarmament, peace and security. They expressed their concern over the clear lack of progress on the question of disarmament.

Over 3,000 representatives from 450 non-governmental organizations in 47 countries attended the Session. Representatives of 33 non-governmental Organizations and 22 Research Institutions made statements during the Session. In addition, thousands of communications, petitions and appeals with many milions of signatories were received by the United Nations from Organizations, Groups and Individuals all over the world.[110]

About 60 proposals and position papers by Member States were circulated. They dealt with such questions as nuclear disarmament and prevention of war, the banning of chemical weapons, the reduction of military budgets, regional disarmament and the verification of disarmament. They also included the development of confidence-building measures and the strengthening of the role of the United Nations in the field of disarmament. Sadly enough, the Assembly was unable to reach consensus on any specific course of action. This was due to the fact that it was a matter of utmost sensitivity to the perceived national security interests of Member States.

In the concluding document of the Session (SSOD II) however , the Assembly categorically and unanimously reaffirmed the validity of the 1978 SSOD I.[111] It expressed its profound pre-occupation over the danger of war, particularly nuclear war. It urged Member States to consider as soon as possible proposals designed to secure the avoidance of nuclear war. The Assembly stressed the need for further strengthening the role oi the United Nations in the field of disarmament and of enhancing the effectiveness of the disarmament machinery. It also agreed to launch the World Disarmament Campaign and the continuation and expansion of the United Nations programme of fellowship disarmament.[112] The Campaign was launched on June 7 1982, to stimulate public interest and education to create an international conscience on disarmament.[113] The combined efforts of governments and organizations through multilateral and bilateral arrangements, particullarly within the various existing disarmament bodies and through regional arrangements, have resulted in signiiicant agreements on verious arms limitations and disarmament measures.

These agreements include:

1. The 1959 Antarctic Treaty,

2. The 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (partial test-ban Treaty),

3. The 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) - created the first nuclear weapon free-zone in a densely populated area and was the first arms limitation agreement to provide for verification by an International Organization,

4. The 1968 Treaty on the Non-Proliferation of Nuclear Weapons (Non-Proliferation Treaty),

5. The 1971 Treaty on the Prohibition of the Enplacement of Nuclear Weapons and other weapons of Mass Destruction on the Sea Bed and the Ocean Floor and in the Subsoil Thereof (Sea-bed Treaty),

6. The 1972 Convention on the Prohibition of the Development, Production and stockpiling of Bacteriological (Biological) and Toxin weapons and on their Destruction, (Biological Weapons Convention),

7. The 1977 Convention on the Prohibition of Military or Any Other Hostile use of Environmental Modification Techniques (ENMOD Convention),

8. The 1979 Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Agreement on Celestial bodies),

9. The 1981 Convention on Prohibition or Restrictions on the use of certain Conventional Weapons which may be deemed to be Excessively injurious or to have indiscriminate effects. (Convention on Inhumane Weapons). 114

Over the same period, bilateral negotiations between the Union of Soviet Socialist Republics and the United States of America produced a number of agreements.[115] These include:

1. The 1972 Treaty on the limitation of Anti-Ballistic Missile Systems (ABM Treaty),
2. The 1972 Interim Agreement on Certain Measures with respect to the limitation of Strategic Offensive Arm (Interim Agreement),
3. The 1973 Agreement on the Prevention of nuclear War.
4. The 1974 Treaty on the Limitation of Underground Nuclear Weapon Tests (Threshold test-ban Treaty),
5. The 1976 Treaty on underground Nuclear Explosions for Peaceful purposes (Peaceful Nuclear Explosions Treaty), and
6. The 1979 Treaty on the limitation of strategic Offensive Arms.

The last three Treaties have not entered into force, but each party has declared its intention to adhere to the Treaties' substantive provisions as long as the other does likewise.

Apart from the United Nations Conference on Disarmament (CD) which has been recognized as the single multilateral negotiating forum, other specialized agencies of the United Nations have continued to

contributed in one way or another in the drive for general and complete disarmament.

On the whole, the United Nations efforts in the field of disarmament have not been commensurate with the very purpose for which the organization was created. While it is true that the United Nations has so far failed to prevent wars from being waged in different parts of the world and in stopping the arms race which could lead to a new world-wide conflagration, we must also not forget the opportunities it has offered and can still offer to save succeeding generations from the scourge of war. The capacity of the United Nations to facilitate disarmament is substantial. It provides a unique public forum in which views and proposals can be articulated and debated and brought clearly before the world community. It served and can serve even more, as a source of information and ideas in support of disarmament activities.

We must be ready to put international interest rather than national, first in the field of disarmament. This is more so as the nuclear era places all people at risk and puts in doubt the lives of future generations.

Government should find the courage to take the first step and disarm. On the whole, it is the growing public concern (as shown during the Second Special Session on Disarmament) about the dangers of the arms race that may be decisive. The public must press their governments to disarm, for only by so doing can we stop the vicious spiral of the arms race.

Finally therefore, the public must be fully informed for them to be able to exert pressure on governments to achieve measures of disarmament. The United Nations can be helped to use the World Disarmament Campaign in this noble task of informing the public of the danger of arms race. Thus utilizing to the fullest, the United Nations instrumentalities which are real.

CHAPTER THREE FOOTNOTES:

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3. See General Act for the Pacific Settlement of International Disputes, Revised, 1949, 71 UNTS 101, Article 1.

4. Mavrommatis case Op cit, P. 15
See also American Treaty on Pacific Settlement of Disputes (Pact of Bogota) 1948, 30 UNTS UNTS 86, Article ix.

5. In 2 Malloy, Treaties between the USA and other Powers, 1910, 2016, 2020, 2228-9 Article 111.

6. See B. Ramcharam, "The Good Offices of the Secretary-General of the United Nations" AJIL, Vol 76 1982, P. 130.

7. Pact of Bogota, Op Cit, Article V.

8. Brian Urquhart, Hammarskijold, 1972, Harper and Row, New York, P. 308.

9. U Thant, "A Quiet United Nations Road to Accord", speech given to the Royal Commonwealth Society, London, June 15 1970- UN Press Release SG/SM/1274, P. 3.

10. Mr. Liu Fon-tchin is the Assistant Secretary-General for Special Political Affairs in the Office of the Secretary-General, as at September 1986. He represented the Secretary-General in most of the negotiations during the Congo Crisis.

11. The Hague Conventions of 1899 and 1907, Article X, The Proceedings of the Hague Peace Conference 1920, New York.

12. S/PV. 70th Meeting of the Security Council, SCOR, September 20, 1946.

13. Ibid.

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20. See The Conciliation Convention between Germany and the USSR, 1929, 90 LNTS, 2191, Article 5.

21. Pact of Bogota, Op Cit, Article XXVIII.

22. For an analysis of treaty provisions relating to conciliation See, L.B. Sohn, Systematic Survey of Treaties for the Pacific Settlement of International Disputes, 1028-1948, UN Pub, Sales No. 1949, V.3. P. 130.

23. GAOR 39th Session, 1984, A/C 6/39/L2.

24. See Edmund Jan Osmanczyk, The Encyclopedia of The United Nations and International Agreements, 1985, Taylor and Francis, London, P. 434.

25. Ibid, P. 322

26. Reports of International Arbitration Award (RIAA) Vol. 9, 1904, P. 100.

27. RIAA, Vol. 11 1909 P. 119

28. RIAA, Vol 11, 1910, P. 188.

29. RIAA, Vol. 2, 1928 P. 829.

30. Edmund Jan Osmanczyk, Op. Cit. P 610

31. Permanent Court of International Justice, (PCIJ),(1923) Series A. No. 1.

32. PCIJ, (1922) Series B No. 4.

33. PCIJ, (1931) Series A/B No. 41.

34. See Article 36(2) of the Statute of the ICJ. See also the Norwegian Loans Case, ICJ, Reports, (1957) P. 9.

35. For a list of such Treaties and Conventions, see The ICJ Year book 1981-82, PP 94-109.

36. Article 38 of the Statute of the ICJ.

37. ICJ Reports (1948) P. 15

38. ICJ Reports (1948) P. 15.

39. ICJ Reports (1952) P. 105.

40. ICJ Reports (1966) P. 6. See also, Falk, (1967) 21 International Organization P. 11 and Higgins, (1966) 42 International Affairs, P. 573.

41. ICJ Reports (1980), P. 3.

42. Advisory Opinion, ICJ Reports (1949) P. 174.

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100. GA Res 1722 (XVI).

101. GA Res 1660 (XVI).

102. GA Res 2602 E (XXIV).

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109. UN Chronicle, September 1982.

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CHAPTER FOUR

CASE STUDY OF UNITED NATIONS PRACTICE - THE CONGO EXPERIMENT

4-1: The Belgian Congo

With an area of some 2,344,000 square kilometers, the Republic of the Congo (now Zaire) is the second largest Country in Africa, after the Sudan. Located on the greatest part of the Congo basin, in the very heart of Africa, the Country is strategically positioned.

The United Nations Operations in the Congo or operation des Nations Unies au Congo (ONUC) which took place in the Republic is by far the largest United Nations Operations ever established. This is in terms of the responsibilities it had to assume, the size of its area of operations and the manpower involved. It was a combined operation of the military, the police and civilian from Member States. It commanded a force of over 20,000 composed of contingents from 26 Member States. Operation des Nations Unies au Congo cost about $400, million and almost led the United Nations to bankruptcy.

What then was the nature, scope, politics and management of the Congo crisis? This Chapter will examine the extent to which the United Nations used the mechanism of conflict management at its disposal. This will be in the light of the dynamic interplay of factions within the Congo itself and governments outside. We shall examine attempts by these factions to use and influence the Secretary-General; the Security Council and the General Assembly to advance their personal objectives in Africa as a whole.

The United Nations should be seen first as a barometer of conflict and then as an instrument that can be used to serve the common interest of a working alliance of states. Nevertheless, to fully appreciate the complexity of the Congo crises that errupted after June 30, 1960, it is necessary to go back sometime in history.

4-1(a): Background:

In 1873, H.M. Stanley reached the mouth of the Congo after a journey from Lakes Tanganyika and Albert, this ended the protracted controversy as to the sources of the Nile, the Congo and the Zambesi. It led to the eventual establishment by King Leopold II of Belgium, in

his private capacity, of the International Association of the Congo. This was followed by a scramble by the European powers to establish claims in central Africa based on the right of prior discovery.

To avert the obvious peril that Africa might become, the scene of a general contest for rights between the European Powers, Count Bismarck in 1884 convened a Conference of the Powers, later known as the Berlin Conference. The aims of the Conference were to decide upon the status of the Congo Territory and to resolve once and for all the competing interests of the European powers in Africa.[1]

At the end of the Conference, the International Association of the Congo was recognized as a sovereign power under the name of Congo Free State. Before its cession to Belgium, the Congo Free State was treated as the personal possession of King Leopold II. It had been recognized as a Belgium territory only because of the fact that King Leopold II had sovereignty over both countries.[2]

Nevertheless, as a result of the widespread abuses of the King's agents in the Congo Free State, His

Majesty terminated his personal rule. In 1889, he made a will devising his sovereign rights over the Congo Free State to Belgium. By the treaties of cession of November 28, 1907 and March 5, 1908, Belgium accepted the cession. Belgium assumed full obligation of the Congo Free State and changed the name to Belgian Congo with its Capital in Leopoldville (now Kinshasha).[3]

After a timid start, the Belgian government introduced drastic reforms and a set colonial policy over the Congo. Unlike the Dutch policy of non-assimilation; British indirect rule and eventual self-government; French assimilation; Portuguese weak assimilation or Spanish complete political subjugation and economic exploration, the Belgian adopted a stern paternalistic colonial policy. The concern of the Belgian was economic development and the control of the colony. This was achieved by a tripartite of state, Church and business cartels in which the government owned large shares of stocks. Residents of the Congo had no voice in the government. The colonial system was directly responsible to the Belgian parliament in Brussels.

4-1(b): The Belgian Colonial Policy

Paternalism is defined as "the principle or practice on the part of a government or of anybody or person in authority of managing or regulating the affairs of a country or community or of individuals in the manner of a father dealing with his children",[4] The Africans under the Belgian rule were regarded as children, virtually incapable of controlling their own destines. The Belgians therefore made provisions after provisions for the welfare of their wards.

Under this policy of paternalism, the Congolese were protected by a widespread social security system. These included all sorts of allowances together with sickness, retirement benefits, pensions and the ration called "posho". By 'Posho' all employers in the Congo were required to provide their workers with blankets, shorts, sweaters and adequate food. Paternalism also provided the Congolese with education, housing, medical care and many other material benefits.

However, education was mostly at the Primary level only. University education was deliberately delayed until 1954 because of the Belgians fear of creating an elite who could press for political independence.[5]

Consequently, in the administration of the Belgian Congo, its public and technical services were run almost exclusively by Europeans. Very few Congolese were allowed to hold positions of executive or operational responsibilities.

By 1958, no more than 10,000 Congolese out of a population of 13,500,000, were attending secondary or vocational training schools. And at independence in 1960, there were only seventeen University graduates who had received their education in Europe.[6] Again, the national security force, the Force Publique, was manned in entirety by Belgian Officers. In fact, there were very few educational facilities open to the largely illiterate Congolese soldiers.[7]

The Congo was administered by the Colonial Minister in Brussels through a Governor-General and a Governor for each of the six Provinces shown in Map 1. All edicts and directives came from Brussels, and the Congolese were not consulted in the administration of their own affairs. By 1952, the Belgian Parliament approved a Ten Year Plan for the Congo. The Plan was designed to raise living standards through economic growth in the country. But without adequate educatinal and political development, the plan meant nothing.[8]

Thus the problem that besieged the Congo was not derived from undernourishment of the body. They came from undernourishment of the spirit, and the repression of political ideas. The Belgian policy had relied on the assumption that political ideas would not flourish where there was economic contentment. It also believed that opportunity witheld "until the time is ripe" meant that that opportunity would not be pursued.[9]

The weakness of paternalism was later to have a devastating effect on the Congo at independence. In summary, paternalism failed to give the Congolese a sense of belonging in their own country; it failed to instruct them in the Western system of government which it was assumed they would undertake at independence; it failed in race relations, in education, in understanding that edicts are not a substitute for real human relations; lastly, it failed because it created a pattern of expectations which could not be fulfilled by the New African rulers.

Perhaps the most serious shortcoming of the Belgian rule was the failure to build up a group of educated Congolese to participate in government. As events later


THE CONGO (1961)
Place and country names used are those of 1961
NIGERIA
CHAD
SUDAN
CENTRAL AFRICAN REPUBLIC
CAMEROON
ORIENTALE
EQUATEUR
GABON
REPUBLIC OF THE CONGO
RWANDA
BURUNDI
Brazzaville
CABINDA
Leopoldville
Thysville
LEOPOLDVILLE
Matadi
Boma
KASAI
KIVU
Bukavu
Usumbura
Lubumbashi
Elisabethville
Kolwezi
Ndola
TANGANYIKA
KATANGA
Albertville
Kasama
ANGOLA
NORTHERN RHODESIA
NYASALAND
SOUTH-WEST AFRICA
BECHUANALAND
SOUTHERN RHODESIA
MILES
KILOMETERS
Lake Albert
Lake Victoria
Lake Edward
Lake Kivu
Lake Tanganyika
Lake Mweru
Bahr el Arab
Bahr el Ghazal
Congo
Ubangi
Uele
Aruwimi
Stanleyville
Sankuru
Kasai
Luapula
Luvua
Lualaba
Atlantic Ocean

showed, this denied the country matured and able leaderships at independence. For instance, the average level of education of the Congolese political leaders was something less than high school.

The Congo was filled with first class carpenters and mechanics but there were no engineers. There were bishops, journalists, accountants, medical assistants, teachers, civil servants, pharmacists but no lawyers, architects, doctors, social scientists or humanists. There was simply no group of truly educated people to give enlightened leadership. The situation was best summed up in the words of Chester Bowless when he said:

> The weakness of the (Belgian) programme appears to be their reluctance to allow the African to secure an advanced education... for fear that he will then demand a growing share of responsibility in the shaping of his future... The danger lies not so much in the possibility that the Belgians will not compromise eventually with the force of nationalism, but that when they do they will find the Africans almost totally inexperienced in handling the responsibilities which they are certain to demand and eventually get.[10]

4-1(c): Political Gnosis

Having examined the Belgian attitude in the Congo, it is pertinent to look at the Congolese themselves.

This will enable us see to what extent the Congolese contributed to the havoc that errupted after independent was granted;

The Congo is a nation with several hundred tribes jealously independent of each other and distributed all over the Congo basin[11] It has one of the most complex tribal structures in Africa. This in turn contributed to the lack of unity and to the wide differences between one region and another. The bond of unity under the colonial power was not strong enough to wipe out tribal loyalty in political activities.

Although no tribal group dominated the Congo as a whole, some have become powerful at local level because of size or past tradition or how they have been strategically placed. Another reason is because they absorved more quickly than their neighbours the ideas and techniques of Western education. The most important of these tribal groups are shown in Map.2.

The expectant effect of this complexity was constant inter tribal wars and raids.[12] Although the Belgian were able to prevent direct tribal conflict and the raiding, they did very little to break down tribal

feelings or to build national consciousness. The result was that when they left, tribal rivalries which had been dormant, came to life as demonstrated in the political parties formed. As of May 20, 1960, i.e. just before independence, there were no less than 120 Congolese political ethnic groupings.[13] This was an indication that the Congolese leaders had virtually no political experience to assist them in forming viable political parties.

However, four main political groupings came to dominate the others. This was either because they represented a particularly important tribe or region or because they laid claim to being called national. Because of the part these four parties subsequently played in the Congo crisis, it is necessary to examine them briefly.



MAP 2: Major Tribes in the Congo

Alliance des Ba-Kongo (Abako)

The Abako was formed in 1950 as a Social and Cultural Organ for the Ba-Kongo which comprised the sub-group of Ba-Ntandu, Ba-Ndibu, the Manianga and the Ba-Yombe.[14] It was based in Leopoldville and its main aim was to protect Ba-Kongo traditions and language from being destroyed as Africans from other tribes flooded into the capital. The Ba-Kongo resented the presence of the Belgians. They were also afraid that Belgian officials would organise the less privileged Africans against them. The original founders of the association were the Ba-Ntandu. In 1954, the leadership was taken over by Joseph Kasavubu, a man from the Ba-Yombe who had been trained for the priesthood.

Joseph Kasavubu had a strong belief in tradition and was already thinking of reuniting the Ba-Kongo territory in the French and Belgian Congos and Angola. He wanted to rebuild the Ba-Kongo empire. He saw the Belgians presence and what they stood for as an affront and an insult to the dignity and tradition of the Ba-Kongo. As the leader, he did not hide the intransigent attitudes of the Abako and its hope for an independent central Congo Republic. This would include the

Ba-Kongo Districts of Bas-Congo and Cataracts, and Kinlu and Kwango.[15]

As a tribal party, Abako had little or no contact with other African or Pan-African movements. The tight-Knit structure of the Ba-Kongo and their strategic location across the mouth of the Congo river meant that neither the Belgian nor any succeeding government, as events turned out, could afford to ignore them.

Confederation des Association Tribals du Katanga (Conakat)

Again, Conakat was essentially a local party founded in 1958. Its importance lay however, not in the strength of party organisation, but because it represented Southern Katanga which harbours the Copper Mines of Congo. Conakat grouped all the tribal associations of Katanga except the Balubakat and was dominated by the Ba-Lunda.[16]

The objective of Conakat was to create a sense of solidarity among the Katanga tribes and stop the promotion of immigrants in the administration and in business. This Katanga "nationalism" accorded well with the aims of the European. This, perhaps, gave the closer working relations between Conakat and the European

organizations in Katanga. Of particular importance was the Union Miniere du Haut Katanga, which had gained exclusive mining rights over a large area of Katanga.[17]

In July, 1959, the Confederation formed a political party, the Ressemblement Katangais, which retained the same abbreviation - Conakat. The declared objective of the new Conakat was a federal system which would join Belgium and the individual Congolese provinces in a Belgo-Congolese Community.

The first president of Conakat was Godefroid Munongo of the royal house of the Ba-Yeke. Later, Moise Tshombe, son-in-law of the Chief of the Ba-Lunda, became the President. Moise Tshombe worked as a teacher and later a businessman.

Conakat derived its support mainly from the Ba-Yeke and the Ba-Lunda and individual chiefs, businessmen and even Europeans. It was not a party of the masses but a confederation of tribal and professional groups with a common interest in Katanga.

Finally, Conakat had no Pan-African links, but for tribal reason, the party had close contacts with the United National Independence Party of Northern Rhodesia (now Zambia).[18]

Mouvement National Congolais(MNC)

While Abako and Conakat drew their supports from an already existing tribal or regional group, MNC was created from a national front. It aimed from the beginning at establishing a national consciousness which rise above tribal or regional interests.[19]

MNC was founded in October, 1958 in Leopoldville by a group of young educated Congolese from a variety of tribes and regions. The President was Patrice Lumumba of Ba-Telela (Kasai) and Vice-President was Cyrille Adoula of Ba-Budja(Equateur). The aims of the Mouvement were: to win independence by non-violent means; to promote the education of the masses and the training of an elite; and to oppose all manifestations of regionalism and separatism.

The Belgian officials who at that time were deeply worried by the trend towards separatism and secession, looked on the Mouvement with favour. They encouraged the Leaders to attend the All-African Peoples Conference (AAPC) organised in Accra in 1958 by the Convention Peoples Party of late Dr. Kwame Nkrumah.[20] The AAPC had aimed at channelling help from independent African Countries to the dependent territories and to coordinate

the struggle for independence. This did not naturally go down well with the other parties in Belgian Congo.

Patrice Lumumba, under the banner of MNC, travelled up and down the country preaching unity, nationalism and anti-tribalism. He generated a lot of enthusiasm and excitement in leading the Mouvement, having interracted well during the AAPC. Unfortunately, this was seen as a "one-man-show" by his colleagues in the party.[21] Discontent soon grew among the intellectuals that had founded the Mouvement. This resulted in the spliting of the Mouvement into two factions with the same name. While Lumumba continued as the leader, Albert Kalonji led the break-away one to become the MNC(K). MNC(K) ultimately became a tribal party of the the Ba-Luba of South Kasai.

The break nevertheless gave Lumumba more freedom to build up a dynamic movement centered on his own personality. He became extreme in his demands and soon the Belgians became suspicious of the MNC. The MNC launched a campaign of positive action for the immediate liberation of the Congo while Lumumba addressed the "oppressed peoples" of the Congo to take action to put an end to Belgian domination.

Parti National du Progress (PNP)

While the MNC called for unitary and national policies, the Abako and Conakat called for federalism. The Belgians were sceptical of the MNC and detested the Abako and the Conakat. They and a number of moderate Congolese were worried by the extremism of the parties. These moderates called a meeting in Coquilhatville, of representatives of a whole range of small ethnic and local parties. At the end of the meeting, they formed a single-political federation, the PNP.[22]

The PNP claimed to represent the whole nation and advocated a unitary state with respect for chiefs and cooperation with the Belgians. The leaders were Paul Bolya, a Mongo medical assistant from Equateur, and Albert Delvaux, a half-caste from Kwango.

In general, the PNP had the same objectives as the MNC but lacked outstanding leaders. The fact that it had the obvious support of a large section of the Belgian authority made it doubly suspect amongst the Congolese.

So, by January, 1960, 5 months to independence, these four political parties dominated the Congo political struggle for independence. Abako and Conakat were both regional parties advocating federalism, whereas the MNC and PNP were trying to build a national consciousness and were campaigning for a unitary state. However, the two extremist parties were Abako and MNC who were busy rivalling each other in order to claim the credit for Winning independence. The result was two outstanding political leaders in person of Joseph Kasavubu, "enigmatic and intransigent", and Patrice Lumumba, "volatile, idealistic and a tireless worker".

These notwithstanding, all the parties were in agreement in seeking independence from the Belgian as soon as possible.

The move towards independence did not correspond with the formation of political parties in the Congo. The gradual awareness started in 1947 with the appointment of two Congolese to the Government Council, which hitherto had been composed entirely of Europeans.[23] And by 1951, African interests were cared for by the government appointment of eight African members. In addition to these gestures towards political evolution, King Baudouin's declaration on a joint Belgo-Congolese

Community further paved the way for political awareness of the Congolese.[24]

Apart from these governmental actions, individuals and groups also contributed to the political education of the Congolese.

First was the "Thirty-Year Plan For the Political Emancipation of Belgian Africa.[25] The plan was written by A.J.J. Van Bilsen, a professor at the University Institute for Overseas Territories in Ankwerp. He made practical suggestions to decolonize the Belgian Congo. He maintained that because of paternalism, no groups of individuals were prepared to step into the Belgian shoes. He, therefore, called for 30 years to prepare new individuals or groups for a "Grand Congolese Federation". His views prepared the ground for the first major expression of Congolese nationalism.

The nationalism was manifested in 1956 in the publication in the Catholic sponsored "Conscience Africaine" of a political manifesto.[26] The manifesto was written by a group of 'evolues' i.e. Congolese who had gradually acquired the European culture. The publication of the manifesto was the first time that idea of political independence for the Congo was openly

expressed. It stressed the desire for an end to isolation of any kind and for the creation of a state which would reflect Congolese aspirations and desires. It called for a true democracy based upon the equality of men and the participation of the Congolese people in the Country's government. It also looked forward to the recognition of a clearcut distinction between the presence of Belgians in the Congo on the one hand and Belgians domination of the Congo on the other. Finally, the manifesto called for sincere co-operation and understanding between the Belgians and the Congolese, stressing the need for consultation in the eventual emancipation of the Congolese.

In a purely political tone, the manifesto said:

> An increasing number of Congolese want to take more responsibility and more initiative in the future of their country. They wish to assimilate in their national life other basic values of Western civilization which are still absent or insufficiently developed; respect for the individual and for his fundamental liberties without recial distinction, a more intense pursuit of social justice.... We have full confidence in the future of our country. We have confidence also in the men who must live in it in concord and in happiness....[27]

In response to the manifesto, the Beligan government set up a Belgian study group which was to examine the

political situation and make recommendations.

But before the submission of the study Group's report, a number of events occurred which further hastened the Congolese call for political emancipation. These included:

1. The 1956 Loi-Cadre Francaise which sought to give greater autonomy to the French African territories;
2. The Ghanain independence in 1957;
3. The 1957 municipal election in Leopoldville, Elizabethville and Jadotville.
4. The 1958 International Exposition in Brussel which featured seven Congo pavilions;
5. The 1958 visit of General de Gaulle to Brazzaville across the Congo River where he said whoever wishes independence can have it as soon as he wishes; and
6. The All-African Peoples Conference held in Accra, Ghana in 1958.

Of all these, one can rightly say that it was the "spirit of Accra" that finally drove home the Congolese demand for immediate independence. For instance, during the AAPC, Patrice Lumumba made a short speech in which he outlined the development in the Congo. He gave the aims of MNC as the liberation of the Congolese people from the colonial regime and their

accession to independence. He cited the Universal Declaration of Human Rights of the United Nations as the basis for his demands.

On Lumumba's return to the Congo, he made a fiery speech in the commune of Kalami before a crowd of about 7,000 people. There he said:

> .... the conference (AAPC) demands immediate independence for all Africa and that no country in Africa remain under foreign domination after 1960.... We state with satisfaction that the resolutions of the Conference coincide with the views of our movement.
>
> The independence that we claim in the name of peace cannot be considered any longer by Belgium as a gift, but to the contrary... it is a right that the Congolese people have lost. The objective... is to unite and organize the Congolese masses in the struggle for the amelioration of their lot, the liquidation of the colonial regime and the exploitation of man by man.
>
> It is high time that the Congolese people proved to the world that they are cognizant of the realities of the "autonomy-gift" which the government is preparing and promising. We do not want this autonomy.,. The Congolese people must stop sleeping and waiting for our independence and liberty.
>
> The Congo is our country. It is our duty to make it greater and better.[28]

The final blow however, came seven days after the speech. Riots broke out when Abako meeting was banned.

Kasavubu was supposed to have addressed unemployed Congolese. Some 49 Congolese were killed, 49 Europeans and 230 Africans were wounded in the three days rioting. This violence brought Lumumba and Kasavubu into the limelight. For the first time, the Belgians were unable to maintain law and order. Its authority progressively deteriorated as a result of a campaign of passive resistence and civil disobedience engineered by the parties.

The immediate effect of the riots was the establishment of a Parliamentary Commission of Enquiry made up of 9 members to investigate the riots. The report of the Commission was frank and to the point. As Legum put it, "the Commission discarded the propaganda, the pretence and deception and the bogus claim about the advantages of paternalism over democratic political rights."[29]

On January 13, 1959, the Belgian government publicly recognized the right to independence of a United Congo. It set a timetable for the establishment of democratic institutions up to the provincial level. This was contained in the

Government Declaration as well as the King's message which restated the aim of the Belgian policy - "to open these backward countries to European civilization, to call their population to emancipation, liberty and progress after having freed them from slavery, illness and misery ... our firm resolved without undersirable delays but also without inconsidered precipitation, is to lead the Congolese people to independence in prosperity and peace."[30]

The future Congolese government was to consist of local, territorial and provincial councils at the local level and of a Chamber of Deputies and a Senate at the National level. Election would be by universal suffrage. By October 16, 1959, the Belgian announced that a Congolese Central Government would be set up the following year. Immediate reaction from the Congolese political leaders was unanimous. They demanded to be consulted on all political matters on the future of the Congo. They rejected any imposition of new institution from outside.

One outstanding incident during this period was the arrest and subsequent imprisonment of Patrice Lumumba during the MNC Congress, October, 23-29, 1959 at Stanleyville. The Congress had made a number of

demands including the postponement of election; the opening of new negotiations between the Congolese and Belgium; and the formation of a single assembly in place of the Belgian two-house plan. Lumumba was scheduled to address the final meeting. After his address, heavy rioting resulted in the death of 26 Africans and wounding of more than 100 Africans and Belgians. There were reports of other riots in Luluabourg and Matadi during the same period.[31]

These incidents led to the convening in January 1960, of the Round Table Conference (RTC) in Brussels with the aim of outlining a programme for the gradual attainment of full independence for the Congo.

4-1(d): The Round Table Conference(RTC)

The Round Table Conference opened in Brussels on January 20, 1960. In attendance were 81 Congolese delegates approved by the Belgian Authority. Of these, 62 represented political parties, while 19 spoke for tribal associations or mere representatives of Chiefs. More than a hundred other Congolese and several Belgian settlers were also present in an advisory capacity. While Belgium had agreed to the principle of independence, when the Conference opened, there was

no clear cut decision on the terms and timings of independence.[32] The Belgian spokesman had hoped for a transitional period during which the Congo would have a degree of autonomy. This would have safeguarded the vast Belgian economic interest in the Congo. It would have also maintained its influence among the new political elites.

Unfortunately, things did not work out as the Belgians had thought. At the very beginning, the delegates unanimously insisted that the Conference should set a date for the immediate and complete independence of the Congo before any other items of the agenda was touched. This unexpected development placed the Belgians in a dilemma. They had called the Round Table Conference and approved the delegates as representatives of their various tribes and regions. To refuse to accede to the unanimous decision of the delegates was to call off the conference on the very first day. If that had happened, the only alternative would have been to rule the Congo by force of arms which the Belgian had neither desired nor the capacity to undertake.

Belgium, therefore, reluctantly agreed to grant the delegates request even though it had done nothing to prepare the Congo politically for independence. June 30, 1960, was chosen barely five moths away then, Having been out-manoeuvred by the sudden show of unity on the part of the delegates, the task then remained to work out the mechanism and the terms of Belgo-Congolese co-operation in the interest of the Belgian investment in the Congo.

It is interesting to note the attitudes of the party leaders at Brussels. Tshombe and Kasavubu were the oddmen out in Belgian estimation. They were both fighting for a loose confederal constitution as was Kalonji's MNC(K). The Belgian rejected this, emphasizing the territorial integrity of the Congo and the desirability of a strong Central government. Kasavubu was accused of being a communist and in the hands of the French fascists, Tshombe was described as the tool of the industrialists. The heroes of the Conference were P. Lumumba and Paul Bolya. Lumumba had been flown straight from prison to the Conference table with his wrists still scarred from handcuffs.

Lumumba and Bolya settled for a unitary constitution.

Kasavubu was unhappy with the Belgian campaign to discredit him. In a series of quick agreements, he forged an alliance between his own Abako, the MNC(K) and Parti Solidaire Africain, a left-leaning peasants party led by Cleophas Kamitatu and Antione Gizenga. The alliance gave him 22 of the 62 political delegates, only three less than the combined strength of the MNC and PNP. Tshombe's four delegates were alone while the other eleven delegates were spilt among four minor parties.[33]

With the forged coalition, Kasavubu insisted on a federal Congo. He called for the immediate creation of an interim Congolese Government with him as the head. He could not carry through this demand. In fact, the coalition broke up and his own Abako split down the middle with his top aid, Daniel Kanza, leading the revolt of Abako's protestant delegates. At that crucial mement, Kasavubu withdrew from the Conference while the others continued.

Lumumba and the other leaders favouring a unitary form of government took advantage of Kasavubu's

absence. Capitalizing on the disagreement among the other parties, Lumumba and Bolya pushed through a series of resolutions that would lead Congo to independence. A provisional constitution was to be drafted based on these resolutions. It was also resolved that a second Round Table Conference should meet in April to consider economic matters. Finally, they agreed to treaties which would guarantee Belgians interest, provide for technical and economic assistance and assure the maintenance of the three Belgian bases in the Congo.

The draft provisional constitution was called Loi Fondamentale.[34] It was passed by the Belgian Chamber and Senate and signed into law by the King on May 18, 1960. Though it was a Belgian Law, it needed no ratification by the Congolese to become effective. This was so because at that time, the Congo was still a Belgian Colony. And since there was no amendment or outright repeal at independence, the Loi Fondamentale continued to be in force and all actions under it constitutional.

According to the Loi Fondamentale, "the Republic of Congo constitutes from the day it attains independence an indivisible and democratic state within its existing boundaries.[35] It provided for a Chief of State elected by Parliament; the Central Government, headed by a Prime Minister who was responsible to the Parliament. The National Parliament sitting in Leopoldville was to consist of two houses - a Chamber and a Senate of Representatives.[36] Article 7 of the Loi Fondamentale provided that the Republic should be composed of six provinces with some administrative and political autonomy.

While looking forward to Belgian assistance and co-operation in accordance with the provisions of the treaty of Friendship, Assistance and Co-operation, the Congolese political leaders sought other non-Belgian avenues to secure assistance. Prominent among these was the mission sent to the United States of America by the central Committee of the Abako party in April, 1960. It was led by Mr. Joseph Yunbu and Professor A.J. Van Bilsen was also a member of the mission. The Mission met the officials of the United Nations, the World Bank and the United States of America's Government.

The United Nations was asked to establish a Liaison Mission in Leopoldville composed of administrative Specialists and a mission to supervise the election processes among other things. Dr. Ralph Bunche, Under-Secretary-General for Special Political Affairs who had met the Congolese Mission in New York, was sent to the Congo to represent the Secretary-General during the Independence Celebration. And when the ONUC came into being, Dr. Bunche was made the Special Representative of the Secretary-General and Head of the Operation initially. Also worth noting is the fact that Dag Hammarskjold had visited the Congo in January 1960, and had anticipated technical assistance for an independent Congo.

The World Bank was to provide assistance in the financial fields while the United States of America's Government and certain foundations and Universities in the United States of America were asked to provide financial and technical assistance to the Congo after the 30th of June, 1960. The Government of the United States of America was more in support of Channelling all assistance through the United Nations.

of the role the Force played in the Congo crisis.

Like their brothers in politics, the Congoless soldiers looked forward to running the Force Publique after independence. The Force in 1960 was a 25,000-man national security force combining the functions of an army and a police establishment. All the officers were Belgians (1,100). Even after independence, Lumumba still appointed Lt. Gen. Emile Janssens, a Belgian, as the Commander of the Force Publique.

Lt. Gen. Janssens as Commander, had no plans to accelerate the training and promotion of the Congolese in the Force. He maintained that his white officers would continue to serve until equally qualified Congolese could replace them. Unfortunately, Lumumba had publicly taken the same position. The Force Publique was to remain in tact in the independent Congo. This fact was cited widely as a final asurance that the Congo would survive. On that note, Belgium reinforced its garrisons in the Congo with metropolitan troops in May 1960. On this, Lumumba was quoted as saying: "We want no more foreign troops in the Congo. The Force Publique with its thousands of Congolese soldiers and Belgian officers suffices amply."[38]

This did not change the Belgians attitudes. In fact it added to the grievances of the Congolese soldiers which were subdued by their Belgian officers. The grievances had arisen from the fact that:

1. The soldiers were poorly paid and manned entirely by Europeans - Belgians;

2. Their officers rigidly maintained a policy of colour bar against them and looked upon them as inferiors;

3. The soldiers were largely illiterate and were not given any opportunity for advancement;

4. Their several demands for plans for Africanizing the Army were ignored by the Colonial regime and again received no sympathy from the Congolese politicians who initially regarded them as an instrument of colonial repression.

To buttress their points, an open letter was written by the Congolese non-Commission officers and soldiers after the return of the delegates from the Round Table Conference. Expressing their discontent and frustrations, the letter contained inter alia:

> We, the soldiers of the Force Publique, are following with close attention the present course of politics, and we note with great astonishment that the present colonial government and our good representatives are not considering anything to better our fate. .. We vehemently condemn the attitude of our representatives and publicly charge as self-centered our present political leaders who ignore our multiple difficulties...

> There is no human contact between us and our officers... We are veritable slaves. We are thought of as belonging to an inferior race. So far as Africanization of the staff is concerned, there is total immobility. All of the higher grades are held only by whites even though there are Congolese Soldiers capable of assuming the duties of officers. At this time, the unanimous desire of all Congolese soldiers is to occupy posts of command, to earn a decent salary, to put an end to all traces of discrimination in the midst of the Force Publique.
>
> We take the liberty of declaring publicly and without equivocation that if by June 30 (1960) you have not put into operation adequate means to dignify our standard of living and have not moved toward an extensive appointment of black officers, we assure you that the independence of June 30 will be unsteady.[39]

The warning contained in the Open Letter went unheeded. The Politicians were busy struggling for power rather than considering the faith of the generalities of the Congolese including the soldiers. And so, on the eve of independence, the soldiers complained again that nothing was done to carry them along in the new Republic. They said:

> ... it astonishes us to see our African brothers forget us... There will be two branches of Congolese independence. First there will be... the class of the great Congolese leaders and their white counsellors. These will benefit from all the advantages of the new independent state....

> A second dishonoured wing, which will include the inferior, the criers of "vive independence" on June 30, 1960, will be and remain the servants of the first branch.
>
> M. Lumumba judges us incapable of taking the place of the officers.
>
> Dear Lumumba, friend of the Europeans... we guarantee you the infernal ruin of your powers as long as you insult us as ignorant and incapable of taking the place of your white brothers.40

With this, a token concession was made at the eleventh hour to the soldiers demands for Africanizing the Army. A number of Congolese young men were selected for training as potential officers in the Army. Other demands were ignored.

Thus, before independence, the Conglese soldiers had constituted a potential danger to the emerging government of the Congo. The politicians could not appreciate the effect of the soldiers grievances either because of short sightedness or mere ignorance of national security or both. It was, therefore, at their peril that they did not act quick enough as events soon unfold.

It was with these multifacet problems that Belgium severed its half-century of peternalistic rule on June

30, 1960. The Republic of Congo was born amidst divergence forces of tribalism, regionalism and conflicting political ambitions.

4-2: The Collapse of the Force Publique

The first four days of independence were declared national holidays in the Congo. For the most part, they passed in tranquility. Thereafter, the volcanic trouble of the Congo errupted.

The fundamental causes of the Congo crisis were; the inability of the Congolese political leaders to govern the new state; the absence of affective arrangement on the part of the Belgian government or any other outside authority to compensate for this and internal weakness. These notwithstanding, the 5th and 6th of June defection of the Force Publique in Leopoldville and Thysville was the immediate 'event' that dashed the hopes and aspiration of the new independent Congo. Neither the Belgian officers nor the Congolese authorities alone or in conjunction were able to stop the disorders that followed. The situation got out of hand mainly because of:

1. Ineptitude, inexperience and uncertainty of authority and role under an independenct Congolese government;

2. The absence of contingency plans;

3. Panic on the part of the Belgian and the Congolese; and

4. A general atmosphere of anxiety enflamed by rumour and mutual suspicion.

In the beginning, the soldiers simply wanted better pay and the hope of modest promotion. There were no doubts that the soldiers were envious of the material benefits received by the new political elites. Their fears and suspicions of the politician were further heightened with the pronoucement of Lt. Gen. Janssens that went unchecked. He was quoted as saying that there was no independence for the Army. He had written on the blackboard of the officers mess in Camp Leopold II: "Avant independence - Appress independence" i.e. before independence - after independence.[41] The soldiers thus turned against their Belgian officers and unleashed a series of actions unforseen by both the new Congolese rulers and the Belgian. It was the reaction of the Congolese soldiers to the accumulated oppression and injustice they had received for years from their Belgian officers. It was also a kind of

terroristic reaction directed against the new Congolese rulers who were fraternizing with the Belgian oppressors that should have been replaced.

It all started on July 5, 1960, when Congolese soldiers began to refuse to obey their Belgian Officers at Camp Leopold II in Leopoldville. They started by organizing protest marches. With these, Lt. Gen. Janssens alerted the reserve garrison at Camp Hardy in Thysville 95 miles away. He ordered the officers there to be ready if necessary to take over in Leopoldville. But when the officers in Thysville tried to form a convoy, the soldiers disobeyed again and took possession of the armoury. The Belgian officers retreated to their quarters leaving the Congolese in control.

And by July 6, the soldiers were demanding the resignation of Lt. Gen. Janssens, the removal of the white-officers who were advisers to Lumumba's cabinet and the rapid replacement of white officers by Congolese.

Like a hurricane, panic swept across the European population as foreign women were raped and goods looted. It was pandemonium all over the country. The

government reaction was slow and when it came it was ineffective. It could not stop the disorder that was spreading from town to town. Lt. Gen. Janssens was summarily dismissed along with a great majority of white officers. A promise of pay rise was also announced by the government.

By July 8, the government was still unable to contain the situation. The name of the Force Publique was changed to Armée Nationale Congolaise (ANC). A former Sergeant, Victor Lunduta, was promoted to the rank of Major General and named the new Commander of the ANC. Joseph Mobutu, a former clerk for 6 years with Force Publique, was relieved of his post as Secretary of State for the Presidency by Lumumba. Joseph Mobutu was given the rank of Colonel and appointed the Chief of Staff of ANC. All Congolese soldiers and Non Commissioned Officers were promoted by one grade pending further measures to Africanize the entire officer corps.

Unfortunately, the abrupt Africanization of the ANC was a disaster. It did not help the situation and discipline was at its lowest point. The change had come a little too late to be effective.

Prison gates were let open and prisoners set free. Ndijili airport in Leopoldville was taken over by the ANC and thousands of European fled across the Congo River to Brazzaville. In Matadi, there were reports of killings and looting.

Meanwhile, all attempts by the Belgian Ambassador to use the Belgian troops under the Treaty of Friendship Assistant and Co-operation were rejected by the Prime Minister who was also the Defence Minister. With the obvious loss of control by the Lumumba's government, Under-Secretary-General Bunche still advised the Belgian Ambassador not to call in Belgian troops without the prior agreement of the Congolese Government. At the same time he was already talking with the Congolese government with a view to working out a United Nations plan of assistance to the troubled country.

It was in the midst of these confused situation that Belgium, in open violation of the treaty of June 29, 1960, took a unilateral action. She dropped paratroopers in various parts of the Congo on July 10, 1960 and shelled the port of Matadi. Thus began the internationalization of the Congo crisis that was

triggered off by the collapse of the Force Publique. It soon transformed the army's defection into a national upsurge against the Belgians in general. Though able to contain the situation and returned some form of law and order, the Belgian metropolitan troops were unable to prevent the secession of Katanga.

With the Belgian troops unleashing terror and attacks on the mutinous Congolese soldiers all over the country, Moise Tshombe, Provincial President of Katanga announced the secession of Katanga on July 11, 1960. The following day, Chief of State, Kasavubu, and Prime Minister Lumumba flew to Elizabethville to attempt a reconciliation with Tshombe and the Belgian Minister in Katanga. Their plane was denied permission to land following an order from Tshombe. On the airport, Belgian troops were on guard duties. This finally sealed the Katanga secession.

In his secession speech, Tshombe alleged that the defection of the Force Publique had been staged to chase the Belgian from the Congo and bring the Communist to take their place with Lumumba's connivance. He pointed out that since July 5, the whole of the Congo had been

the appointment by Lumumba, of Joseph Sendwe, the Balubakat leader and Tshombe's arch enemy as Commissioner of State for Katanga.[43]

These were the events that became the prelude to a tragicomic drama of chaos and conflict that involved the super-powers and a scores of other States for four turbulent years in the Congo.

4-3: Appeal for Foreign Assistance

In the wake of the Belgian intervention and Tshombe's declaration of independence in Katanga, the confused upheavals in the Congo were completely out of control of the Central Government. The government had to look outside for necessary assistance to return life to normalcy as a result of the chaos which came from three angles - the breakdown of all law and order following the collapse of the Force Publique; the intervention of the Belgians and the secession of Katanga. In the main, the Central Government was concerned with getting the Belgians out and ending secession. It was believed that once these two were settled, law and order would automatically take place.

Initially, various Congolese leaders made attempts to get assistant from the United States of America, Union of Soviet Socialist Republics, Ghana and the United Nations.[44] The first official appeal was the oral one made to Dr. Bunche on July 10, 1960. Chief of State Kasavubu and Prime Minister Lumumba had requested for technical military assistance to restore discipline in the ANC and to support the administration which was being disrupted as a result of mass exodus of Belgian Administrators, Civil Servants and Technicians. Dr. Bunche immediately cabled the appeal to Dag Hammarskjold. Dag Hammarskjold called together on July 12, the United Nations delegates from Ethiopia, Ghana, Guinea, Liberia, Libya, Morocco, Sudan, Tunisia and the United Arab Republic to discuss technical assistance in the security field for the Republic of the Congo. The Secretary-General understook the action on his own authority without reference to the Security Council since it was a request for technical assistance of Military nature which by Charter interpretation fell within the jurisdiction of the Secretary-General.

However, the request took a new turn as heavy fighting between the Belgian metropolitan troops and the Congolese soldiers further increased tension,

disorder and possibility of total disintegration of the country. In Leopoldville, Gizenga, Bomboko and Myambo had asked the American Ambassador in Leopoldville for troops. And in Stanleyville, unaware of the request in Leopoldville, Kasavubu and Lumumba sent a joint telegram for a United Nations military assistance to the Secretary-General on July 12, 1960. In the telegram, they said:

> The Government of the Republic of the Congo requests urgent dispatch by the United Nations of Military assitance. This request is justified by the dispatch to the Congo of metropolitan Belgian troops in violation of the treaty of friendship signed between Belgium and the Republic of the Congo on 29 June, 1960. Under the terms of that treaty, Belgian troops may only intervene on the express request of the Congolese Government. No such request was ever made by the Government of the Republic of the Congo, and we therefore, regard the unsolicited Belgians action as act of aggression against our country.
>
> The real cause of most of the disturbances can be found in colonialist machinations. We accuse the Belgian Government of having carefully prepared the secession of Katanga with a view to maintaining a hold of our country. The government, supported by the congolese people, refuses to accept a fait accompli resulting from a conspiracy between Belgian imperialists and a small group of Katanga leaders. The overwhelming majority of the Katanga population is opposed to secession, which means the disguised perpetuation of the colonialist

> regime. The essential purpose of the requested military aid is to protect the national territory of the Congo against the present external aggression which is a threat to international peace. We strongly stress the extremely urgent need for the dispatch of United Nations troops to the Congo.[45]

The next day, they sent another telegram from Leopoldville to the Secretary-General to make it clear what they wanted. This was to correct the impression the request for United States of America troops by Gizenga, Bomboko and Kyambo might have. In the second telegram, the two leaders stated:

> In connexion with military assistance requested of the United Nations by the Republic of the Congo, the Chief of State and the Prime Minister of the Congo make the following clarification:
>
> 1. the purpose of the aid requested is not to restore the internal situation in Congo but rather to protect the national territory against act of aggression committed by Belgian metropolitan troops;
>
> 2. the request for assistance relates only to a United Nations force consisting of military personnel from neutral countries and not from the United States of America as reported by certain radio stations;
>
> 3. If the assistance requested is not received without delay, the Republic will be obliged to appeal to the Bandung Treaty Powers;

(4) the aid has been requested by the Republic of the Congo in the exercise of its sovereign rights and not in agreement with Belgium as reported.[46]

While awaiting the response of the United Nations, Gizenga wanted a stopgap troops and on his own, requested troops from Ghana. Lumumba on his part persuaded Kasavubu to join him in a cable to Soviet Premier Nikitas Khrushcher, stating that the Congo " is occupied by Belgian troops and the lives of the Republic's President and Prime Minister are in danger." They requested the Soviet Union "to watch hourly over the situation. In reply, Khrushcher pledged that Moscow would provide "any assistance that might be necessary for the victory of the Congo's just cause."[47]

It was in the midst of these uncetainty, disunity and distorted information in the Congo that the Secretary-General acted. He invoked Article 99 of the United Nations Charter which gives the Secretary-General the power to "bring to the Security Council any matter which in his opinion may threaten the maintenance of international peace and security." He requested an urgent meeting of the Council to consider the situation of the Congo.[48]

When the Council was convened, Hammarskjold described the presence of Belgian troops in an independent Congo as "a source of internal and potentially, also, of international tension." In these circumstances, he said: "the presence of Belgian troops cannot be accepted as a satisfactory stop-gap arraangement pending the re-establishment of order through the national security force."[49] He indicated that if a United Nations force was despatched to the Congo, he would be guided by specific procedures already established by the UNEF in the Middle East and would avoid being a party to internal conflicts.

During the debates that followed, several delegates agreed with the Secretary-General's characterization of the situation in the Congo as a serious threat to international peace and security. Some argued that the action of Belgium constituted aggression while others simply said the intervention was such a nature as to endanger international peace. Belgium on its part submitted that it would withdraw its troops once the United Nations could ensure order and personal security. It explained that they had

"intervened strictly because of our sacred duty to protect the lives and honour of our fellow citizens... we have no political designs in the Congo."[50]

At the end of the debate, Tunisia introduced the first resolution on the Congo crisis. It was adopted on July 14, 1960 as resolution 143(1960). Voting was eight in favour, none against with China, France and the United Kingdom abstaining. The resolution was worded as follows:

> The Security Council:
>
> Considering the report of the Secretary-General on the request for United Nations action in relation to the Republic of the Congo;
>
> Considering the request for military assistance addressed to the Secretary-General by the President and the Prime Minister of the Republic of the Congo (document S/4382),
>
> 1. Calls upon the Government of Belgium to withdraw their troops from the territory of the Republic of the Congo;
>
> 2. Decides to authorize the Secretary-General to take the necessary steps in consultation with the Government of the Congo, to provide the Government with such Military assistance, as may be necessary, until, through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the Government, to meet fully their tasks;
>
> 3. Requests the Secretary-General to report to the Security Council as appropriate.[51]

effect of restoring calm in an extremely tense situation. As the troops arrived, Lumumba demanded the recall of Belgian diplomats as well as forces, declared a state of war and repudiated the 16 days old Treaty of Friendship with Belgium.

On July 16, the Belgian Ambassador informed Dr. Bunche that consequent upon the arrival of the United Nations troops, the first contingents of the Belgian armed forces had left Leopoldville and returned to their bases on that same day. Unfortunately, this was not satisfactory to the Congolese government. So, on July 17, Lumumba and Kasavubu addressed an ultimatum to the Secretary-General warning that if the Belgian forces were not completely withdrawn within 48 hours, they would request troops from the Soviet Union.

Armed with the situation report from the Congo and his own detailed analysis of the Congo problem, Hammarskjold reported to the Security Council on July 18. He emphasised, as he clarified the legal guidelines, that the request for assistance of the Congolese government was the sole basis of United Nations jurisdiction and not a state of hostilities between two states.

He outlined the principles which would govern the organization and activities of the force, its composition and the action he had taken or envisaged taking in implementing the July 14 resolution. He added that 3500 troops had already arrived while more troops were being expected from non-Africans.[52] He said food and technical assistance had been pledged by eight nations and that the evacuation of Belgian forces had begun. His proposed guidelines for the force were:

1. The Force was to be regarded as a temporary security force to be deployed in the Congo with the consent of the Congolese Government until the national security force were able in the opinion of that Government, to meet fully their tasks.

2. Although dispatched at the request of the Congolese Government and remaining there with its consent, and although it might be considered as serving as an arm of the Congolese Government for the maintenance of law and order and protection of life, the force was necessarily under the exclusive command of the United Nations, vested in the Secretary-General under the control of the Security Council. The Force was thus not under the orders of the Congolese Government and could not be permitted to become a party to any internal conflict.

3. The host Government, when exercising its sovereign rights with regards to the presence of the United Nations Force in its territory, should be guided by good faith in the interpretation of the Forces purpose. Similarly, the United

Nations should be so guided when it considered the question of maintenance of the Force in the host country.

4. The United Nations should have free access to the area of operation and full freedom of movement within that area as well as all the communications and other facilities required to carry out its tasks. A further elaboration of this rule obviously required an agreement with the Government specifying what to be considered the area of operation.

5. The authority granted to the United Nations Force could not be exercised within the Congo either in competition with the representatives of its government or in co-operation with them in any joint operation. This principle applied also a priori to representatives and military units of governments other than the host government. Thus, the United Nations operation must be separate and distinct from activities of any national authorities.

6. The units of the Force must not become parties to internal conflicts. They could not be used to enforce any specific political solution of pending problems or to influence the political balance decisive for such a solution.

7. The basic rules of the United Nations for international service were applicable to all United Nations personnel employed in the Congo operation, particularly as regards loyalty to the aims of the Organization.

8. The United Nations military units were not authorized to use force except in self-defence. They were never to take the initiative in the use of force, but were entitled to respond with force to an attack with arms, including attacks intended to make them withdraw from

> positions they occupied under orders from the Commander acting under the authority of the Security Council. The basic element of influence in this principle was clearly the prohibition of any initiative in the use of armed force.[53]

On July 20, 1960, after listening to the report of the Secretary-General, the Council was convinced that other elements had come into the original problem in the Congo. These were the foreign supports for the different Congolese political factions and the prospective intervention of outside powers in the crisis. It was, however, agreed among the vast majority of the Member States that ONUC, like that of UNEF, should be the exclusive endeavour of States not directly involved in the cold war. The need to keep the cold war out of the Congo was also stressed. The United States of America on its part did not hesitate to threaten to bar from the Congo the forces of other States not requested by the United Nations. It explained that its own personnel in Leopoldville were there with United Nations approval to help with the airlift of troops and supplies under "operations Safari."[54]

Nevertheless, the Soviet Union eventually supplied an estamated 200 technicians and 13 troop transport planes directly to Lumumba. This facilitated Lumumba's August Campaign against Tshombe's Katanga and Kalonji's Mining State.

In his own submission, Hammarskjold rejected such unilateral assistance and urged the Council to take immediate definitive steps "because we are at the turn of the road when our altitude will be decisive significance, I believe, not only for the future of this Organization but also for the future of Africa."[55] He also made it clear that the resolution of July 14 applied to the whole of the Congo including Katanga.

Meeting throughout the night of July 21/22, a resolution submitted and revised by Ceylon and Tunisia was unanimously adopted as resolution 145 (1960). It contained the following relevant provisions:

The Security Council:

> Considering that the complete restoration of law and order in the Republic of the Congo would effectively contribute to the maintenance of international peace and security;
>
> Recognizing that the Security Council recommended the admission of the Republic of the Congo to membership in the United nations as a Unit;

1. Calls upon the Government of Belgium to implement speedily the Security Council resolution of 14 July, 1960, on the withdrawal of their troops and authorises the Secretary-General to take all necessary action to this effect;

2. Requests all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;

3. Invites the specialised agencies of the United Nations to render to the Secretary-General such assistance as he may require.[56]

The inclusion of a technical aid paragraph in this resolution indicated the serious situation found by the United Nations technical personnel. They had reported, "... transportation at a virtual standstill, communications disrupted at some points, food shipments held up, health services deteriorating, foreign exchange drained and revenue blocked."[57]

.Perhaps in furtherance of the call for outside aid, Lumumba and some of his ministers embarked on a worldwide visit between July 22 and August 8, 1960 while the situation in the Congo remained confused.[58]

In Accra, he signed a secret agreement with Dr. Osagyefo Kwame Nkrumah, President of Ghana. The agreement called for the Union of Ghana and the Congo on the pattern of the Ghana-Guinea-Mali Union.[59] At the United Nations headquarters, after discussion with the Secretary-General and Afro-Asian bloc, he signed the Basic Agreement, covering the United Nations military and civilian activities in the Congo. The Agreement provided that the government "will be guided in good faith by the fact that it has requested military assistance from the United Nations" and by its acceptance of the two Security Council resolutions, it would "insure the freedom of movement of the force."[60]

On the whole, Lumumba's utterances during the visit condemned the snailspace of the United Nations action especially in getting the Belgians out of the Congo. For instance, in Conakry, he sent a cable to his Cabinet in Leopoldville to dispense with United Nations Forces and assistance. He said that the Congo was assured of direct military aid from other African Nations. He went on to say, "the United Nations troops are only parading in the Congo instead of aiding us in the evacuation of hostile Belgian troops."[61]

During these period, the Secretary-General had visited the Congo for an on-the-spot assessment of the situation. ONUC strength stood at 11,000 troops deployed in every Province except Katanga. Dag Hammarskjold saw ONUC as a combined effort in which the political, military and technical assistance aspects would all be welded into an integrated organ with the common purpose of restoring law and order and of enabling the Congolese people to find their own destiny under their own government. He saw an opportunity to demonstrate to the world that a new kind of conflict management procedure could be implemented. This would involve the military assisting in creating the peaceful environment necessary to start political conciliatory efforts and the technical assistance programme would start the process of creating favourable social and economic conditions which are necessary prerequisite for peaceful development of any Nation.

Unfortunately, as ONUC tried to consolidate, the great expectation of the Secretary-General soon faded in the face of continued politiking among the various world leaders on one hand and the Congolese leaders on the other.

As Belgium agreed to pull out to its bases under the Treaty of Friendship, which Lumumba rejected, the question of Katanga remained unresolved and paramount. Tshombe had refused admittance of United Nations troops into Katanga stating that he would rely for military assistance on the Belgian military officers already there and that law and order had already returned to the Katanga province.

By this time, pressure was mounting from the Afro-Asian and Soviet blocs for definitive action against Katanga, to which United Nations troops had not yet been sent.

Lumumba wanted ONUC to help bring down the secession of Katanga by force. Hammarskjold refused to do this arguing that under its mandates, ONUC could not use force except in self-defence and could not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict in the Congo. And for the Belgian, they refused to withdraw from Katanga citing the opposition of the Katanga authorities.

However, on August 2, the Secretary-General announced that United Nations troops would enter Katanga. On August 4, he sent Dr. Bunche to Elizabethville to make arrangements with the Belgian representative there for the entry of United Nations troops into Katanga on August 6. Tshombe mobilised and threatened to use force to prevent the entry of United Nations troops. With this show of force, Dr. Bunche reported that the entry of United Nations troops would only be achieved by use of force. The Secretary-General, therefore, decided to cancel the Military schedule rather than proceed by force of arms. He contended that the use of force to effect a United Nations presence in Katanga required a new mandate.

In view of these threats, the Secretary-General returned to New York and called the Security Council into session on August 8. He urged for an explicit application of the earlier resolutions to Katanga. He maintained that the introduction of any unit into Katanga by the United Nations would be possible only by resort to armed force on its part. Such an initiative he continued, by the United Nations Force was against the principle established by the Security

Council for the operation of the force. It was also against the conditions on which various contributing countries have agreed to send units into the Force.[62] From that point, it was clear that question of unanimity among the members of the Security Council could no longer be guaranteed. For instance, France supported Belgian presence in Katanga; Russia demanded that the United Nations Force be authorised to shoot its way into Katanga if necessary to force the withdrawal of Belgian troops; the United States of America, holding a middle cause, maintained that Katanga could not object to United Nations Forces whose role was to ensure law and order and Belgian withdrawal. Ghana and Guinea had offered troops to the Congolese Central Government for use against Belgian in Katanga.

Back in the Congo, the Katanga Assembly in Elizabethville, elected Tshombe President of an Independent Republic pursuant to Article 62 of its newly adopted constitution.

On August 9, the Security Council adopted Resolution 146(1960) presented by Ceylon and Tunisia by 9 votes in favour, non against and Italy and France

abstained on the ground that Belgian withdrawal was not a necessary concomitant of the United Nations' law and order role. The representatives of Congo, Belgium and even Russia expressed their willingness to abide by the resolution which provides;

> The Security Council
>
> x x x
>
> 2. Calls upon the Government of Belgium to withdraw immediately its troops from the Province of Katanga under speedy modalities determined by the Secretary-General and to assist in every possible way the implementation of the Council's resolutions;
>
> 3. Declares that the entry of the United Nations Force into the Province of Katanga is necessary for the full implementation of this resolution;
>
> 4. Reaffirms that the United Nations Force in the Congo will not be a party to or in any way intervene in or be used to influence outcome of any internal conflict constitutional or otherwise;
>
> 5. Calls upon all Member States in accordance with Articles 25 and 49 of the Charter, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Security Council.[63]

The most important thing about this resolution was that for the first time specific articles of the United Nations Charter were cited as authority. These were earlier mentioned by the Secretary-General in his report and statement to the Council.[64] Nevertheless, the Secretary-General reiterated his conviction that the resolutions did not authorise him to intervene with armed troops in an internal conflict when the Council had not specifically adopted enforcement measures under Articles 41 and 42 of Chapter VII of the Charter.

As the Security Council was adopting resolution 146, Albert Kalonji, MNC(K), announced the independence of his "Mining State" (Diamond State), about one third of Kasai Province. On the other hand, Tshombe indicated his willingness to allow United Nations Troops into Katanga on certain conditions. These were that the troops were not from communist countries and would not interfere in his internal affairs. With these conditions met, Dag Hammarskjold flew to Leopoldville on August 11. On August 12, he personally led the first 220 Swedish soldiers of the United Nations Force who flew into Elizabethville. The next day, the troops began taking over police duties from Belgian troops.

From Elizabethville, Hammarskjold sent a memorandum interpreting paragraph four of resolution 146 to Lumumba and Tshombe.[65] In it, he stated inter alia that the United Nations Force could not be used either to help or to hinder the Central Government in attempts against the provincial government of Katanga. Paragraph 9 of the memorandum stated that this was "a unilateral declaration of interpretation by the Secretary-General" and that whilst it was not subject to aggreement or negotiation", it could be contested before the Security Council and be changed by that Organ.

The memorandum was followed by unpleasant exchange of letters between Lumumba and the Secretary-General.[66] Lumumba challenged the Secretary-General's interpretation and his failure to consult with him on his return from New York en route to Elizabethville. He accused the Secretary-General of dealing with "the rebel government of Katanga in violation of the resolution of July 14, 1960". He also questioned the use of Swedish and Irish troops to enter Katanga. Lumumba went further to demand that only African United

Nations troops should be used in Katanga, that all airfields in the Congo should be guarded by the ANC and the Congolese police and finally that arms and ammunition distributed by the Belgians in Katanga should be seized and handed over to his government. The correspondence finally declared that the government and people of the Congo had lost their confidence in the Secretary-General and that a group of Afro-Asian Observers should be sent to the Congo.

The Soviet Union in support of Lumumba, argued that Katanga's secession and Belgian intervention were not severable and that the former could, therefore, not be regarded as an internal affairs having been stimulated and supported by Belgium. However, the main United Nations Force entered Katanga on August 15.

As a result of this rift between the Secretary-General and Lumumba, the former called a meeting of the Security Council on August 21 to clarify his mandate. During the meeting, the Soviet proposed that Hammarkjold's discretion in such matters as the implementation of the Security Council resolution be subjected to the scrutiny of a group of Security Council representatives. This was not pressed to a vote

but it did forshadow the future rupture that was to surface in the relations between Russia and Hammarkjold which led to the proposal by Russia in 1961 for Troika or triumvirate to replace the post of the Secretary-General.[67]

Because of lack of consensus, the Council failed to give a concrete clarification of the mandate as requested by the Secretary-General. As a result, the Secretary-General told the Council that he had a right to expect specific guidance, and that in its absence, "I have no other choice than to follow my conviction ... implementation obviously means interpretation."[68]

With the uncertain mandate and the criticism by some of the Afro-Asian states and the Soviet Union, Hammarskjold established the Congo Advisory Committee (CAC). The CAC was made up of representatives of States contributing troops to the ONUC. The aim was to create a closer liaison between Member States involved in the Congo operation and the Secretariat. Because of his conviction that the United Nations could manage the Congo conflict successfully, Hammarskjold and his closest colleagues generated

ideas and plans which they always discussed with members of the Security Council, the Congo Advisory Committee and directly with the interested States. From the inception of the Congo Operation, Hammarskjold had relied on a small group of men in the Secretariat who came to be known as the 'Congo Club'. The nucleus of this Club included:

1. Ralph Bunche, (US), Under-Secretary-General for Special Political Affairs;
2. Andrew W. Cordier, (US), Under-Secretary-General for General Assembly Affairs;
3. C.V. Narasinhan, (India), Staff Aide to the Secretary-General;
4. Brigadier (later Major General) T.J. Rikhye, (India), Military Adviser to the Secretary-General;
5. Sir Alexander MacFarquhar, (UK) Special Adviser On Civilian Operations in the Congo;
6. Hariz Klieschhoff, (US) Deputy to the Under-Secretary-General for Special Political Affairs;
7. Robert Gardiner, (Ghana) Staff Aide to the Secretary-General, later officer in charge in Leopoldville;
8. Francis C. Nwokedi, (Nigeria), Staff Aide;
9. Taieb Sahbani (Tunisia), Staff Aide.[69]

The Congo Advisory Committee became an additional source of advice for him. The inner core of the Congo Club which directed the day to day operations under Hammarskjold's guidance consisted of three Americans, two Indians and one British. Later, when Africans were included in the Club, these were from the notably moderate governments of Tunisia and Nigeria. It must be noted that Gardiner, the Ghanian representative in the Club did not reflect the prevailing political views of the Nkrumah government. By design, therefore, Hammarskjold selected the members of the Congo Club from States supporting the Congo effort without sentiments.

On the whole, the entry of United Nations troops into Katanga on August 12, 1960 set off a process of withdrawal of Belgian troops from the province and this was completed by the beginning of September. At the same time, Belgian troops were also withdrawn from the military bases of Kamina and Kitona and their places taken over by the Operation des Nations Unies au Congo forces. Thus, despite difficult circumstances, Operation des Nations Unies au Congo brought about the withdrawal of Belgian troops from the whole of the Congo within six weeks. However, the secession of Katanga remained unresolved.

Meanwhile, the internal rancour began to worsen rapidly. In late August, Lumumba massed forces in Kasai Province to attack the secessionist "Mining State" and Katanga. On August 27, Bakwanga, the capital of the 'Mining State' was captured. In early September, heavy fighting ensued between Lumumba's forces and that of Tshombe. In Equateur and Leopoldville provinces, there were increasing oppositions to the government of Lumumba. To further put down opposition and secessionist movement, Lumumba arrested some opposition leaders and anti-government newspapers were suspended. This unilateral action utimately culminated in disagreement between Lumumba and the Chief of State, Kasavubu. This led to a new constitutional crisis which added another dimension to the Congo conflict.

4-4: The Constitutional Crisis

In the meantime, the issue of interpretation of the Security Council resolutions remained. The gap between the Secretary-General and Lumumba and the Soviet Union remained unbridged. The constitutional crisis added a new dimension to the problem.

First was the dismissal of the Prime Minister by the Chief of State, then the sacking of the Chief of State by the Prime Minister and thirdly, the "neutralization" of the politicians by the Chief of Staff of ANC, Colonel Joseph Mobutu. ONUC was thus faced with the problem of who to deal with as head of the Central government in Congo, as each individual tried to impose himself as the legal authority. Because of the significance of this constitutional crisis, it may be useful to examine the issues involved.

On September, 5, 1960, at about 8 p.m., the Chief of State, Kasavubu, made a broadcast in which he announced the dismissal of his Prime Minister, Lumumba. He charged Lumumba with formenting fratricidal warfare and depriving citizens of their fundamental liberties. He then chose Joseph Ileo as the new Prime Minister and appealed to the United Nations to maintain law and Order. In addition to these reasons, Kasavubu and the more moderate members in the Congolese Central Government had come to distrust Lumumba because of; his increased leaning towards Moscow, his connection with persons considered to have "extremist reputation" such as Serge Michel, a Russian emigre purported to be

an Algerian citizen, Felix Monmie, an exile and former extremist leader of a political faction in the Cameroun Republic, his clash with the United Nations Secretary-General and his behaviour which seemed to many to be erratic and irrational.

Kasavubu based his action on Articles 12, 20, and 22 of the Loi Fondamentale which gave him as Cheif of State, the power to appoint and dismiss the Prime Minister and the ministers. The ordinance dismissing Lumumba and six other ministers from their post was counter signed by two Ministers - Albert Deuraux of the PNP and Justice Bomboko, the foreign minister of Lumumba.

Lumumba's reaction was instantaneous. By 9 p.m. on the same day he was in the air. He announced his dismissal of Kasavubu as Chief of Staff and said "I am still in control of the country, remain faithful to me... Nobody, not even Chief of State Kasavubu, has the right to revoke the government of the people, elected by the people, which today has the confidence of the people... Forward youth and workers of the Congo. You must defend the Republic."70 No reason

was given for his action and he did not state what articles of the Loi Fundamentale he was relying on.

On September 6, to avert the possibility of civil war and further deterioration of the already frigile situation, ONUC's Command closed all airports except for United Nations traffic and temporarily closed the Leopoldville radio station. The closure of the radio station drew fire from Lumumba. He was prevented by the Ghanian troops from "speaking to the nation". As a result of that he sent a note to the Ghanian President indicating that he decided to break diplomatic relations with Ghana if the Government of Ghana would not withdraw its troops from the Radio station. He added that his government had now decided to give Ghana the last chance, and that within one hour, all troops from Ghana in the Congo should cease their activities.[71]

The next day, September 7, 1960 the national Chamber of Deputies voted to invalidate the dismissal of both Kasavubu and Lumumba. On the 8th, the Chamber passed a vote of confidence in the premiership of Lumumba but refused to endorse his decision to

dismiss the Chief of State. However, Kasavubu ignored the parliamentary vote of confidence and called on Ileo whom he had appointed Prime Minister on the 5th, to form the new Central government. He further suspended parliament under Articles 31 and 70 of the Loi Fondamentale. Each contending leader therefore sought the support of the ANC and whenever it could, ordered the arrest of his opponents.

The United Nations was not left out of the controversies. The new head of ONUC and special Representative of the Secretary-General, Rajeshwar Dayal, who had just assumed office on September 8, was presented a memorandum by Lumumba. In the memorandum, the United Nations was accused of flagrant interference in the internal affairs of the Congo. This was in respect to the action taken at the airport and radio station. The memorandum also stated that it was only parliament alone that had the power to revoke either the government or the Chief of State. On his part, Kasavubu addressed a letter to the Special Representative declaring the

the non-existence of the Lumumba government and requesting the United Nations not to deal with it. Similarly, the bureau of the Chamber of Deputies communicated to the Secretary-General through his special representative contending that the interpretation of the Loi Fundamentale rested solely with the Parliament. And that the Secretary-General's comments to the Security Council on the constitutional crisis therefore represented interference in the internal affairs of the Congo.[72] Despite all these, ONUC responded to appeals from political and other leaders of all sides in Leopoldville. ONUC agreed to protect the threatened leaders, and in so doing it endeavoured to show absolute impartiality. ONUC guards were stationed around the residences of both Kasavubu and Lumumba and others.

These uncompromising struggles for power by the political leaders led Colonel Joseph Mobutu, Chief of Staff, ANC, to announce on September 14 that the ANC was assuming power and that the political activities of Lumumba, Kasavubu and Ileo would be

"neutralized" for the rest of the year. He also ordered the closure of the Soviet and Czeckoslovakia Embassies in the Congo. He gave their staff 48 hours to leave the Congo. On September 20, he established a college of Commissioners. This consisted of University graduates and students who were to run the government. Thus legislative and executive powers were transfered to the college of Commissioners. They were considered as a body of functionaries responsible for the conduct of day-to-day business of government during the period of 'neutralization' of normal government institutions. This was not fully effective in that Lumumba and his supporters did not recognize the Commissioners' authority.

4-4(a): Emergence of Four "Governments"

In the confused situation of partially overlapping but competitive power groups, headed by the Chief of State, the Prime Minister, the Parliament and the ANC, ONUC was faced with a new form of political division and strife. All attempts at reconciliation made by the Congoiess Chamber of Deputes, African

Diplomats and Jean David, head of United Nations Civilian Operation, failed to produce results.[73] Each of the leader demanded, as of right, the assistance of ONUC to enforce its own particular political solution. Any action taken by ONUC in the performance of its mandates was therefore liable to be seized upon by one or more groups for reason of political advantage. The Secretary-General therefore called on the Security Council to review the situation in the Congo. He demanded further clarification on the mandates of ONUC in view of the changed atmosphere in the Congo.

The Congolese Constitutional Crisis was examined by the Security Council from September 14 to 17, 1960. The Secretary-General in his address to the Council took the position that the Congolese Chief of State did have the power to dismiss the Prime Minister, adding that "the constitution does not entitle the Prime Minister in any circumstances to dismiss the Head of State, least of all of course for an action to which the Head of State is explicitly entitled by the constitution.[74]

The issue before the Security Council was that of domestic politics rather than Belgian and Congolese relations. These domestic politics nevertheless reflected the influence of the "cold-war" between Russia and America. Lumumba represented the aspirations of the Soviet Union while Kasavubu seemed to carry the Western sympathies. Faced with these, the Council found itself paralysed by the veto. Two draft resolutions were rejected. One was introduced by the Soviet Union, and the other jointly by Ceylon and Tunisia.[75] Thus for the first time the veto was used to stop further Security Council action - an indication of lack of concensus which is essential for any United Nations conflict management efforts.

With the deadlock in the Security Council, the United States proposed on September 17, that the Congo question be transferred to the General Assembly. This was adopted by the Council under procedure voting. An Emergency Special Session of the General Assembly under the "Uniting for Peace" resolution was convened to discuss the congo question.

The Fourth Emergency Special Session of the General Assembly met from September, 17 to 20, The Secretary-General again reminded Member States that no measures had been authorised for the removal of Belgian personnel by force. By resolution 1474 (Es-IV) of September 20, 1960, the General Assembly requested the Secretary-General to continue to take vigorous action in line with the Security Councils earlier resolutions. it was adopted by 70 votes to zero with 11 abstentions including Kussia, France and Belgium.

In an effort to resolve the domestic crisis, the resolution provided:

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3. Appeals to all Congolese within the Republci of the Congo to seek a speedy solution by peaceful means of all their internal conflicts for the unity and integrity of the Congo, with the assistance, as appropriate, of Asian and African representatives appointed by the Advisory Committee on the Congo, in consultation with the Secretary-General, for the purpose of conciliation;

4. Appeals to all Member governments for urgent voluntary contributions to a United Nations Fund for the Congo to be used under United Nations control and in consultation with the Central government...,

5. Requests:

(a) All States... to refrain from any action which might undermine the Unity, territorial integrity and the political independence of the Republic of the Congo,

(b) All Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Security Council;

6. Without prejudice to the Sovereign rights of the Republic of the Congo, calls upon all states to refrain from the direct and indirect provision of arms or other material of war and military personnel and other assistance for military purpose in the Congo during the temporary period of military assistance through the United Nations except upon the request of the United Nations, through the Secretary-General for carrying out the purposes of this resolution and of the resolution of 14 July, 22 July and 9 August of the Security Council.[76]

In line with the resolution, two bodies were set up to manage the Congo conflict. First was the Special United Nations Fund Committee to finance the Congo operation. Expenditure on the Congo had by

then reached staggering proportions, vis-a-vis the overall budget of the United Nations. The second was the Conciliation Committee for the Congo. It was established on November 5, 1960 consisting of representatives from Ethiopia, the Federation of Malaya, Ghana, Guinea, India, Indonesia, Liberia, Mali, Morocco, Nigeria, Pakistan, Senegal, Sudan, Tunisia and the United Arab Republic. The terms of reference of the Committee were:

> The Committee should study the situation, such study to cover the entire territory of the Congo, and should direct their efforts, with interference in the internal affairs of the Congo, towards the attainment by the Congolese of solution of present difficulties in the Congo which will be condusive to the maintenance and strengthening of the unity, territorial, integrity and political independence of the Republic of the Congo, within the frame work of the constitutional and legal structure of the Republic of the Congo and of the resolution of the emergency special session of the General Assembly.
>
> In particular, the Committee will endeavour to assist in decisions being reached with a view to the speedy restoration of parliamentary institutions in the Republic of the Congo. The Committee is requested to proceed to the Congo and to submit a report to the Advisory Committee on the Congo as early as possible.77

Meanwhile, the fifteenth session of the General Assembly formerly admitted the Republic of the Congo.

After a bitter struggle between Lumumba's and Kasavubu/Mobutu's delegates, the latter were seated by a vote of 53 to 24 with 19 abstentions.[78] Though the Assembly's action consolidated the government of Kasavubu/Mobutu, it did not help the situation in the Congo.

In the meantime, the internal situation rapidly worsened. While the College of Commissioner solidified their position in Leopoldville, Antoine Gizenga, acting on behalf of Lumumba, succeeded in establishing a government in Stanleyville. A number of states recognized the Stanleyville government as the legitimate government of the Congo. With the support of Local ANC troops led by General Victor Lundula, Gizenga extended his authority beyond Orientale province to Kivu and the northern part of Katanga.

At the same time, the governments headed by Tshombe and Albert Kalonji consolidated their hold over southern Katanga and south Kasai respectively. They enjoyed active assistance of certain foreign powers.

Thus the Congo came to be divided into four rival regimes each relying more on armed force than on popular support.

In these circumstances, the Secretary-General on December 7, 1960, called for a meeting of the Security Council. During the debates, Russia and Afro-Asian delegates called for direct United Nations action to effect the release of Lumumba who had been captured by the ANC under Mobutu while trying to escape to Stanleyville. He was been kept at the military camp in Thysville. They also demanded a complete disarming of Colonel Mobutu's ANC.

The Secretary-General's position on this question as stated to the Council was that "the United Nations had neither the power nor the right to liberate Mr. Lumumba from his captors. I say the United Nations because to my knowledge, not even this Council or the General Assembly would have such a right, much less did it exist for the United Nations representatives in the Congo under this mandate.[79]

A compromise resolution sponsored by Argentine, Italy, United Kingdom and United States merely

emphasizing the fundamental rights of arrested persons was vetoed by Russia. A Polish resolution ordering Lumumba's release was defeated by 6 to 3 votes with 2 abstentions. Once again, the Congo crisis reverted to the General Assembly.

During the deliberation, an 8 power resolution[80] demanding withdrawal of all Belgian advisers, military or otherwise from the Congo was opposed as illegal interference in Congolese affairs by supporters of a milder United Kingdom/United States proposal.[81] The UK/US proposal had contended that the United Nations could not legally prevent Congo's employment of Belgian civilians. At the end of the debate, the 8 power proposal was rejected by 42 votes to 28 with 27 abstentions. On the other hand the United Kingdom/ United States proposal failed to be adopted, having secured one vote less than the $\frac{2}{3}$ required by Article 18 of the Charter. The Assembly resolved simply to keep the matter on its agenda and the Secretary-General reassured the Assembly that all previous resolutions would remain fully valid.

All attempts to get Lumumba released failed. Once again, the Security Council was called to session. ONUC could not do much without exceeding the mandate given to it. Lumumba remained detained in Thysville until January 17, 1961 when he and two other political prisoners (Joseph Okito and Maurice Mpolo) were transferred to Elizabethville. This move brought strong protests from both the Secretary-General and the United Nations Conciliation Committee for the Congo, which was then in the territory. But no remedial action was taken. Four weeks later, the news came from Katanga that the three prisoners had been murdered. The circumstances of their death were later investigated by a United Nations Commission which accepted that they were killed on the evening of January 17, 1961, "in the presence of high officials of the government of Katanga province."[82] Following Lumumba's death, there were a series of reprisals and counter reprisals by pro-Lumumba and anti-Lumumba groups including summary executions of political leaders.[83]

The civil war already under way in Northern Katanga threatened to spread to other regions. Most Afro-Asian countries blamed the Secretary-General

and ONUC for the death of Lumumba. Several troop contributing countries withdrew their national contingents from ONUC reducing its strength from 20,000 to less than 15,000. At the United Nations Headquarters, the Soviet Union demanded the removal of Hammarskjold and announced that it would not henceforth recognize him as Secretary-General. It further pledged its support to Mr Gizenga's government in Stanleyville. It then circulated a draft resolution which urged sanctions against Belgium under Art 41 of the United Nations Charter and one-month limit for winding up the United Nations operation in the Congo.

The Security Council debates centered on the new development in the Congo. The murder of Lumumba and of numerous other victims of Congolese politics began to impress on the United Nations that the Powers were not only dividing the Congo, but that the Congo was also dangerously dividing the powers. The search for a new approach towards Congolese National reconciliation was paramount among neutral states. A major endeavour toward this end was the report of the Conciliation Committee on the Congo.

The Committee, consisting of twelve nations Afro-Asia and presided over by Mr. Jaja A. Wachuku of Nigeria, published its report on March 21, although its contents had been circulated weeks earlier. It recommended a provisional government of national unity whose tasks would include the following:

1. To arrange a truce between the different factions in the Congo;
2. To restore law and order, with the assistance of the United Nations;
3. To reorganize the administration and enable it to function;
4. To reorganize the Army in co-operation with the United Nations and
5. To take step to enable parliament to adopt a consitution which would provide the Congo with a lasting constitutional structure.[84]

The Committee's report generally outlined the direction of United Nations efforts over the ensuring months.

Three draft resolutions were submitted to the Council. The Soviet resolution was rejected by 8 votes to 1 with 2 abstentions. The second and third were both sponsored by Ceylon, Liberia and the United Republic. The second draft resoultion was adopted early on February 21 as resolution 161(1961) by 9

votes to 0, Russia and France abstaining. It consisted of two parts. The part A urged that the United Nations immediately take measures to prevent civil war in the Congo with the use of force if necessary as a last resort. It also urged the immediate withdrawal of all Belgians and other foreign military and para-military personnel, political advisers and mercenaries, and called upon all states to take energetic measures to prevent the departure of such personnel from their territories and to deny transit and other facilities to them. It finally called for an impartial investigation to determine the circumstances of the death of Lumumba. The B part of the resolution urged the convening of the Congolese parliament and the taking of protective measures in that connection. It also called for the reorganization of the ANC.[85]

The third draft resolution was not adopted. However, it was clear from the debates in the Council, that there was a unanimous support for the substance of the operative paragraphs of the draft resolution. To this extent, its non-adoption could be ascribed to a lack of agreement with regard to the drafting.[86]

Armed with resolution 161 (1961), the Secretary-General had a stronger and clearer framework for United Nations action. ONUC thus had authority to use force, as a last resort, to manage the conflict in the Congo. Some States nevertheless cautioned that the authorization of force did not override the Charter prohibition on domestic intervention and would not be used to impose an internal political settlement.

To meet its new responsibilities, reinforcements were sought to bring the United Nations force from the low level of 17,500 up to 23,000. India responded, as well as Ethiopia, Malaya, Liberia, Nigeria and Tuniasia, while Sudan joined the Nations which had withdrawn. Apart from this, Hammarskjold embarked on negotiation with states to implement paragraph A-2 of resolution 161 (1961). This he did by despatching notes to all states calling for their co-operation. He also notified them that removal of all foreign personnel other than those with ONUC had now become a legal obligation.[87]

4-4(b): Formation of Provisional Government

In the Congo, reaction to resolution 161(1961) was one of hostility. Tshombe accused the United Nations of declaring war on the Congo, whilst in Leopoldville, Ileo maintained that he was ready to resist by force any implementation of the resolution by ONUC. More important was Kasavubu's cable to the President of the Security Council. In it, Kasavubu affirmed the Sovereign right of the Congo to prevent civil war, to recruit technicians, to authorise any Security Council's investigation of Lumumba's assassination, to convene parliament, and to determine when to seek United Nations assistance for the reorganization of the ANC.[88] As if that was not enough, Kasavubu made a broadcast on February 27 over Radio Leopoldville. In the broadcast, he again expressed apprehension about the purport of the Council's resolution and called upon the Congolese people and the ANC to resist any attempts by the United Nations to implement the resolution. He said inter alia; "our country is threatened with being placed under United Nations Trusteeship. Our army will be disarmed

if we are not vigilant. We have already protested against the unfortunate resolutions of the Security Council, but verbal protests are not enough, action is required."[89]

Despite this hostile attitude by the Congolese leaders, the need to restore some samblance of constitutionality was also recognized. A number of steps were taken by various Conglese leaders in attempting to resolve the crisis.

A preliminary conference was sponsored by Kasavubu in Leopoldville which was boycotted by pro-Lumumba and pro-Tshombe leaders. At the end of the Conference, Kasavubu decided to replace the College of Commissioners by a provisional government under the Leadership of Joseph Ileo. Vacancies were left in its ranks for the leaders of the dissident groups of Tshombe, Gizenga and Kalonji.

Perhaps, the United Nations resolution indirectly brought the leaders together to face a "common enemy" in ONUC. At least Leopoldville and Elizabethville authorities ordered a number of

harassing measures against ONUC and its personnel. The most serious of these were the attack by ANC troops on the United Nations garrison in Matadi on March 4, 1961, which forced the garrison to withdraw from the port city.

In the face of resolution 161(1961), 18 Congolese leaders met in early March at Tananarive (now Antananarivo) Madagascar on the proposal of Moise Tshombe. Kasavubu was Chairman but Gizenga who had agreed to United Nations request to attend did not show up. The Conference proposed that the Congo be turned into a Confederation of Sovereign States. Under the proposed arrangement, the central government would be abolished and legislative and executive powers would be vested in the individual states. The United Nations was asked to annul the 'redundant' Febraury 21 Security Council resolution. A military "alliance" was forged between Ileo, Tshombe and Kalonji.

Nevertheless, the Conference did not help the situation in the Congo. Soon afterwards, Kasavubu and other leaders revised their positions and made it

clear that the decisions of Tananarive were mere statements of intention and unless approved by parliament, had no force of law.[90]

On his part, Hammarskjold decided to concentrate his immediate efforts on the areas of agreement with Kasavubu, that of reuniting the country under a parliamentary government. He noted that any improvement in the Congo would depend on some measure of co-operation from the Kasavubu regime. Thus on March 15, he put before the Congo Advisory Committee, the draft of a letter to Kasavubu, which was approved. In the letter, he suggested a new approach to two of the demands of the Security Council paragraph A-2 and the reorganisation of the ANC. He proposed that three African members of the United Nations Secretariat - Robert Gardiner of Ghana, Francis Nwokedi of Nigeria and Mahmoud Khiary of Tunisia be made to discuss with the Congolese government the best means of giving effect to the Security Council's decisions. He also sent Taieb Sahbani of Tunisia to Brussels to pursue the same goal with the Belgian government.[91]

After necessary negotiations, ONUC reached an agreement with Kasavubu on April 17 for the implementation of resolution 161(1961).[92] Kasavubu conceded that "As a member of the United Nations, ... (his government) is under an obligation to respect the Charter of the Organization and to carry out the (February 21) resolution of the Security Council... the aim of the resolution of February 21, paragraph A-2 and B-3, is to eliminate all deleterious foreign influence."[93]

As the second part of the Fifteenth Session of the General Assembly resummed its debates on the Congo crisis, Soviet attacks on Hammarskjold, Tshombe and Mobutu continued during the General Assembly debates.

In a reply to the Soviet charges, Hammarskjold told the General Assembly,

> We, all of us who give what we may have to give to the work of this organisation, do so because of our faith in what it stands for and in the vital necessity of this experiment in organized international co-operation for mutual aims... I do not consider that I am entitled to present the General Assembly with a fait accompli by resigning because I have been requested to do so by a big Power and its likeminded supporters. On the other hand,

> I regard the will of the General Assembly in this respect as my law, and the General Assembly may thus consider itself as seized with a standing offer of resignation, were the Assembly to find it to be in the best interest of the organization that I leave.94

On April 15, 1961 the Assembly passed three Afro-Asian resolutions which in addition to renewing the call for the withdrawal of Belgian personnel and appointing a Commission of Inquiry into the death of Lumumba, expressed confidence in Hammarskjold conduct of the United Nations Congo operation.

Through United Nations mediation efforts, a more important Conference was convened in Coquilhatville on the proposal of Kasavubu. About 200 Congolese leaders were present. Again Gizenga was absent, but Tshombe came and sought to have the conference endorse the Tananarive proposals. This was rejected and he was arrested by the Leopoldville authorities as he prepared to fly back to Elizabethville while the conference continued. Tshombe was only released later after he had agreed to end Katanga secession, an agreement he quickly rescinded on getting to Elizabethville.

However, the Coquilhatville Conference pronounced a new and agreed formula for a United States of the Congo with a strong central government. Kasavubu also announced that parliament would be reopened in the near future and requested United Nations assistance and protection for this purpose.

Through United Nations mediation, the leaders of Leopoldville and Stanleyville governments were compelled to agree that parliament would reopen at the University of Lovunium. ONUC undertook to protect the legislators from any form of arrest or political violence. The government of Katanga, at first rejecting all participation eventually agreed to attend, as did some 65 Lumumbist deputies from Orientale province.

The session of Parliament began on July 22, 1961. It elected its new officers. Thus, the new Congolese parliament met on July 27. Ileo's government resigned on 1st August, and President Kasavubu proclaimed the formation of a new national government of reconciliation. The new Prime Minister was Cyrille Adoula, who got a unanimous vote of both Houses of Parliament.[95] The role of the United Nations Representatives in the delicate negotiations'

leading to this solution is as noteworthy as it is generally unappreciated.[96]

With the act of approval of the government of national unity, the Constitutional crisis was ended. In response to a letter from Prime Minister Adoula, the Secretary-General confirmed that United Nations would deal with his government as the Central government of the Republic and would render to it whatever aid and support the United Nations was in a position to give to the Congo. And in his first speech, Adoula said the new regime came,

> "from all the regions of the country, all the parties and all the political tendencies". He then sounded a note of discord; "The secession of Katanga... is what divided us and deprived the state of a large part of the budgetary resources which belong to it (but)... neither Tshombe, his Ministers, the Union Miniere, nor the Belgians who are behind the secession of Katanga can prevent the Congolese people from regaining their heritage.[97]

With ONUC assistance, Adoula was able, temporarily, to secure the co-operation of Gizenga. On August 7, 1961, Gizenga recognized the Adoula government as the sole legal government of the Congo. Four weeks later, he came back to Leopoldville to assume the

post of Deputy Prime Minister which he abandoned in October. When all appeals to bring him back failed, he was dismissed from the post of Deputy Prime Minister and charged with treason, following a motion of censure by the Chamber of Representatives.

4:5: United Nations Action in Katanga

By August, it was clear that Tshombe was not prepared to eliminate the foreign mercenaries simply under the pressure of negotiation or any other peaceful means. Thus between August and September 1961 ONUC became involved in two limited use of force in Katanga in order to fully implement paragraph A-2 of resolution 161 (1961). ONUC had the full support of the central government as Adoula proceeded to take steps to end the secession of Katanga and flush out foreign supporters there.

To this end, on August 24 1961, Kasavubu, as the President of the Republic promulgated Ordinance No.70, under which,

All non-Congolese officers and mercenaries serving in the Katanga forces who have not entered into a contractual agreement with the central government of the Republic of the Congo shall be considered

as undersireable aliens who by their presence and their conduct are jeopardizing transquility and public order in the Country....(and) are expelled from the territory forthwith.[98]

On the same day, Adoula requested the United Nations to assist his government in implementing the Ordinance and the expulsion order.

President Kasavubu's expulsion order and the acceptance by the United Nations of Adoula's invitation to assist his government in carrying it out was thus subsidary basis of the three military operations which aimed, ultimately, at ending Katanga secession.

4-5:(a) Operations Rumpunch and Morther

Operations Rumpunch and Morther were planned and executed by ONUC.[99] The objectives of these operations were:

1. To apprehend and evacuate foreign Military and paramilitary personnel in the service of Tshombe.
2. The arrest of Tshombe and his Key Ministers.
3. The disarming of the Katanga gendarmerie.
4. And concurrently with these actions, the dispatch of Central Government Comissioner to take control of Katanga.

These operations were partially successful. Only 338 mercenaries were captured, one Minister arrested and Tshombe escaped to Ndola in Northern Rhodesia. The post office and radio station in Elizabethville were also taken. Some fifty Katangese and eleven ONUC troops were killed.

The escape of Tshombe necessiated the signing of a provisional cease-fire agreement as heavy fighting with conventional weapons continued unabated. Although the United Nations Secretariat made it clear that it did not imply a recognition of the Elizabethville regime, and that its provisions applied only to Tshombe's forces and ONUC troops in Katanga, the agreement was criticised by the Central Government, Soviet Union and the world press.

It was in the midst of these controversies that Hammarskjold arrived in Leopoldville at Prime Minister Adoula's invitation to discuss future prospects of the United Nations Operation in what was hoped would be a new setting under the new Security Council and General Assembly resolutions.

Hammarskjold was also bent on bringing about a reconciliation between Leopoldville and Elizabethville through his own personal intervention. He devoted himself to the task of securing a cessation of hostilities and achieving reconciliation among Congolese factions. In quest of a permanent cease-fire, he agreed to meet Tshombe in Ndola to work out the details. On his way to Ndola, on the night of September 17, 1961, his aeroplane crashed and he was killed together with seven other United Nations staff members and the Swedish crew.[100]

The Secretary-General's mission was taken up by Khiari Mahmoud, the Chief of ONUC Civilian Operations. He, on behalf of the United Nations Forces, signed a military cease-fire agreement on September 20.[101] It was understood as an expressed condition that the agreement would not affect the application of the United Nations resolutions. A protocol for carrying out the provisions of the cease-fire was signed on October 13, 1961, at Elizabethville. While the protocol allowed

firing back in case of attack, it prohibited Katangese and ONUC troops movements. In approving the protocol, the United Nations stressed its military nature, re-emphasized its support for the Unity, intergrity and independence of the Congo, and insisted on continued enforcement of resolution 161 (1961).

Meanwhile, in New York, efforts were made to elect a successor to Hammarskjold. After a month of intensive negotiation, the Security Council unanimously recommended on November 3, that U Thant of Burma should be appointed as Acting Secretary-General until April 1963 when a new election was due. This recommendation was approved the following day by the General Assembly.

As would be expected, Tshombes' regime flouted the provisions of the cease-fire agreement and ONUC was hesitant initially in taking further military actions. Desparing of a peaceful solution however, the central government attempted to deal with Katanga's secession independently by the use of force in late October, 1961. The strength of the

ANC was built up on the border of northern Katanga in preparation for entry into that region. This met with little success as the Katangese gendarmerie repelled the attacks.

4-5(b): Operation Round Two

This situation, combined with the opposition to ONUC's presence, as evidenced by the murder of 13 Italian airmmen at Kindu on November 11, called for a new appraisal of the Congo crisis.[102] It was in this atmosphere that the Afro-Asians led by Ethiopia and Nigeria decided to call for a new meeting of the Security Council. The Acting Secretary-General U. Thant accordingly called the Council into session on November 13, 1961.

During the debates on the proposal by the Afro-Asian (Liberia, Ceylon and United Arab Republic) the main opposition came from the United Kingdom, Belgium and France, They argued that there was too much emphasis on the use of force and that what was really needed was United Nations good offices to bring Tshombe and Adoula together. The Afro-Asian countered that it was no use bringing Tshombe and Adoula together while Tshombe was in his present mood and

backed by a mercenary-led gendarmerie. They further said that what was needed was first United Nations action against the mercenaries and then an initiative by the United Nations to reconcile the Congolese leaders including Gizenga.[103] Another noticeable argument was the six amendments suggested by America and rejected by Russia. These were designed to expand and extend the authorization to use force to include if necessary, Gizenga in Orientale province.

However, at the end of the debates, on November 24, 1961, the Afro-Asian draft resolution with American amendments was adopted as resolution 169(1961) by 9 votes to zero with France and the United Kingdom abstaining. The Council strongly deprecated the secessionist activities in Katanga and authorised the Secretary-General to use force to complete the removal of mercenaries in the Katanga. Resolution 169(1961) in the main provided as follows:

> The Security Council
>
> \+ + +
>
> 4. Authorizes the Secretary-General to take vigorous action, including the use of requisite measure of force if necessary,

for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and para-military personnel and political advisers not under the United Nations Command, and mercenaries as laid down in paragraph A-2 of the Security Council resolution of February 21, 1961.

5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also arms, equipment or other materials in support of such activities;

\+ + +

8. Declares that all secessionist activities against the Republic of the Congo are contrary to the Loi Fondamentale and Security Council decisions and specifically demands that such activities which are now taking place in Katanga shall cease forthwith..[104]

The resolution, no doubt, had far wider legal and political implications than any of its predecessors. In his speech after the adoption, U Thant said,

. The subject of the activities of mercenaries in Katanga is one on which we are all entitled to have strong views. For it is intolerable that effort to prevent civil war and to achieve reconciliation in the Congo should be persistently obstructed and thwarted by

> professional adventurers who fight and kill for money. I intend, therefore, to discharge the responsibilities entrusted to me in paragraphs 4 and 5 of the resolution with determination and vigour ... (also everything possible must be done to avert civil war... This I believe, necessarily implies a sympathetic attitude on the part of ONUC towards the efforts of the government to suppress all armed activities against the Central government and secessionist activities.[105]

To be able to fully implement resolution 169(1961) a new Statute of Force Agreement (SOFA) spelling out the jurisdiction and responsibilities of ONUC was signed on November 27, 1961 by the Congolese representative and the Secretary-General.[106]

In Katanga, Tshombe launched an inflammatory propaganda campaign against ONUC which soon degenerated into incitement to violence. On Novermber 28, two senior United Nations officials in Elizabethville were abducted and badly beaten; later an Indian soldier was murdered and an Indian major abducted. Several members of ONUC were detained, and others were killed or wounded. Road blocks were established by the gendarmerie impeding ONUC's freedom of movement and endangering its lifelines.

It subsequently became known that this was part of a deliberate plan to cut off the United Nations troops in Elizabethville, and either force them to surrender or otherwise destroy them. All peaceful negotiations to settle the crisis failed. ONUC finally decided to take action to regain and assure its freedom of movement. A necessity to fully implement resolution 169.

ONUC had few troops in Elizabethville when fighting broke out on December 5, 1961. Until December 14, ONUC forces endeavoured to hold their positions and to maintain communication between units while reinforcements were hurriedly flow in from other parts of the Congo.

Fighting began with the clearing of a road block between the Elizabethville airport and local United Nations headquarters by the United Nations Indian troops. The Katanga forces opened fire with heavy mortars, machines guns and rifles against ONUC positions. ONUC had orders to take all counter measures, ground and aerial deemed necessary to restore complete freedom of movement in the area.

ONUC's Operation Round Two was mounted and continued until December 18 when Katangese resistence in Elizabethville was confirmed to the Union Miniere building. The Katangese Government accused the United Nations of a purely offensive campaign including many atrocities. At its peak, Round Two involved 6,000 ONUC troops, compared with 1,400 during Operation Morther. About fifteen jets and other United Nations planes were used. Offensive tactics were employed in the air and on the ground. Casualties stood at 206 Katanga troops, 50 civilian and 25 ONUC soldiers killed with several wounded.

The new United Nations action (Operation Round Two) in Katanga drew severe criticism especially the air strikes which were said to have gone beyond self-defence. ONUC was also accused of carrying on warlike operations and violating the Geneva Convention on Law of War. The Secretary-General however defended the United Nations action. He said:

> The purpose of the present Military operations is to regain and assure our freedom of movement, to restore law and order, and to ensure that for the future, United Nations forces and officials in Katanga

> are not subjected to such attacks; and in self-defence to enemy assault on our present positions by all means available to us.[107]

With the battle decisively against Tshombe, he initiated moves to get United States President (J. Kennedy) to intervene with a view to negotiating with Adoula. Thus on December 19, with ONUC in position to ensure its security, Round Two was halted. ONUC was ordered to hold fire unless fired upon.

With the help of ONUC and the American Ambassador in the Congo, Tshombe left Elizabethville on December 19 to confer with Adoula at Kitona, a United Nations military base in Leopoldville province. After meeting Adoula all day long on December 20, Tshombe signed early in the morning of December 21 an eight-part Declaration.[108] In the Kitona Declaration, Tshombe accepted the application of the Loi Fondamentale, recognized the authority of the Central Government in Leopoldville over all parts of the Congo and agreed to a number of steps aimed at ending the secession of Katanga. He also

pledged himself to ensure respect for the resolutions of the United Nations and to facilitate their implementation.

In accordance with the provisions of the Kitona Declaration, 14 Katanga parliamentarians took their seats in Leopoldville to participate in the session of Parliament. Three Katangese officials were also sent to Leopoldville to discuss the modification of the constitutional structure of the Congo. But on February 15, 1962, the Katangese Assembly decided to accept the "draft declaration" of Kitona only as a basis for discussions with the Central Government since Tshombe stated that he had no authority to decide on the futre of Katanga. Thus began another circle of the Congo crisis.

4-5(c): The U Thant Plan

Following this change of heart by Tshombe, Adoula invited Tshombe to meet with him in Leopoldville to discuss the procedure for carrying out the provisions of the Kitona Declaration. This talk failed as a result of the procrastination and intransigence of Tshombe.

After the end of operation Round Two, the Central Government with the help of United Nations was able to bring Gizenga back to Leopoldville on February 12, 1962. He was subsequently put under house arrest.[109] On a similar move, the 'President' of the "Mining State" Albert Kalonji had been arrested in January. Thus Tshombe remained the only stumbling-block to Congolese unity.

However, it soon became clear that Tshombe was not satisfied with the Kitona Declaration. He was still fighting for autonomy in a confederate Congo while the Central Government was bent on a federal system of government for the Congo. ONUC was again reminded of the urgency in implementing the various resolutions of the United Nations.

After consultations with various Member States, Secretary-General U Thant proposed a "plan of National Reconciliation" in August 1962. The plan was ultimately accepted by both Adoula and Tshombe as a working paper for the Congolese national Government.[110]

The plan provided for

1. A federal system of government;

2. Division of revenues and foreign-exchange earning between the central and provincial governments;

3. Unification of currency;

4. Integration and unification of all military, paramilitary and gendarmie units into the structure of a national army;

5. General amnesty;

6. Reconstitution of the Central Government giving representation to all political and provincial groups;

7. Withdrawal of representatives abroad not serving the central government and

8. Freedom of movement for United Nations personnel throughout the Congo.

With Tshombe record, it was difficult to know how seriously to take this avowal of co-operation. That notwithstanding, the Secretary-General went ahead with the implementation of the approved plan. A draft Federal Constitution was prepared by United Nations experts with Dr. T. O. Elias, Attorney General of Nigeria as Chairman. The central government proclaimed amnesty in late November. Three commissions composed of representatives of the Central and Katangese authorities, assisted by United Nations experts were set up to establish administrative

modalities for the implementation of the plan's military provisions as well as those concerning revenue and foreign-exchange.

4-5(d): Operation Grandslam

While the central government, with the active assistant of the United Nations, was doing all it could to implement the U Thant Plan, no substantial steps were taken on the Katanga side. The plan made little or no headway. The chasm between Leopoldville and Elizabethville seemed wider than before. Negotiations were becoming fruitless. There was a gradual military build-up by both sides in Katanga.

On December 11, 1962 U Thant requested Member States to bring economic pressure on the Katangese authorities, particularly by stopping the export of copper and cobalt. But before that action became effective, the Katangese, unprovokedly, fired on United Nations positions, thus began the three phase action by ONUC code named Operation Grandslam by General Permedja of India, who was in command.[111]

Fighting broke out on December 24 near L'Union Miniere smelt of Lumumbashi. Attempts to stop the

the fighting failed as the United Nations insisted that all road blocks must be removed peacefully or ONUC would have no alternative but to remove them by force. Thus restore the security of its troops and their freedom of movement.

Wherever ONUC troops appeared, the gendarmerie offered little or no resistance. By December 30, 1962, all the Katangese road blocks around Elizabethville had been cleared and ONUC force were in effective control of areas around the city. Meanwhile, Kanuia town had been taken by a two-pronged attack by Ghanian and Swedish troops while Irish troops took Kipushi. Thus the first phase of operation Grandslam was completed.

On December 31, Indian troops started to advance on Jadotville (now Likasi) another important mining centre, north of Elizabethville. After crossing the Lukutive and Lufira rivers in face of some resistance from mercenaries, ONUC captured the town on January 3, 1963 without further opposition. This was phase two wich U Thant explained as a "failure of communication" having told the United Kingdom envoys

that ONUC would not go beyond Elizabethville. He nevertheless sent Dr. Bunche to investigate what happened. Dr. Bunche found that a serious misunderstanding had occured in connexion with the beginning of the second phase of the operation to restore freedom of movement.[112]

Once again, criticism were out against ONUC actions particularly in Jadotville. By January 4, ONUC troops had secured themselves in the Elizabethville, Kipishi, Kanuia and Jadotville areas. In all these areas measures were taken to restore essential services and protect the local population.

In the meantime, Tshombe had fled to Kolwezi, his last stronghold on December 28. While ONUC was ordered to slow down its advance on Kolwezi (phase three) efforts were again made by U Thant to persuade Tshombe to cease all resistance. Defeat was obvious as the ONUC troops then had no hope of returning to their bases until the gendarmerie had been defeated and the government of Katanga reunited with the Central Government in the Federation of Congo.

Thus on January 14, 1963, Tshombe sent a message to the Secretary-General announcing the willingness of his government to end the secession of Katanga, to grant the United Nations troops complete freedom of movement, and to continue to implement the U Thant Plan. He added a request that the Central Government should immediately put into effect the political amnesty called for in the plan, and to guarantee the Liberty and safety of members of the Katangan government and all who had served under it. Tshombe's message was well taken and he was informed of the willingness of the United Nations to do its utmost to assist in the fulfilment of the promise, implicit in his statement.

On January 15, President Kasavubu and Prime Minister Adoula separately confirmed that the amnesty proclamation of November 1962 remained valid. Joseph Ileo was also sent to Elizabethville as the Minister of state Resident there for the purpose of facilitating the process of reintegration.

This was followed by a meeting in Elizabethville between Tshombe and United Nations representative at

which agreement was reached for the peaceful entry of the United Nations force into Kolwezi, the surrender by the gendarmerie of their arms and amunition and the removal of all mines and explosives.

By January 21, Indian troops of ONUC entered Kolwezi. Meanwhile the situation became increasingly volatile in northern Katanga because of sizeable elements of disorganized but heavily armed gendarmerie. As a result in the morning of January 20, Indonesian troops disembarked at Baudouinville (now Moba) and shortly thereafter secured the town and its airport. On the sameday, a Nigerian Unit starting from Kongolo and a Malayian Unit coming from Bukaru, cleared the Kongolo pocket of resistance where there had remained a considerable gendarmerie force.

Thus by January 21, 1963 the United Nations force had, under its control all important locations hitherto held by the Katangese. Law and order was immediately restored in the whole of Katanga. The Katangese gendarmerie ceased to exist as an organised fighting force and Katanga as a 'Republic' was no more.

Operation Grandslam brought to an end the secession of Katanga and completition of an important phase of ONUC's mandate.

Officials and officers representing the Central Government were sent to Elizabethville to make up an administrative commission. Their job was to prepare the way for the intergration of the provincial administration into the Central Government. ONUC was requrested to give all the assistance and co-operation the Commission might required. All military forces in Katanga were placed under the single command of ONUC as a first step. Other procedures for national reconciliation were subsequently implemented with the active support of ONUC.

On February 4, 1963, the Secretary-General reported to the Security Council on the extent to which the mandates given to ONUC had been achieved and what was yet to be completed.[113] According to the reports, what was left to be done was technical assistance to keep the machinary of government going through the United Nations civilian efforts.

With this encouraging report, the General Assembly at its Fourth Special Session adopted resolution 1876 (S.IV) on June 27, 1963. The resolution appropriated funds for the force, which in the absence of any subsequent action would terminate ONUC's military operation by December 31, 1963. In the light of this resolution, the Secretary-General informed the Security Council that he was proceeding with a phasing out schedule for the complete withdrawal of the Force by the end of 1963. He also informed the Council of the request from Adoula to keep about 3,000 officers and men of ONUC through the first half of 1964.

This request for extension was subsequently approved by the General Assembly with the adoption of Resolution 1885(XVII) of October 18, 1963. Thus all was quiet in the Congo on June 30, 1964 when the last troops of ONUC under the Command of late Major General J.T.U. Aguiyi-Ironsi of Nigeria left Leopoldville for their homelands. Although the military phase of the United Nations Operation in the Congo had ended, Civilian, aid continued. It was

the largest single programme of assistance undertaken until that time by the United Nations and its agencies. It included some 2,000 experts at work in the Congo at the peak of the programme in 1963 - 1964.[114]

The United Nations management of the Congo crisis as a whole was complex, controversial, protracted and of tremendous success given the circumstances surrounding its application. Some argued that it was not successful because it failed to protect the life of Lumumba and the training and reorganization of the ANC that had touched off the crisis.

However, the United Nations was able through the use of peacemaking, peace keeping and limited use of force mechanism to manage the Congo conflict and thus prevented super power confrontation.

It has been shown how the United Nations was deeply involved in all the negotiations that took place between the various groupings in the Congo. Apart from sending his special representatives, the Secretary-General at various times personally went to the Congo to negotiate, investigate and mediate

in the Congo conflict. Infact Dag Hammarskjold lost his life during one of the trips to mediate between Tshombe and the Central Government. The use of good offices of the Secretary-General was highly productive during the management of the Congo crisis.

The General Assembly on its part set up a conciliation Commission to look into the Congo case particularly the constitutional crisis. In an effort to disarm the groups, the Security Council and the Secretary-General insisted that all aids to the Congo must be channelled through the United Nations apparatus.

The "U Thant Plan" which brought the political leaders together was the demonstration of what the Secretary-General can do in a conflict situation if given full support. it was the climax of all the meetings and declarations organized directly or indirectly by ONUC.

Finally, the ONUC which was deployed as a peace-keeping force was able to prevent large scale civil war between various "local governments"

declared by the various leaders. ONUC had to use limited force to bring down the Katanga succession. On the whole, the United Nations, through ONUC, was able to:

1. Restore law and order;
2. Restore the territorial integrity of the Congo;
3. Preserve its political independence;
4. Enhance the chances for stability in Central Africa and
5. Render to the Congo, technical assistance to the fullest extent possible and commensurate with the financial and human resources available.

ONUC as a subsidiary organ of the United Nations was thus a good friend and partner, and not an army of occupation in the Congo. The Congo experience dramatizes the severaly limited peace making capacity of a United Nations peace keeping force. Particularly when the host state is torn by internal conflict in the face of lack of consensus among the Member States, small or big. Figure 7 below shows some facts and figures in respect of ONUC. Figure 8 shows the contributions of Member States while Map 3 shows the ONUC's deployment.

Figure 7: ONUC, Facts and Figures.

Authorization:	Security Council resolutions: 143(1960) of 14 July 1960 145(1960) of 22 July 1960 146(1960) of 9 August 1960 161(1961) of 21 February 1961 169(1961) of 24 November 1961
Mandate:	Initially, to ensure withdrawal of Belgian forces, to assist the Government in maintaing law and order and to provide technical assistance. The function of ONUC was subsequently modified to include maintaining the territorial integrity and the political independence of the Congo, preventing the occurrence of civil war, and securing the removal from the Congo of all foreign military, paramilitary and advisory personnel not under the United Nations Command, and all mercenaries
Location:	Republic of the Congo (Now Zaire)
Headquarters	Leopoldville (now Kinshasa)
Duration:	15 July 1960-30 June 1964
Maximum strength:	19,828 (July 1961)
Strength at withdrawal:	5,871 (30 December 1963)

Casualties:	195 (killed in action/Accidents) 39 (other causes) 234
Cost:	From inception to end of mission: $400,130.793.
Methods of financing:	Assessment in respect of a Special Account
Special Representatives:	Ralph J. Bunche (United States) July - Aug. 1960 Andrew W. Cordier (United States) Aug.-Sep. 1960 Rajeshwar Dayal (India) Sept. 1960-May 1961 Mekki Abbas (Sudan)Acting) Mar.-May 1961.
Officiers-in-charge:	Sture Linner (Sweden) May 1961-Jan. 1962 Robert K. A. Gardiner (Ghana) Feb.1962-May 1963 Max H. Dorsinville(Haiti) May 1963-April 1964. Bibiano F. Osorio Tafall (Mexico) April-June 1964
Force Commanders:	Lieutenant-General Carl C. Von Horn (Sweden*) 18 July-Dec.1960 Lieutenant-General Sean MacEoin(Ireland) Jan.1961-Mar.1962 Lieutenant-General Kebbede Guebre (Ethiopia) April 1962-July 1963 Major-General Christian Kaldager (Norway) Aug.-Dec. 1963 Major-General Aguiyi-Ironsi (Nigeria) Jan.-Jun. 1964

Figure 8: Contribution to ONUC

Countries	Duration	Contribution
Argentina	Jul.1960-Feb.1963	Aircraft personnel (Air and ground)
Austria	14 Dec.1960-Aug.1963	Aircraft personnel (air/ground, field hospital and personnel, staff personnel
Brazil	Ju.1960-Jun.1964	Aircraft personnel (air and ground) Staff personnel
Burma	Aug.1960-Jun.1964	Staff Personnel
Canda	Jul.1960-Jun.1964	Aircraft personnel (air and ground), staff personnel, signals
Ceylon (Now Srilanka)	Aug.1960-Apr.1962	Staff personnel
Demmark	Aug.1960-Jun.1964	Aircraft personnel (aircraft personnel staff personnel, workshop control, transport company
Ethiopia	15 Jul.1960-16 Jun. 1964	Infantry, aircraft personnel (air and ground), staff personnel
Ghana	15 Jun.1960-25 Sep. 1963	Infantry, 2 medical units, staff personnel, police companies
Guinea	25 Jul,1960-Jan.61	Infantry

Countries	Duration	Contribution
India	Jul.1960-Jun.1964	Infantry, aircraft personnel (air and ground), field hospital and personnel, supply unit, signal company, air dispatch team, postal unit
Indonesia	4 Oct.1960-Apr.1964	Infantry
Iran	Dec.1962-Jul.1963	Aircraft and air and ground personnel
Ireland	28 Jul.1960- 11 May, 1964	Infantry, staff personnel
Italy	Oct.1960-Jun.1964	Aircraft personnel (air and ground), field hospital, staff personnel
Liberia	25 Jul.1960-May 1963	Infantry, Movement control, staff personnel
Malaya	30 Oct.1960-Apr.1963	Infantry, staff personnel
Federation of Mali (now Mali and Senegal)	1 Aug.1960-Nov.1960	Infantry
Morocco	15 Jul.1960-31 Jan. 1961	Infantry, parachute Company
Netherlands	Aug.1960-Oct.1963	Hygiene teams, staff personnel
Nigeria	10 Nov.1960- 30 Jun.1964	Infantry, police unit, staff personnel
Norway	Jul.1960-Mar.1964	Aircraft personnel (air and ground), staff personnel workshop control.

Counctries	Duration	Contribution
Pakistan	31 Aug.1960-May 1964	Ordnance and transport units, staff personnel
Philippines	Feb.1963-Jun.1963	Aircraft personnel (air and ground), staff personnel
Sierra Leone	Jan.1962-Mar.1963	Infantry
Sudan	Aug.1960-Apr. Dec.1961	Infantry
Sweden	20 Jul.1960-15 May 1964	Infantry, aircraft personnel (air and ground), movement control, engineering personnel, workshop unit, signal detachment, staff personnel
Tunisia	15 Jul.1960-May 1963	Infantry
United Arab Republic	20 Aug .1960-1 Feb. 1961	Infantry, parachute Battalion
Yogoslavia	Jul.1960-Dec.1960	Aircraft personnel (air and ground)

From February 1963 to the end of the United Nations Operation in the Congo, a battalion of the Congolese National Army was incorporated in ONUC.



Map 3: ONUC Deployment as of June 1961.

CHAPTER FOUR: Footnotes

1. The conference was held in Berlin from November 15, 1884 to February 26, 1885. In attendance were Plenipotentiaries of Belgium, Denmark, Great Britain, Germany, Italy, Netherland, Austro-Hungary, Portugal, Russia, Sweden, Spain, Turkey and United States of America. See Alan P. Merriam, Congo: Background of conflict, 1961, Northwestern University Press, p.3.

2. Lindley, -: The Acquisition and Government of Backward Territory in International Law, 1926, London -, pp.39 and 112.

3. See generally Morel, E. D. Great Britain and the Congo: The Pillage of the Congo Basin, 1909, London Smith Elder and H. M. Stanley, Through the Dark Continent, 1878, New York Harper, 2 vols.

4. American College Dictionary.

5. C. Young, Politics in the Congo, 1965, Princeton University Press, p.94.

6. 9 UN Review, 19 March, 1962.

7. For details see, Lt. Gen. E. Janssens, J'etais Le General Janssens, 1961, Bruxelles Dessart.

8. Ruth Slade, The Belgian Congo: Some Recent changes, 1960, London, Oxford University Press, p.2.

9. Colin Legum, The Congo Disaster, 1960, London, Penguin, p.59.

10. John Gunther, Inside African 1955, New York, Harper and Brothers, p.61.

11. Daniel Biebuych and May Douglas, Congo Tribes and Parties, 1961, Royal Anthropological Institute, London, p.20

12. Ibid, pp.26-41.

13. Alan P. Merriam, op cit, p.114, see also Artigue Pierre, Qui sout Less leaders Congoliaa, Bruxelles, 1960, Edictions - Europe-Afrique, p.139

14. See, Centre de Recherche et d'Information Socio-Politiques (CRISP), ABAKO 1950 Documents.

15. The Kwilu and Kwango tribes had formed their own party - Parti Solidare Africain, (PSA) under Antoine Gizenga.

16. Jules Gerard-Libois, Katanga Secession, Translated by Rebecca Young, Madison Wisconsin University Press, 1963, pt 1.

17. Mugur Walahu, Katanga Circus, 1964, Robert Speller and Sons Publishing Inc, p.15.

18. Formed by the Ba-Bemba and Ba-Tshkwe tribes across the border between Katanga and Northern Rhodesia.

19. Biebuych and Douglas, op.cit, p.10

20. Dr. Kwame Nkrumah, Challenge of the Congo, 1974, Panaf, p.14.

21. See generally, Patrice Lumumba, Congo my Country, 1962, New York Praeger.

22. Alan P. Merriam, op. cit, pp.114 to 163

23. Georges Brausch, Belgian Administration in the Congo, 1961, London, Oxford University Press.

24. See King Baudoin's speech to the Belgium Parliament reported in Keesing's contemporary Archives, 1959, p.16752.

25. R. Simmonds, Legal Problems Arising from the United Nations Military Operation in the Congo, 1968, Martinus Nijhoff, The Nague, p.26.

26. Published in French in La Crise Congoloise, 13 Chronique de Politique Etrongere, No4-6, Institute Royal des Relations Internationales, Bruxelles, 1960, p.439.

27. Alan P. Merriam, op. cit, p.321.

28. Mendiaux Edouard, Moscou Accra et le Congo Bruxelles, 1960, Charles Dessart, p.198.

29. Colin Legum op. cit, p.59.

30. See Van Wing J. ed, le Congo, 1959, Documents Bruxelles Delue, p.3.

31. Alan P. Merriam, op. cit, p.95.

32. For details see, J. Gerard-Libois and Benoit Verhaegen eds, Congo 1960, Bruxelles; CRISP,

33. Catherine Hoskyns, The Congo Since Independence, 1965, Oxford University Press, p.37.

34. Moniteur Belge, Nos 127-128, May 27 and 28, 1960, p.3988.

35. The Loi Fondamentale, article 6.

36. Ibid, Articles 4 and 35.

37. Catherine Hoskyns, op. cit, p.74.

38. Colin Legum, op. cit, p.111.

39. Quoted in West African Pilot, April 3, 1961, p.4; See also Africa special Report, August 1960, p.3.

40. See C. Young, op cit, p. 315.

41. See E. W. Lefever, Crisis in the Congo, 1965, Washington, the Brookings Institution, p.10.

42. See Alan P. Merriam, op cit, p.212.

43. George Martelli, Experiment in World Government 1966, Johnson Publication London, p.44.

44. For detail see Catherine Hoskyns, op cit, p.114.

45. ON Doc. S/4382.

46. Ibid.

47. See Ganshof Van de Pleersch, W.J. Findela Souveranite belge an Congo, 1963, The Hague, Martinus Nijhoff, p.447.

48. See Joseph P. Lash, Dag Hammarskjold; Custodian of the Brushfire Peace, 1961, New York Doubleday and Co. p.203.

49 United Nations Doc S./P V,873.

50. Ibid, see also D. W. Bowett, Self-Defence in International Law, 1958, Manchester University Press, Chapter 5.

51. UN Doc S/4387.

52. The breakdown were as follows: Ethiopia 460, Ghana 770; Morocco 1250; and Tunisia, 1020.

53. UN Doc S/4389/Add 1-6.

54. See Alan P. Merriam, op cit, p.217.

55. UN Doc S/P.V. 877.

56. UN Doc S/4405.

57. See UN Yearbook, 1960, p.108.

58. For detail see Alan P. Merriam, op cit, p.223.

59. See Dr. Kwame Nkrumah, op cit p.30.

60. UN Doc S/4389/Add 5.

61. See Alan P. Merriam, op cit, p. 236.

62. UN Doc S/4417/Add 1.

63. UN Doc S/4426.

64. UN Doc S/4417 and S/P.V.884.

65. UN Doc S/4417/Add 6.

66. UN Doc S/4417/Add 7.

67. UN Doc S/P,V. 901, also R. Simmonds, op cit, p.164

68. UN Doc S/P. 888.

69. Quoted in New York Times, October 19, 1961, See also Joseph P.Lash, op cit, p.259.

70. UN Doc. S/4531, para 20.

71. See Kwame Nkrumah, op cit, p. 52.

72. Catherine Hoskyns op cit, p. 205.

73. Ibid p. 219.

74. UN Doc S/P.V. 896.

75. For detail See R. Simmonds, op cit, p.45.

76. A/RES/1474/Rev. 1 (E.S. IV).

77. UN Doc A/4711.

78. See King Gordon, The United Nations in the Congo, A quest for Peace, 1962, Carnegie Endowment for International Peace, p.84 and also Resolution 1498 (XV.)

79. UN Doc SG/1008.

80. UN Doc A/L 331/Rev. 1

81. UN Doc A/L 332.

82. UN Doc S/4976.

83. See Catherine Hoskyns, op cit, Chapter 8.

84. For details of the report see UN Doc A/4711 and Corr. 1 and Adds 1-2.

85. UN Doc S/4722.

86. UN Doc S/P.V. 942.

87. UN Doc S/4752. Annex/Add. 1,2 and 4.

88. UN Doc S/4761, Annex 1.

89. UN Doc S/4531 para 21-28.

90. See Alan P. Merriam, op cit, p.232.

91. UN Dc S/4775, Annex 5.

92. UN Doc S/4807, Annex 1.

93. UN Doc S/4841.

94. SG/1020.

95. UN Doc S/4913

96. For details see, The Blue Helmets, 1985, United Nations, p.235.

97. For full test see, 8 UN Rev. 6 (Sept. 1961).

98. UN Doc S/4940, Annex 1.

99. See generally, Conor Cruise O'Brien, To Katanga and Back, 1962, London Hutchinson, p.214; George Martelli, op cit, Chapter IX, X and and XII; Brian Urquhart, Hammarskjold, op cit, p.474.

100. Account of the crash is contained in UN Doc S/4940/Add.5, 9.

101. UN Doc S/4940/Add.7.

102. UN Doc S/4940/Add.13.

103. For a verbatim record of the whole session, see SCOR 16th yr, 973rd - 979th and 982 Meetings, 13. 15 - 17, 20, 21 and 24 November, 1961.

104. UN Doc S/5002.

105. UN Doc S/P.V. 982.

106. UN Doc A/4986 - S/5004.

107. See 9 UN Rev. January 1962, p.7.

108. UN Doc S/5038.

109. For detail see Catherine Hoskyns, op cit, p.458

110. UN Doc S/5053/Add.13, Annex 1.

111. UN Doc S/5053/Add 14.

112. See George Martelli, op cit, p.199.

113. UN Doc S/5240.

114. See generally Georges Abi-Saab, The United Nations Operation in the Congo 1960-64, 1978, Oxford University Press.

CHAPTER FIVE

THE FUTURE

For a long time, the interdependence of individuals communities and states had called for one form of association or another. In fact, the need to:-

(a) stabilise behaviours of states;

(b) minimise conflicts between states;

(c) facilitate co-operation between nations and

(d) protect individual fundamental rights further called for rules and regulations in international intercourse.

With the benefit of hindsight, one can see the relative effectiveness of such associations as the Mercantile League of Medieval Germany. TheConcert of Europe, the Hague Peace Conferences, the International Unions and the League of Nations. Though developed at the formative years of international institutions, these associations together bequeathed to modern civilization the broadening concept of the nature and subject-matter of international affairs. To them is also owed an evolving sense of the need for multilateral decisions and actions by States and finally a growing recognition of the potential usefulness of international machinery in conflict management.

Today, the United Nations, established while the turmoil of World War II was still on stands at the apex of international institution. It is an institution founded with the main aim of maintaining international peace and security. And to that end "to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace and to bring about by peaceful means, and in comformity 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"[1]

In its effort to achieve this objective, the United Nations acts in accordance with the principles of sovereign equality, pacific settlement of disputes, non-use of force or threat of force in international relations and non-interference in what is essentially within the domestic jurisdiction of Member States.[2]

Having examined the various mechanisms available under the United Nations system the question now is

whether the United Nations as it exists today has met the dreams and hopes of the Founding Fathers particularly in managing international conflicts peacefully. Is the United Nations in a position to save succeeding generations from the scourge of war? What does the future hold for mankind considering the widening gap between the national interests of Member States, and the international interests of Members as an entity? Are the Charter provisions inadequate? Do we need another international institution to bail us out of the potential danger that faces humanity? These and other related questions come to mind when one notes that Member States of the United Nation are reluctant to fight for a common goal. This is often termed "power play among states or incompatible objectives and policy actions". The result is conflict, dispute, or cirsis between States.

Because of the underlying factors, conflict is a problem that calls for management through accepted norms. These norms we can safely anchored on international law, which is a body of rules that has evolved over the years out of the experience and the necessities of

situations involving members of the world community. While nations disagree as to what rules apply, there is a consensus that some set of rules are necessary if we are to live together in peace. It is our submission that if states submit to adjudication in conflict management the political undertone thereof can be reduced to a harmless level.

From our case study, we showed that conflict is like poverty, it cannot be eradicated. It calls for collective management through peaceful means. The United Nations was able to manage the Congo crisis using the mechanisms under its system. Since then the United Nations has not been able to achieve the level of success it attained. What then is the problem? Why do we continue to have conflicts and the United Nations is reduced to a talking forum with little or no power to act as it did in the Congo? Can the procedures for conflict management in the Charter no longer meet the test of our time? Do we need a new institution in view of the advancement in all human endeavours?

It is our contention that the Charter, as the constitution of the United Nations, is still adequate for today's conflict management. We do not believe

that any new conflict management procedures can change the trend whereby the Western countries oppose the Eastern bloc. The so call non-aligned nations on the other hand are not economically viable to neutralise the two blocs. We stand by the letters of the Charter. We submit that it is possible to bridge the gap between the West and East if there is a change in the current economic order.

Political differences can be resolved if the economic and social imbalance are reconciled. This will go a long way in bringing the various power blocs together to fight a common enemy in economic deprivation, social injustice and insecurity. Nations arm and use arms because of insecurity and this insecurity is more pronounced in the developing countries. Today, the greatest threat, to world peace lies with regional conflicts amongst the developing countries fueled by the tensions between the great powers. Ultimately therefore, the national interest will give way to a common interest under the United Nations system. Thus when conflicts do occur, there would be a joint management

of available resources using the known United Nations mechanisms. As President John F. Kennedy put it, "to destroy arms... is not enough. We must create even as we destroy... creating worldwide law and law enforcements as we outlaw worldwide war and weapon."[3]

The United Nations remains the neutral body that can interpose between the belligerants. Thus the United Nations still has a role, no matter the imagined weaknesses, in future conflicts between its member states or within each state.

The primary responsibility for maintenance of international peace and security within the United Nations system still belongs to the Security Council. The General Assembly has the residual role as noted during the constitutional crisis in the Congo conflict. The Secretary-General, though not the Chief Executive of the United Nations, remains the man that can truely set the United Nations aparatus in motion. He, with detailed information can persuade the Security Council members to bury their differences in the overall interest of the world. Through his initiative and impartiality, resolutions and declarations are prepared, debated, adopted, interpreted

and implemented. These qualities of the Secretary-General were demonstrated in the setting up of the various peace-keeping operations we examined in this work. By his singular act, therefrore, the Secretary-General can make the dreams and hopes of the framers of the United Nations Charter come true provided he gets the necessary support. These worked in the Congo and can still work today and in the future.

It is our contention therefore that the United Nations is now a symbol of world unity, a unity towards international peace and security and a forum for the expression of world public opinion. The United Nations lives not only in the united action of its organs and specialised agencies but in the policies of the Member States which are united. It also lives in the attitudes of the people whose determination and resolution brought it into existence. There is thus no reservation in our minds that the United Nations Charter provisions are adequate as they are to manage conflict. All that one may advocate is to increase Members genuine commitment to these provisions and encourage their application. To that end, we make the following suggestions:-

1. Education

Since we have submitted that conflict is a problem to be managed and explored, it is our suggestion that there is the need now to raise the consciousness of the policy makers to the mechanisms of conflict management available within the United Nations system. Every Member States should incorparate these mechanisms into their municipal legislation. It should be taught as part of the Members National Education Policy.

In addition to this, all regional associations should be encouraged to freely disseminate the techniques of these conflict management procedures within the subregion.

Further more the various United Nations Information Offices all over the world should make available necessary literature of the United Nations on conflict management to the Government and people of their areas of coverage.

Finally publicist and jurists should champion the cause of educating the majority of the people of their areas on conflict management procedures. It is our contention that the more people know about the procedures, the less the risk of conflict. With proper education therefore, policy makers are bound to be more careful in taking intransigent positions. This is more so as the public, which is also aware, is not likely to follow

sheepishly. Thus the United Nations can realize its objectives both subjectively, in the minds of the people and objectively in the actual maintenance of international peace and security and international justice.

2. Political Will.

It is our contention that Member States should be prepared, more than before, to abide by their international obligations freely entered into. Member States should be ready to give a little of their sovereignty for the common good of the United Nations. It is only by so doing that we can de-politicise conflict and apply norms of international relations. With the will, we can establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be honourably followed.

By the same political will we can provide in all future multilateral agreements, (like the Convention on the Law of the Sea 1982) pacific conflict management procedures. In the Corfu Channel Case,[4] for instance it was shown that political issues can be broken down into legal and political components and that the former are amenable to adjudication. We should

therefore not confine our conflict to diplomatic and political procedures exclusively. If civilization is to survive, greater efforts should be place upon the fundamental concept that law can, as it did in the past, make an indispensable contribution to human culture and peace.

3. Unilateral Disarmament:

We call on all Member States to legislate on confidence building. By this we mean dissemination and exchange of pertinent information on defence matters. It also includes the encouragement of regular personal contacts at all levels of political and military decision making among Member States. Confidence building measures will also include the indication as reliably as possible, of peaceful intentions of routine military activities.

These measures will contribute to reduce or to a large extent, even eleminate the causes of mistrust, fear, tensions and hostilities, all of which are significant factors in the continuation of the international arms build-up. Thus, there will be no need for arms while the money for defence factories can then be freed for other products. Each Member State of the United Nations must affirm again its

intention never to be the first to resort to force as a means of managing conflict.

4. Co-operation instead of confrontation:

Member States should rededicate themselves again, to co-operate to reduce world tension. The United Nations agencies should lead in this drive for co-operation in all fields. This will enable members to share the results of their individual discoveries rather than use them against one another. With co-operation, there would be a common interest to maintain international peace and security.

The United Nations should encourage joint ownership of economic and scientific ventures. This again will foster unity of purpose. One should not like the co-operation here to those of regional economic groupings or defence pacts. We are talking at the international level when all States are willing to surrender a little of their sovereignty.

With this type of co-operation each Member State would have been assured of peaceful co-existence in accordance with the Universal Declaration of Human Rights. As General I.B. Babangida put it sometimes

ago, "After all, peace should be more than just the absence of war. It should equally imply the guarantee of dignified existence for humanity generally".[5]

5. Regional Agencies.

It is our submission that the United Nations system can be further strengthened through the activities and support of regional agencies. Regional agencies should organise more conferences on conflict management procedures. Delegates should include Head of States and Governments, Foreign, Defence and Finance Ministers of Members of the region. Other delegates could include scientists, medical doctors and other professionals.

By these meetings, parties, who may be adversaries in future would have met and learned together the mechanisms for conflict management.

Similarly, problem-solving workshops should be conducted by regional agencies to examine ongoing conflicts. This has the tendency of preventing their spread to other regions or outside powers involvement. The result of these conferences and problem-solving workshops should be made available to other regions

to use where applicable. It is our submission that regional agencies can nominate some of their members to an International Conciliation Bureau (ICB). The ICB so established, would perfect and use conflict management proceures that would have been tested in various regions of the world. Thus, bringing together ideas from the various regions to help in the maintenance of international peace and security.

6. Preventive Measures;

It is our contention that as long as the parties to a dispute are on talking terms the possibility of the use of force is relatively low. Therefore it is our submission that the United Nations should identify and bridge with dispatch any lack of communication between Member States which is likely to result in any breach of the peace.

This can be achieved by the various organs of the United Nations. The Secretary-General using Article 99 can go along way in keeping the parties talking while efforts are made by other Members of the United Nations to resolve the conflict. The idea here is to prevent the super powers from filling any vacuum that may be created as a result of difference of interest among members.

It is our further submission that the Military Staff Committee acting as the Think Tank of the Security Council can organise communication between warring parties. Infact, as a military unit, the MSC would have anticipated a break in communication and prepared possible solutions. Thus giving the Security Council timely options to manage conflict pacifically.

Another aspect of this prevention is for Member States to undertake again to contribute at a future date, logistic support for conflict management as may be required by the United Nations. This is so as most Member States are very reluctant to earmark troops for use by the United Nations. Pledging logistic support therefore may help prevent conflicts because, if there were no conflicts, Members would never be required to honour their pledges. The super powers in particular should be more involved in this preventive measures since they are the major abettors of conflicts among nations.

7. Functional Internationalism:

Peace and Security can be achieved indirectly through the promotion of such social and economic conditions in the world as would reduce the causes of conflict. Deliberate effort should be made by the

developed countries of the world to reshape the social structure. This will bridge the widening gaps between the haves and have nots. Members actions in the international sphere should be a kind of social engineering, reconciling the differences within the United Nations system. This is a call for a new international economic and social order through the redistribution of the world resources.

The developing and underdeveloped nations should be assured of a fair share of the resources of the world. This presupposes that their conditions would have been different had the developed nations been considerate during the colonial days as we saw in the Belgian Congo.

8. Support for the Secretary-General:

From the Congo experiment, we submitted that the effectiveness of the United Nations in managing conflict and restoring world peace very often depends on the initiatives, imagination, impartiality and courage of the Secretary-General. Therefore, we call for a renewed unswerving support for the Secretary-General from all Nations in our effort to face the challenges of the future. The Secretary-General

can only function effectively if he gets the support of the majority of the member states particularly those of the permanent members of the Security Council.

In the final analysis therefore, it must be noted that the future belongs to the brave. We must, together go from this place and time to reject the idea of nationalistic parochialism that colours our attitude to promote peace and freedom for all Nations. That singular act, perhaps, could ensure lasting peace and Security through an embodiment of values that is worth respecting. We should therefore take the time and make the effort to go back to the fundamentals of the Charter and to find out how they have been developed and used since inception. Thereafter, we should ask ourselves what can be done today to make a better and more fruitful world on the basis of these fundamental principles. We should henceforth carry forward the flame of peace with freedom and justice.

We should never lose hope, the United Nations can still manage conflicts within its system and in accordance with its procedures.

Chapter Five Footnotes

1. Articles 1(1) of the United Nations Charter.
2. Article (2) Ibid.
3. In a speech to the General Assembly 1961.
4. ICJ Reports 1949, p.4.
5. In, United Nations in Nigeria Journal, Vol.4, November, 1986, p.11.

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S/4775, Annex 5.

S/4807, Annex 1.
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S/4940 Annex 1.
S/4940/Add. 5.9.
S/4940/Add 13.
S/5038.
S/4389 Add 1-6.
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Appendix I

EXCERPTS FROM THE UNITED NATIONS CHARTER

Chapter 1: Purposes and Principles

Article 1
THE PURPOSES OF THE UNITED NATIONS ARE

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggressions or other breaches of the peace, and to bring 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;

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

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

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Chapter IV: The General Assembly

Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it...
Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

Article 14

Subject to the provisions of Ariticle 12, the General Assembly may recommend measures for the peaceful adjustment of any situation regard less of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the purposes and Principles ofthe United Nations.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

Article 18

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security... and budgetary questions.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.

The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Chapter V: The Security Council

Article 23 (as amended)

1. The Security Council shall consist of fifteen Members of the United Nations. The (People's) Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes ofthe Organization, and also to equitable geographical distribution.

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources,

the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Chapter VI: Pacific Settlement of Disputes

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression.

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 41

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. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it 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 demonstration, blockade, and other operations by air, sea, or land forces of members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff ofthe permanent members of the Security Council or their representatives...

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council, Questions relating to the command of such forces shall be worked out subsequently.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the

Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Capter VIII: Regional Arrangements

Article 52

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

2. The Members of the United Nations entering into such arragements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangement or by such regional agencies before referring them to the Security Council...

Article 53

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

Article 54

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

Chapter XIV: The International Court of Justice

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgement rendered by the Court, 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.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

Chapter XV: The Secretariat

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Appendix 2

UNITED NATIONS RESOLUTIONS ON THE CONGO

A. Resolution Adopted by the Security Council at its 873rd Meeting on 14th July, 1960

Sponsor: Tunisia.

The Security Council,

Considering the report of the Secretary-General on a request for United Nations action in relation to the Republic of the Congo,

Considering the request for military assistance addressed to the Secretary-General by the President and the Prime Minister of the Republic of the Congo (S/4382),

1. Calls upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo;

2. Decides to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Congo, to provide the Government with such military assistance as may be necessary, until, through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the government, to meet fully their tasks;

3. Requests the Secretary-General to report to the Security Council as appropriate.

(The Resolution was adopted by 8 votes to none, with 3 abstentions.

For: Argentina, Ceylon, Ecuador, Italy, Poland, Tunisia, USA, USSR.

Abstentions: China, France, UK.)

B. Resolution Adopted by the Security Council at its 879th Meeting on 22 July 1960

Sponsors: Ceylon and Tunisia.

The Security Council

Having considered the first report by the Secretary General (S/4389 and Adds 1-3) on the implementation of Security Council resolution S/4387 of 14 July 1960.

Appreciating the work of the Secretary-General and the support so readily and so speedily given to him by all Member States invited by him to give assistance,

Noting that, as stated by the Secretary-General, the arrival of the troops of the United Nations Force in Leopoldville has already had a salutary effect,

Recognizing that an urgent need still exists to continue and to increase such efforts,

Considering that the complete restoration of law and order in the Republic of the Congo would effectively contribute to the maintenance of international peace and security,

Recognizing that the Security Council recommended the admission of the Republic of the Congo to membership in the United Nations as a unit,

1. Calls upon the Government of Belgium to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops and authorizes the Secretary-General to take all necessary action to this effect;

2. Requests all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;

3. Commends the Secretary-General for the prompt action he has taken to carry out resolution S/4387 of the Security Council, and for his first report;

4. Invites the specialized agencies of the United Nations to render to the Secretary-General such assistance as he may require;

5. Requests the Secretary-General to report further to the Security Council as appropriate.

(The Resolution was adopted unanimously.)

C. Resolution Adopted by the Security Council at its 886th Meeting on 9 August 1960

Sponsors: Ceylon and Tunisia.

The Security Council,

Recalling its resolution of 22 July 1960 (S/4405), inter alia, calling upon the Government of Belgium to implement speedily the Security Council resolution of 14 July (S/4387) on the withdrawal of its troops and authorizing the Secretary-General to take all necessary action to this effect,

Having noted the second report of the Secretary General (S/4417) on the implementation of the aforesaid two resolutions and his statement before the Council,

Having considered the statements made by the representatives of Belgium and the Republic of the Congo to this Council at this meeting,

Noting with satisfaction the progress made by the United Nations in carrying out the Security Council resolution in respect of the territory of the Republic of the Congo other than the province of Katanga,

Noting, however, that the United Nations had been prevented from implementing the aforesaid resolutions in the province of Katanga although it was ready, and in fact attempted, to do so,

Recognizing that the withdrawal of Belgian troops from the province of Katanga will be a positive contribution to and essential for the proper implemetation of the Council resolutions,

1. Confirms the authority given to the Secretary-General by the Security Council resolutions of 14 July and 22 July 1960 and requests him to continue to carry out the responsibility placed upon him thereby

2. Calls upon the Government of Belgim to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General and to assist in every possible way the implementation of the Council's resolutions;

3. Declares that the entry of the United Nations Force into the province of Katanga is necessary for the full implementation of this resolution;

4. Reaffirms that the United Nations Force in the Congo will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise;

5. Calls upon all Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council;

6. Requests the Secretary-General to implement this resolution and to report further to the Council as appropriate.

(The Resolution was adopted by 9 votes to none with 2 abstentions. For: Argentina, Ceylon, China, Ecuador, Poland, Tunisia, UK, USA, USSR.

Against: None.
Abstentions: France, Italy.)

D. Resolution Adopted by the Fourth Emergency Session of the General Assembly on 20 September 1960

Sponsors: Ceylon, Ethiopia, Ghana, Guinea, Indonesia, Iraq, Jordan, Lebanon, Liberia, Libya, Morocco, Nepal, Saudi Arabia, Sudan, Tunisia, United Arab Republic, and Yemen.

The General Assembly,
Having considered the situation in the Republic of the Congo,

Taking note of the resolutions of 14 July, 22 July and 9 August 1960 of the Security Council,

Taking into account the unsatifactory economic and political conditions that continue in the Republic of the Congo,

Considering that, with a view to preserving the unity, territorial integrity and political independence of the Congo, to protecting and advencing the welfare of its people, and to safeguarding international peace, it is essential for the United Nations to continue to assist the Central Government of the Congo;

1. Fully supports the resolutions of 14 July, 22 July and 9 August of the Security Council;

2. Requests the Secretary-General to continue to take vigorous action in accordance with the terms of the aforesaid resolutions and to assist the Central Government of the Congo in the restoration and maintenance of law and order throughout the territory of the Republic of the Congo and to safeguard its unity, territorial integrity, and political independence in the interests of international peace and security;

3. Appeals to all Congolese within the Republic of the Congo to seek a speedy solution by peaceful means of all their internal conflicts for the unity and integrity of the Congo, with the assistance, as appropriate, of Asian and African representatives appointed by the Advisory Committee on the Congo, in consultation with the Secretary-General, for the purpose of conciliation;

4. Appeals to all Member Governments for urgent voluntary contributions to a United Nations Fund for the Congo to be used under United Nations control and in consultation with the Central Government for the purpose of rendering the fullest possible assistance to achieve the objective mentioned in the preamble;

5. Requests:

(a) All States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Republic of the Congo of its authority and also to refrain from any action which might undermine the unity, territorial interity and the political independence of the Republic of the Congo;

(b) All Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Security Council;

6. Without prejudice to the sovereign rights of the Republic of the Congo, calls upon all States to refrain from the direct and indirect provision of arms or other materials of war and military personnel and other assistance for military purposes in the Congo during the temporary period of military assistance through the United Nations, except upon the request of the United Nations through the Secretary-General for carrying out the purposes of this resolution and of the resolution of 14 July, 22 July and 9 August of the Security Council.

(The Resolution was adopted by 70 votes to none with 11 abstentions.

For: Afghanistan, Argentina, Australia, Austria, Belgium, Brazil, Burma, Cambodia, Canada, Ceylon, Chile, China, Columbia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Federation of Malaya, Fin land, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Laos, Lebanon, Liberia, Libya,

Luxembourg, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Saudi Arabia, Spain, Sudan, Sweden, Thailand, Tunisia, Turkey, UAR, UK, Uraguay, USA, Venezuela Yemen, Yugoslavia.

Against: None.

Abstentions: Albania, Bulgaria, Beyelorussian SSR, Czechoslovakia, France, Hungaria, Poland, Romania, Ukrainian SSR, Union of South Africa, USSR.)

E. Resolution Adopted by the General Assembly On 22 November 1960 as Recommended by the Credentials Committee in its Report of 17 November 1960.

The General Assembly

Accepts the credentials of the representatives of the Republic of the Congo (Leopoldville) issued by the Head of the State and Communicated by him to the President of the General Assembly in a letter dated 8 November, 1960.

(The Resolution was adopted by 53 votes to 24 with 19 abstentions.

For: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cameroun, Chad, Chile, China, Columbia, Congo (Brazzaville), Coste Rica, Cyprus, Dahomey, Demark, Dominican Republic, Ecuador, El Salvador, France, Gabon, Greece, Guatemala, Haiti, Honduras, Iceland, Italy, Ivory Coast, Japan, Jordan, Laos, Luxembourg, Madagascar, Mexico, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Paraguay, Peru, Philippines, Portugal, Senegal, Spain, Thailand, Turkey, Union of South Africa, UK, Uruguay, USA.

Against: Afghanistan, Albania, Bulgeria, Byelorussian SSR, Ceylon, Cuba, Czechoslovakia, Ghana, Guinea, Hungary, India, Saudi Arabia, Togo, UAR, Ukrainian, SSR, Yemen, Yugoslavia.

Abstentions: Burma , Cambodia, Canada, Central African Republic, Ethiopia, Federation of Malaya, Finland, Iran, Ireland, Israel, Lebanon, Liberia, Libya, Pakistan, Somalia, Suden, Sweden, Tunisia, Venezuela, Nigeria was present but did not participate in the voting.)

F. Resolution Adopted by the Security Council at its 942nd Meeting on 20-21 February, 1961

Sponsors: Ceylon, Liberia, United Arab Republic

A

The Security Council
Having considered the situation in the Congo,
Having learnt with deep regret the announcement of the killing of the Congoless leaders, Mr. Patrice Lumumba, Mr. Maurice Mpolo and Mr. Joseph Okito,

Deeply concer ned at the grave repercussions of these crimes and the danger of wide-spread civil war and bloodshed in the Congo and the threat to international peace and security,

Noting the report of the Secretary-General's Special Representative (S/4691) dated 12 February 1961 bringing to light the development of a serious civil war situation and preparations therefor,

1. Urges that the United Nations take immediately all appropriate measures to prevent the occurrence of civil war in the Congo, including arrangements for cease-fires, the halting of all military operations, the prevention of clashes, and the use of force, if necessary, in the last resort;

2. Urges that measures be taken for the immediate withdrawal and evacuation from the Congo of all Belgian and other foreign military and para-military personnel and political advisers not under the United Nations Command, and mercenaries;

3. Calls upon all States to take immediate and energetic measures to prevent the departure of such personnel for the Congo from their territories, and for the denial of transit and other facilities to them;

4. Decides that an immediate and impartial investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues and that the perpetrators of these crimes be punished;

5. Reaffirms the Security Council resolutions of 14 July, 22 July and 9 August 1960 and the General Assembly resolution 1474 (ES-IV) of 20 September 1960 and reminds all States of their obligation under these resolutions.

B

The Security Council,

Gravely concerned at the continuing deterioration in the Congo, and the prevalence of conditions which seriously imperil peace and order. and the unity and territorial integrity of the Congo, and threaten international peace and security,

Noting with deep regret and concern the systematic voilations of human rights and fundamental freedoms and the general absence of rule of law in the Congo,

Recognizing the imperative necessity of the restoration of parliamentary institutions in the Congo in accordance with the fundamental law of the country, so that the will of the people should be reflected through the freely elected Parliament,

Convinced that the solution of the problem of the Congo lies in the hands of the congolese people themselves without any interference from outside and that there can be no solution without conciliation,

Convinced further that the imposition of any solution, including the formation of any government not based on genuine conciliation would, far from settling any issues, greatly enhance the dangers of conflict within the Congo and threat to international peace and security,

1. Urges the convening of the Parliament and the taking of necessary protective measures in that connexion;

2. Urges that Congolese armed units and personnel should be reorganized and brought under discipline and control, and arrangements be made on impartial and equitable

bases to that end and with a view to the elimination of any possibility of interference by such units and personnel in the political life of the Congo;

3. Calls upon all States to extend their full co-operation and assistance and take such measures as may be necessary on their part, for the implementation of this resolution.

(The Resolution was adopted by 9 votes to none with 2 abstentions.

For: Ceylon, Chile, China, Ecuador, Liberia, Turkey, UAR, UK, USA.

Against: None.
Abstentions: France, USSR)

G. Resolutions Adopted by the General Assembly at its 985th Plenary Meeting on 15 April, 1961

1. A/RES/1599

Sponsors: Burma, Cambodia, Ceylon, Ethiopia, Federation of Malaya, Ghana, Guinea, India, Indonesia, Iraq, Liberia, Libya, Mali, Morocco, Nepal, Saudi Arabia, Sudan, Togo, UAR, Yemen, and Yugoslavia.

The General Assembly,

Recalling its resolution 1474 (E.S. IV) of 20 September 1960 and the resolutions of the Security Council of 14 July, 22 July and 9 August 1960 and , more particularly, that of 21 February 1961, urging the immediate withdrawal and evacuation of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries,

Deploring that despite all these requests the Government of Belgium has not yet complied with the resolutions and that such non-compliance has mainly contributed to the further deterioration of the situation in the Congo,

Convinced that the central factor in the present grave situation in the Congo is the continued peresence of Belgian and other foreign military and paramilitary personnel and political advisers, and mercenaries, in total disregard of repeated resolutions of the United Nations,

1. Calls upon the Government of Belgium to accept its responsibilities as a Member of the United Nations and to comply fully and promptly with the will of the Security Council and of the General Assembly;

2. Decides that all Belgian and other foreign military and Para-military personnel and political advisers not under the United Nations Command, and mercenaries, shall be completely withdrawn and evacuated;

3. Calls upon all States to exert their influence and extend their co-operation to effect the implementation of the present resolution.

(The Resolution was adopted by 61 votes to 5 with 33 abstentions.

For: Afghanistan, Albania, Austria, Bulgaria, Burma, Byelorussia, Cambodia, Canada, Ceylon, Chad, China, Congo (Brazzaville), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia, Federation of Malaya, Finland Gabon, Ghana, Guinea, Hungary, Iceland, India, Indonesia, Iran Iraq, Ireland, Israel, Ivory Coast, Jordan, Lebanon, Liberia, Libya, Madagascar, Mali, Morocco, Nicaragua, Niger, Nigeria, Norway, Poland, Romania, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Togo, Tunisia, Turkey, UAR, Ukaraine, Upper Volta, USSR, Venezela, Yemen, Yugoslavia.

Against: Belgium, Nepal, Portugal, Union of South Africa, Uruguay.

Abstentions: Argentina, Australia, Bolivia, Brazil, Cameroun , Central African Republic, Chile, Columbia, Congo (Leopoldvills), Costa Rica, Dominican Republic, El Salvador, France, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Laos, Luxembourg, Mexico, Netherlands, New Zealand, Pakistan, Panama, Paraguay, Peru, Philippines, Spain, Thailand, UK, USA.)

2. A/RES/1600

Sponsors: Burma, Central African Republic, Chad, Ethiopia, Federation of Malaya, Iran, Japan, Libya, Nigeria, Pakistan, Senegal, Somalia, Sudan, Tunisia, Turkey, Upper Volta.

The General Assembly,
Having considered the situation in the Republic of the Congo, Gravely concerned at the danger of civil war and foreign intervention and at the threat to international peace and secuity,
Taking note of the report of the Conciliation Commission appointed in pursuance of paragraph 3 of its resolution 1474 (E.S. IV) of 20 Sept., 1960,

Mindful of the desire of the Congolese people for a solution of the crisis in the Congo through national reconciliation and return to constitutionality without delay.

Noting with concern the many difficulties that have arisen in the way of effective functioning of the United Nations operation in the Congo.

1. Reaffirms its resolution 1474 (E.S. IV) and the Security Council resolutions on the situation in the Congo, more particularly the Council resolution of 21 February 1961;

2. Calls upon the Congolese authorities concerned to desist from attempting a military solution to their problems and to resolve them by peaceful means;

3. Considers it essential that necessary and effective measures be taken by the Secretary-General immediately to prevent the introduction of arms, military equipment and supplies into the Congo, except in conformity with the resolutions of the United Nations;

4. Urges the immediate release of all members of Parliament and members of provincial assemblies and all other political leaders now under detention;

5. Urges the convening of Parliament without delay, with safe conduct and security extended to the members of Parliament by the United Nations, so that Parliament may take the necessary decisions concerning the formation of a national government and on the future constitutional structure of the Republic of the Congo in accordance with the constitutional processes laid down in the Loi Fondamentale;

6. Decides to appoint a Commission of Conciliation of seven members to be designated by the President of the General Assembly to assist the Congolese leaders to achieve reconciliation and to end the political crisis;

7. Urges the Congolese authorities to co-operate fully in the implementation of the resolutions of the Security Council and of the General Assembly and to accord all facilities essential to the performance by the United Nations of functions envisaged in those resolutions.

(The Resolution was adopted by 60 votes to 16 with 23 abstentions.

For: Argentina, Australia, Austria, Bolivia Brazil, Burma, Cameroun, Canada, Chad, Chile, China, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Federation of Malaya, Finland, Greece, Guatemala, Haiti, Honduras, Iceland, Iran, Ireland, Israel, Italy, Japan, Jordan, Lebanon, Liberia, Libya, Luxembourg, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Saudi Arabia, Senegal, Somalia, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, UK, Upper Volta, Uruguay, USA, Venezuela.

Against: Albania, Bulgaria, Byelorussia, Central African Republic, Congo (Brazzaville), Czechoslovakia, Dahomey, Gabon, Hungary, Ivory Coast, Madagascar, Niger, Poland, Romania, Ukraine, USSR.

Abstentions: Afghanistan , Belgium, Cambodia, Ceylon , Columbia, Congo (Leopoldville), Cuba, France, Ghana, Guinea, India, Indonesia, Iraq, Laos, Mali, Maxico, Morocco, Portugal, Spain, UAR, Union of South Africa, Yemen, Yugoslavia.)

3. A/RES/1601

Sponsors: Ceylon, Ghana, India, Morocco.

The General Assembly,
Recalling part A, paragraph 4, of the Security Council resolution of 21 February 1961,

Taking note of document S/4771 and Add. 1,
1. Decides to establish a Commission of Investigations consisting of the following members:

Justice U Aung Khine (Burma)
Mr. Teschome Hailemariam (Ethiopia)
Mr. Salvador Martinez de Alva (Mexico)
Mr. Ayite d' Almeida (Togo);

2. Requests the Commission to proceed as early as possible to carry out the task entrusted to it.

(The Resolution was adopted by 45 votes to 3, with 49 abstentions.

For: Afghanistan, Austria, Bolivia, Brazil, Burma, Cambodai, Canada, Ceylon, Chile, Columbia, Denmark, Ecuador, Ethiopia, Federation of Malaya, Finland, Ghana, Guinea, Iceland, India, Indonesia, Iran Iraq, Ireland, Jordan, Lebanon Liberia, Libya, Mali, Mexico, Morocco, Nepal, New Zealand, Nigeria, Norway, Panama, Saudi Arbia, Senegal, Sudan, Sweden, Togo, Tunisia, UAR, Venezuela, Yemen, Yugoslavia.

Against: Congo (Leopoldville), Portugal, Spain.
Abstentions: Albania, Argentina, Australia, Belgium, Bulgaria, Byelorussian SSR, Cameroun, Central African Republic, Chad, China, Congo (Brazzaville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Dominican Republic, El Salvador France, Gabon, Greece, Guatemala, Haiti, Honduras, Hungary, Israel, Italy, Ivory Coast, Japan, Laos, Luxembourg,

Madagascar, Netherlands, Nicaragua, Niger, Pakistan, Paraguay, Poland, Romania, Somalia, Thailand, Turkey, UK, Ukrainian SSR, Union of South Africa, Upper Volta, Uruguay, USA, USSR.)

H. Resolution Adopted by the Security Council at its 982nd Meeting on 24 November 1961.

Sponsors: Ceylon, Liberia, United Arab Republic.

The Security Council,
Recalling its resolutions S/4387, S/4426 and S/4741,
Recalling further General Assembly resolutions 1474 (E.S. IV), 1592 (XV), 1599 (XV), 1600 (XV) and 1601 (XV),

Reaffirming the policies and purposes of the United Nations with respect to the Congo (Leopoldville) as set out in the aforesaid resolutions, namely:

(a) To maintain the territorial integrity and the political independence of the Republic of the Congo.

(b) To assist the Central Government of the Congo in the restoration and maintenance of law and order,

(c) To prevent the occurrence of civil war in the Congo,

(d) To secure the immediate withdrawal and evacuation from the Congo of all foreign military, para-military and advisory personnel not under the United Nations Command, and all mercenaries, and

(e) To render technical assistance,

Welcoming the restoration of the national Parliament of the Congo in accordance with the Loi fondamentale and the consequent formation of a Central Government on 2 August, 1961,

Deploring all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the provinvial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation',

Noting with deep regret the recent and past actions of violence against United Nations personnel,

Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of the extenal affairs of the Congo,

Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole,

1. Strongly deprecates the secessionist activities illegally carried out by the provincial administration of Katanga, with the aid of external resources and manned by foreign mercenaries;

2. Further deprecates the armed action against United Nations forces and personnel in the pursuit of such activities;

3. Insists that such activities shall cease forthwith, and calls upon all concerned to desist therefrom;

4. Authorizes the Secretary-General to take vigorous action, including the use of a requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and para-military personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, operative paragraph 2 of the Security Council resolution of 21 February, 1961;

5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also of arms, equipment or other material in support of such activities;

6. Requests all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories, except in accordance with the decisions, policies and purposes ofthe United Nations;

Noting with deep regret the recent and past actions of violence against United Nations personnel,

Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of the extenal affairs of the Congo,

Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole,

1. Strongly deprecates the secessionist activities illegally carried out by the provincial administration of Katanga, with the aid of external resources and manned by foreign mercenaries;

2. Further deprecates the armed action against United Nations forces and personnel in the pursuit of such activities;

3. Insists that such activities shall cease forthwith, and calls upon all concerned to desist therefrom;

4. Authorizes the Secretary-General to take vigorous action, including the use of a requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and para-military personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, operative paragraph 2 of the Security Council resolution of 21 February, 1961;

5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also of arms, equipment or other material in support of such activities;

6. Requests all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories, except in accordance with the decisions, policies and purposes ofthe United Nations;

7. Calls upon all Member States to refain from promoting, condoning, or giving support by acts of omission or commission, directly or indirectly, to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;

8. Declares that all secessionist activities against the Republic of the Congo are contrary to the Loi fondamentale and Security Council decisions and specifically demands that such activities which are now taking place in Katanga shall cease forthwith;

9. Declares full and firm support for the central Government of the Congo, and the determination to assist the Government, in accordance with the decisions of the United Nations, to maintain law and order and national integrity, to provide technical assistance and to implement those decisions;

10. Urges all Member States to lend their support, according to their national procedures, to the Central Government of the Republic of the Congo, in conformity with the Charter and the decisions ofthe United Nations;

11. Requests all Member States to refrain from any action which may, directly or indirectly, impede the policies and purposes ofthe United Nations in the Congo and is contrary to its decisions and the General purpose of the Charter.

(The Resolution was adopted by 9 votes to none with 2 abstentions.

For: Ceylon, Chile, China, Ecuador, Liberia, Turkey, UAR, USA, USSR.

Against: None.

Abstentions: France UK).

APPENDIX 3

THE UNITING FOR PEACE RESOLUTION OF 1950

APPROVED BY THE GENERAL ASSEMBLY AT ITS 302ND PLENTARY MEETING NOV. 3, 1950.

377 (V) Uniting for Peace

A

The General Assembly,

Recognizing that the first two stated purposes of the United Nations are:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace and to bring 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", and

"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace".

"Reaffirming that it remains the primary duty of all Members of the United Nations, when involved in an internal dispute, to seek settlement of such a dispute by peaceful means through the procedures laid down in Chapter VI of the Charter, and recalling the successful achievements of the United Nations in this regard on a number of previous occasions,

"Finding that international tension exists on a dangerous scale.

Recalling its resolution 290(IV) entitled "Essentials of peace" which states that disregard of the principles of the Charter of the United Nations is primarily responsible for the continuance of International tension, and desiring to contribute further to the objectives of that resolution,

Reaffirming the importance of the exercise by the Security Council of its primary responsibility for the maintenance of international peace and security, and the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements for armed forces provided for in Article 43 of the Charter belongs to the Security Council, and desiring to ensure that, pending the conclusion of such agreements, the United Nations has at its disposal means for maintaining international peace and security,

Conscious that failure of the Security Council to discharge its responsibilities on behalf of all the member States, particularly those responsibilities referred to in the two preceding paragraphs, does not relieve member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security.

Recognizing in particular that such failure does not deprive the General Assembly of its rights or relieve it of its responsibilities under the Charter in regard to the maintenance of international peace and security,

Recognizing that discharge by the General Assembly of its responsibilities in these respect calls for possibilities of observation which would ascertain the facts and expose aggressors; for the existence of armed forces which could be used collectively and for the possibility of timely recommendation by the General Assembly to Members of the United Nations for collective action which, to be effective, should be prompt.

A

1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall make appropriate recommendations to Members for Collective measures, including in the case of breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.

If not in session at the time, the General Assembly may meet in emergency special session with twenty-four hours of the request therefore. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations:

2. Adopt for this purpose the amendments to its rules of procedure set forth in the annex to the present resolution;

B

3. Establishes a Peace Observation Commission which, for the calender yeurs 1951 and 52, shall be composed of fourteen Members, namely, China, Colombia, Czechoslovakia, France, India, Iraq, Israel, NewZealand, Pakistan, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America dnd Uruguay, and which could observe and report on the situation in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security. Upon the invitation or with the consent of the State into whose territory the Commission would go, the General Assembly, or the Interim Committee when the Assembly is not in session, may utilize the Commission if the Security Council is not exercising the functions assigned to it by the Charter with respect to the matter in question. Decisions to utilize the Commission shall be made on the affirmative vote of two-thirds of the members present and voting. The Security Council may also utilize the commission in accordance with its authority under the charter.

4. Decides that the Commission shall have authority in is discretion to appoint sub-commissions and to utilize the services of observers to assist it in the performance of its functions;

5. Recommends to all governments and authorities that they co-operate with the Commission and assist it in the performance of its functions;

6. Requests the Secretary-General to provide the necessary staff and facilities, utilizing where directed by the Commission, the United Nations Panel of Field observers envisaged in General Assembly resolution 297 B (IV);

C

7. Invites each Member of the United Nations to survey its resources in order to determine the nature and scope of the assistance it may be in a position to render in support of any recommendations of the security Council or of the General Assembly for the restoration of international peace and security.

8. Recommends to the States Members of the United Nations that each Member maintain within its national armed forces elements so trained, organized and equiped that they could promptly be made available, in accordance with its constitutional processes, for service as a United Nations unit or Units, upon recommendation by the Security Council or the General Assembly, without prejudice to the use of such elements in exercise of the right of individual or collective self-defence recognized in Article 51 of the Charter;

9. Invites the Members of the United Nations to inform the collective Measures Committee Provided for in paragraph 11 as soon as possible of the measures taken in implementation of the proceding paragraphs;

10. Requests the Secretary-General to appoint, with the approval of the committee provided for in paragraph 11, a panel of military experts who could be made available, on request, to Member States wishing to obtain technical advice regarding the organization, training and equipment for prompt service as United Nations units of the elements referred to in paragraph 8;

'Emergency special sessions pursuant to resolution 377 A (V) shall be convened within twenty-four hours of the receipt by the Secretary-General of a request for such a session from the Security Council, on the vote of any seven members thereof, or of a request from a majority of the Members of the United Nations expressed by vote in the interim committee or otherwise, or of the concurrence of a majority of Members as provided in rule 9".

2. The present text of rule 9 shall become paragraph (a) of that rule and a new paragraph (b) shall be added to read as follows:

"This rule shall apply also to a request by any Member for an emergency special session pursuant to resolution 377 A(V). In such a case the Secreatry-General shall communicate with other Members by the most expenditions means of communication available."

3. Rule 10 is amended by adding at the end thereof the following:

"In the case of an emergency special session convened pursuant to rule 8(b) the Secretary-General shall notify the Members of the United Nations at least twelve hours in advance of the opening of the session."

4. Rule 16 is amended by adding at the end thereof the following:

"The provisional agenda of an emergency special session shall be communicated to the Members of the United Nations simultaneously with the communication summoning the session".

5. Rule 19 is amended by adding at the end thereof the following:

"During an emergency special session additional items concerning the matters dealt with in resolution 377 A(V) may be added to the agenda by a two-thirds majority of the Members present and voting".

6. There is added a new rule to precede rule 65 to read as follows:

D

11. Establishes a Collective Measures Committee Consisting of fourteen Members, namely; Australia, Belgium, Brazil, Burma, Canada, Egypt, France, Mexico, Philippines, Turkey, the United Kingdom of Great Britain and Northern Ireland the United States of America, Venezuela and Yougoslavia and directs the Committee, in consultation with the Secretary-General and with such Member States as the Committee finds appropriate to study and make a report to the Security Council and the General Assembly, not later than 1 September, 1951, on methods, including those in section C of the present resolution which might be used to maintain and strengthen international peace and security in accordance with the purposes and principles of the Charter, taking account of collective self-defence and regional arrangements (Articles 51 and 52 of the Charter):

12. Recommends to all Member States that they co-operate with the Committee and assist it in the performance of its functions;

13. Requests the Secretary-General to furnish the Staff and facilities necessary for the effective accomplishment of the purposes set forth in sections C and D of the present resolution;

E

14. Is fully conscious that, in adopting the proposals set forth above, enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the Principles and purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for the observance of human rights and fundamental freedoms for all and on the establishment and maintenance of condition of economic and social well-being in all countries and accordingly.

15. Urges Member States to respect fully, and to intensify, joint actions, in co-operation with the United Nations to develop and stimulate universal respect for and observance of human rights and fundamental freedoms, and to intensify individual and collective efforts to achieve conditions of economic stability and social progress, particularly through the development of under-developed countries and areas.

B

For the purpose of maintaining international peace and security, in accordance with the Charter of the United Nations, and in Particular, with Chapters V, VI and VII of the Charter.

The General Assembly

Recommends to the Security Council;

That it should take the necessary steps to ensure that the action provided for under the Charter is taken with respect to threats to the peace, breaches of the peace or acts of aggression and with respect to the peaceful settlement of disputes or situations likely to endanger the maintenance of international peace and security.

That it should devise measures for the earliest application of Articles 43, 45 and 47 of the Charter of the United Nations regarding the placing of armed forces at the disposal of the Security Council by the States Member of the United Nations and the effective functioning of the Military Staff Committee:

The above dispositions should in no manner prevent the General Assembly from fulfilling its functions under resolution 377 A (V).

C

The General Assembly,

Recognizing that the primary function of the United Nations Organization is to maintain and promote peace, security, justice among all nations.

Recognizing the responsiblity of all Member States to promote the cause of international peace in accordance with their obligation as provided in the Charter.

Recognizing that Charter charges the Security Council with the primary responsibility for maintaining international peace and security.

Reaffirming the importance of unanimity among the permanent members of the Security Council on all problems which likely to threaten world peace,

Recalling General Assembly resolution 190(III) entitled Appeal to the Great Powers to renew their efforts to compose their difference and establish a lasting peace."

Recommends to the permanent members of the Security Council that:

(a) They meet and discuss collectively or otherwise, and if necessary, with other states concerned, all problems which are likely to threaten international peace and hamper the activities of the United Nations, with a view to their resolving fundamental difference and reaching aggreement in accordance with the spirit and letter of the Charter;

(b) They advise the General Assembly and, when it is not in session, the Members of the United Nations, as soon as appropriate, of the results of their consultations.

A N N E X

The rules of procedure of the General Assembly are amended in the following respects

1. The present text of rule 8 shall become paragraph (a) of that rule, and a new paragraph (b) shall be added to read as follows:-

"Notwithstanding the provisions of any other rule and unless the General Assembly decides otherwise, the Assembly in case of an emergency special session, shall convence in plenary session only and proceed directly to consider the item proposed for consideration in the request for the holding of the session without previous reference to the General Committee or to any other Committee; the President and vice-Presidents for such emergency special sessions shall be respectively, the Chairman of the delegations from which were elected the President and Vice President of the previous session".