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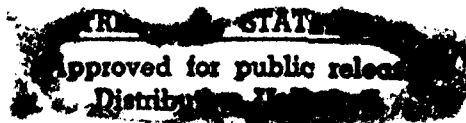
COLLECTIVE SECURITY VS. U.S. DEFENSE POLICY

by

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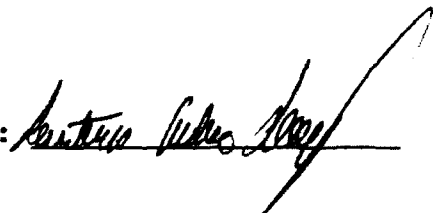
COLLECTIVE SECURITY and U.S. DEFENSE POLICY: SHOULD THE UNITED
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CODIFYING "CHAPTER 6½" AND SIGNING ARTICLE 43 AGREEMENTS?

by

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A paper submitted to the Faculty of the Naval War College in
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The contents of this paper reflect my own views and are not
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COLLECTIVE SECURITY and U.S. DEFENSE POLICY: SHOULD THE UNITED STATES SUPPORT EFFORTS TO STRENGTHEN THE UNITED NATIONS BY CODIFYING "CHAPTER 6½" AND SIGNING ARTICLE 43 AGREEMENTS?

EXECUTIVE SUMMARY

This article summarizes the conclusions and recommendations of *Collective Security and U.S. Defense Policy*, the final paper researched and written under the auspices of the Advanced Research Department of the U.S. Naval War College.

The end of the Cold War has enabled the UN Security Council to act more purposefully in the maintenance of international peace and security. Policy makers in and out of the government advocate that this is the time to strengthen the UN's capability to deal with crises. The successes of the Persian Gulf War have caused many to conclude that collective security agreements are the best way to ensure global security in the future. However, the Security Council presently lacks adequate forces to respond quickly to trouble spots. To enhance the United Nations' credibility as a fighting force will require the creation of United Nations Standby Forces or UN Rapid Deployment Forces and this will require U.S. participation.

In the U.S., there is already discussion of changing force structure to deal with world security threats under collective security arrangements. During this project many senior officials in government admit to feeling that these efforts are premature. I agree with this idea. The United States must first formulate a comprehensive policy concerning participation in such agreements. The United Nations Participation Act of 1945 and the proposed

Senate Joint Resolution 325 (The Collective Security Participation Resolution) require clear analysis. Before the U.S. can enter substantive discussion of new collective security arrangement's, the impact of such legislation must be understood.

It would also be prudent to carefully analyze the intent of such legislation. Written in 1945, the drafters of the UN Participation Act could not have foreseen the complexity of today's geopolitical environment. Congress should determine if the Act needs to be amended or rewritten. If the legislation does need to be rewritten, there should be no constraints to doing so.

In addition, there are questions concerning possible conflicts with the U.S. Constitution and elements of the War Powers Resolution of 1973. This paper will address these issues.

Summary of Conclusions

The United States must begin to practice what Professor Richard N. Gardner of Columbia University has described as "Practical Internationalism." Political and economic realities compel nations to think in terms of cost sharing and decision sharing when it comes to the matter of collective security. Last year's Presidential election results imply that Americans want the U.S. government to concentrate on domestic issues. They want jobs, better health care, and a sense that they can really compete on a global scale. This new attitude is known as the "domestic imperative." To do this, the United States must continue to be

actively engaged worldwide. Therefore, it is in the best interests of the United States to support collective security efforts through the United Nation Security Council. To retain its leadership as the world's only remaining superpower, the U.S. has certain responsibilities. This includes taking the initiative in negotiating new security arrangements.

Article 43 of the UN Charter calls for member states to contribute military units or capabilities for use in enforcing UN Security Council mandates. Many concerned citizens question the legal basis of such agreements. These questions mainly concern constitutional and war powers issues. My research, however, finds no legal impediments to entering article 43 agreements. Concern about sovereignty issues are also without real foundation. The UN Security Council can take no action without U.S. consent. As stated in UN Charter, agreements shall be "subject to ratification by the signatory states in accordance with their respective constitutional processes."

Summary of Recommendations

The United States should actively participate in efforts to strengthen United Nations collective security efforts. However, no agreements should be made without first attempting to codify provisions of the unwritten "Chapter 6½."

The UN Charter, as presently written, does not call for

humanitarian intervention in any sovereign nation. UN Secretary General Dag Hammarskjold (1953-61) referred to this type of action as a "Chapter Six and a Half" because this type of action falls between Chapter VI and Chapter VII of the Charter. The former calls for peaceful resolution of conflict and the latter authorizes the use of military enforcement measures should negotiations fail.

Before the U.S. can seriously consider entering a formal Article 43 agreement, organizational and fiscal changes are necessary at the UN. The United States should commit itself to the establishment of those mechanisms which will insure that rapidly deployable and capable UN forces are available to the Security Council. Traditional peacekeeping is an "art" and the United States must also begin to train its personnel in the "art" of peacekeeping. Both traditional and newly defined "second generation" types of operations should be taught and exercised.

The United States must decide on a policy on the use of Department of Defense and Department of State funds for peacekeeping. The peacekeeping portfolio can be held by one department, or assigned responsibility based on type of action. Currently, both organizations are responsible for various aspects of U.S. participation in UN peacekeeping activities. One suggestion would be for the Department of State to be responsible for all UN Chapter VI operations and the Department of Defense for Chapter 6½ and Chapter VII actions.

Abstract of
**COLLECTIVE SECURITY and U.S. DEFENSE POLICY: SHOULD THE UNITED
STATES SUPPORT EFFORTS TO STRENGTHEN THE UNITED NATIONS BY
CODIFYING "CHAPTER 6½" AND SIGNING ARTICLE 43 AGREEMENTS?**

The purpose of this research project is to examine the issue of international collective security and its relation to U.S. defense policy. The current debate focuses on strengthening the Charter of the United Nations. Proposed mechanisms for accomplishing this are to codify "Chapter 6½" of the UN Charter. This action would define those instances where the UN can legally intervene, for humanitarian reasons, in another country's affairs. Additionally, there are calls for member states to commit designated units or capabilities of their armed forces for duties with the UN. These actions are taken under the authority provided for in Article 43 of the UN Charter. This article has been agreed to in principle however, no formal action has been taken since it was drafted. Implementation of Article 43 would create either a Standby Force as some advocate or a standing UN Rapid Reaction Force available for immediate deployment when authorized by the UN Security Council. Some U.S. policymakers view efforts to designate specific units for duty with United Nations forces as premature. They point out that the United States must first formulate a comprehensive policy concerning participation in such arrangements.

The United Nations Participation Act of 1945 and the proposed Senate resolution (Senate Joint Resolution 325), support U.S. participation in such a force. However, it must be determined if

any conflicts exist with such arrangements. Are there possible conflicts with the U.S. Constitution and the War Powers Resolution? This paper will examine all sides of this issue and present findings on its potential effect on U.S. defense policy.

PREFACE

The end of the Cold War has caused profound changes in the world. It has moved from being a comparatively secure place having two spheres of influence to a multipolar one. It was comparatively simple in the "old" days to plan military force levels and operations against "well-defined" enemies. Now, today's bad guy could be tomorrow's ally. Can defense policy be effective under these circumstances? Some policymakers advocate using this change in world affairs as an opportunity to release the U.S. from duties as world constable. One way the U.S. could excuse itself from the duty of responding to worldwide "911" calls would be by more fully integrating into collective security systems. The UN could assume the responsibility of leading such a collective security group. The United States could greatly help in this area by enhancing the capabilities of the UN and providing the leadership.

Recent events in the Persian Gulf, Somalia, and Bosnia-Herzegovina have shown the UN is prepared to grapple with complex global issues. The absence of previous antagonisms on the Security Council has created an atmosphere of cooperation. The UN almost functions as originally intended.

The caution is to avoid overextending the capability of the UN. The UN is woefully unprepared to take on more duties, and significantly more budgetary and organizational reforms must take place before it can fully realize its potential. The previously mentioned world crises have involved some situations not covered in Chapter VI (which seeks peaceful solutions to conflicts) or Chapter

VII (which authorizes use of military forces to enforce UN Security Council mandates) of the UN Charter. Elements of these events fall into the so called "Chapter 6½." This chapter is not codified and is used to cover all situations not specified in Chapters VI and VII. When military force may be more appropriate than traditional peacekeeping efforts, that force is sometimes authorized under provisions of "Chapter 6½." Many experts suggest that codifying Chapter 6½ is more appropriate for the "New World Disorder." This will keep the Security Council from overstepping boundaries and provide the United States with a more solid foundation for developing defense policy in this area.

Beyond codifying Chapter 6½, many suggest that this may be the proper time for the U.S. to enter formal Article 43 agreements with the Security Council. This article requires member states to designate specific military units or capabilities for duty with a UN force.

In Congress, and elsewhere, discussion is focusing on whether the U.S. should make planning for participation in UN operations an element of its national defense strategy. This new thinking would consider both traditional UN peacekeeping and the more aggressive peace enforcement actions. Any plans to integrate UN actions with U.S. defense plans must be based on a clearly defined national policy. This policy should specifically set criteria for participation in collective security arrangements. It must first be decided if it is in our best interest to participate in such arrangements and decide the extent of our commitment to collective

security. Many Americans are concerned about the legality of these collective security agreements. There is concern that the interests of the United States will not receive foremost consideration in such an arrangement. Questions concerning constitutional, war powers, and presidential authority issues need to be answered. These issues must be resolved before the U.S. can move forward with any new defense strategies.

There will be two issues at the forefront of any discussions of the legal questions. The United Nations Participation Act of 1945 and the Collective Security Participation Resolution (Senate Joint Resolution 325) will provide the basis of that discussion. This legislation, combined with proposals for Article 43 agreements will require that drafters of defense policy become familiar with the specifics of the above proposals. The final arbiter of whether the US should enter any collective security agreements beyond the "comfortable," although possibly outdated, NATO will be the American public. Although there are other collective security arrangements, NATO is the only one familiar to most Americans. The issue of loss of sovereignty and the question "what is in it for us" will be on everyone's mind.

CHAPTER I

WHAT IS THE MISSION OF THE UNITED NATIONS?

The first of the purposes of the United Nations listed in its Charter is:

"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 cause 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."¹

The Security Council is the principal organ tasked with the responsibility for the maintenance of international peace and security. Chapters VI and VII of the Charter provide the authority to carry out that responsibility.²

The Charter of the United Nations

When entering discussions on the subject of developing a comprehensive collective security system, we must first distinguish between two terms. "Peacekeeping" and "peacemaking" are two entirely different circumstances and neither term adequately describes the recent situations in which the UN finds itself

involved. The UN is attempting a more coercive approach, undertaken with the authority granted by a truly cooperative Security Council. In order for peacekeeping to be successful five basic conditions are necessary:³

1. Peacekeepers must have consent of the belligerents;
2. There must be political recognition of the mission;
3. There must be a realistic mandate or mission;
4. Peacekeeping forces must have freedom of movement;
5. Peacekeeping forces must have effective command and control.

Peacekeeping involves the use of military forces in a noncombatant capacity to monitor cease-fires and to serve as a buffer between adversaries while attempting to disarm rival forces. Lightly armed, these forces operate under strict rules of engagement (ROE). They can only use weapons in self-defense.

Peacemaking, on the other hand, refers to the full range of activities involved in the peaceful resolution of disputes. It encompasses all matters about mediation, conciliation, arbitration, or the good offices of a particular mission. Therefore, it involves the political dimension of an operation or mission. The political leadership of an operation or a mission makes up the aim of peacemaking; and therefore, peacekeeping becomes an instrument or a tool in the service of peacemaking.⁴ If there is a military aspect to a peacemaking process, it will be well defined beforehand. It cannot change without consent of the parties

involved or without authorization from the Security Council.

Two chapters of the UN Charter distinguish the two very different approaches to maintaining international peace and security: Chapter VI deals with the "peaceful settlement of disputes." Chapter VII, deals with "action with respect to threats of the peace, breaches of the peace, and acts of aggression." As the architects of the Charter discerned, a comprehensive collective security system needs to be able to do both functions. Normally the UN would handle most disputes and conflict situations in the first capacity that is, peacefully through negotiations. The UN would use Chapter VII to provide for the common defense against willful and determined aggressors.⁵

The basic provision of Chapter VI of the UN Charter is in Article 33:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall 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 parties to settle their dispute by such means.

It was the intention of the drafters of the Charter to emphasize the responsibility of the parties themselves to settle their disputes. In practice, the Security Council has taken a broad view of its proper role in peaceful settlement. It has dealt with a far wider range of questions than originally expected.⁶

Chapter VII deals with more coercive methods to enforce the

decisions of the Security Council. The Security Council would decide whether a threat to the peace, breach of the peace, or act of aggression had occurred. The Security Council would then decide the measures that should be taken to maintain or restore international peace and security. Members are obligated to accept and carry out these decisions. Further, members are required to make armed forces available to the Council according to special agreements which were to be concluded once the Charter came into effect.⁷ The importance attached to the Council's power to order military measures did not stem from expectations that it would often be necessary to do so. Rather, it was believed that the threat of military action by the Security Council would be a powerful inducement. This threat would force states to comply with whatever measures the Council considered necessary to maintain or restore international peace and security.⁸

Article 39 of Chapter VII states;

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.

The responsibilities of the Council under this article are twofold: first, to decide the existence of a threat to the peace, breach of the peace, or act of aggression; secondly, to make recommendations and select measures to maintain or restore international peace and security.⁹

The Charter does not define a threat to the peace, breach of

the peace, or act of aggression. No definition of these terms was accepted at San Francisco during the negotiations giving rise to the Charter. The effort to define them in the United Nations has been unfruitful.

For clarification, a brief discussion of Articles 41 and 42 of Chapter VII is necessary:

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.

The idea is that the members of the international community can, by applying collectively measures short of the use of armed force, bring sufficient pressure to bear upon a state to induce it to accept its international obligations. This idea is a recurrent theme in international organizations.¹⁰

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 demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

The Charter leaves to the Security Council a wide measure of discretion in deciding whether a particular mission calls for the application of military enforcement measures. It may do so if it considers "that measures provided for in Article 41 . . . have

proved to be inadequate," but the Council need not wait for such proof. The Security Council also has wide discretion as to the kinds of military measures to be taken and what contributions various members shall be required to make.¹¹

It is important to note that Article 99 of the Charter gives authority to the Secretary General to also decide what are threats to international peace and security. There are no guidelines or restrictions on the Secretary General's latitude about what those threats should be. Any issue he or she views as a threat can be brought before the Security Council.

Does the New World Order Demand Changes in the Mission of the United Nations?

The change from a bipolar to a multipolar global environment has thrust new challenges upon the UN. It will need to make those legal and organizational changes to meet its increased mandate to act as a true guarantor of international peace and security. UN forces have moved beyond the traditional roles of conventional observer missions and traditional peacekeeping. UN forces are now engaged in preventive peacekeeping by supervising cease-fires between irregular forces, helping in the maintenance of law and order, protecting the delivery of humanitarian assistance, denying airspace, and guaranteeing rights of passage.

The term "Second Generation Operations" refers to a growing range of contingencies, sometimes incorrectly called "peacekeeping," in which UN forces face more challenging tasks.¹²

Second generation operations are distinct from peacekeeping. In these operations UN forces do not necessarily enjoy the support of all the local parties in conflict. Consequently, these UN forces must take more rigorous steps to reach a standard of military effectiveness. This standard must achieve the objectives of the mandate, without jeopardizing the personal safety of the UN troops involved. In some second generation tasks, heavy weapons systems including armored vehicles, combat aircraft, and warships may be deployed.¹³

The Issue of Humanitarian Intervention

The issue of humanitarian intervention is in the forefront of discussion of international law. Changes in the world have opened a new area of concern where the issues are extremely complex and can affect nearly all nations. One central question is how or when do a nation's human rights violations against its own people constitute a threat to international peace and security? Secondly, even if the violation does not give rise to such a threat, are there instances where UN intervention is necessary or justified? Where is the line drawn for either forcible or nonforcible humanitarian intervention?

These questions need answers and they are part of the driving force behind calls to strengthen Chapters VI and VII and to codify the so-called "Chapter 6½." As confirmed by a senior official at the UN, the idea of humanitarian intervention may become

standard operating procedure for the Security Council.

One can also debate the premise that these "humanitarian" concerns are not direct threats to international peace and security. If the purpose is to define those instances where the UN will take action with or without a nation's consent then there is an argument for codification. However, if "Chapter 6½" is an attempt to further increase the authority and power of the UN, many suggest that this proposal will not go far.

While analysts agree that both Chapters VI and VII limit the Security Council's authority to act in cases of humanitarian need within sovereign borders, the historical record demonstrates that massive violations of human rights within a country as well as manmade or natural disasters that initially occur in one state, inevitably have an impact on regional or international affairs. With the advent of global communications capabilities (e.g CNN, satellite cellular telephone technologies) there can be no instance where a country's "internal" events will go unnoticed by the global community.

These "internal" events lead to one or a combination of consequences: (a) large refugee migrations, (b) internal armed conflicts that ultimately spill over national borders and trigger broader armed conflicts, (c) dangerous pressures on the availability and distribution of regional resources, and (d) transnational environmental and health problems. At a minimum, regional stability is threatened.

With the heightened recognition of ethnicity in the aftermath

of the Cold War, there is even more at issue when an ethnic group within a state is subjected to mass violations of its collective human rights. Such gross violations will now be far more likely to trigger the ethnic group at large either to react violently or, at a minimum, to call for unilateral or multinational intervention.¹⁴ In an article from the journal Ethics and International Affairs, Dr. Jarat Chopra and Dr. Thomas G. Weiss discussed the problems of codifying humanitarian intervention;

The legal debate concerning humanitarian intervention was largely static during the 1980s, until political developments reshaped the arguments and placed the issue again prominently on the global agenda. Theoretical questions about the acceptability of humanitarian intervention remained secondary to the practical problem of how it would be conducted. While the right of humanitarian intervention was not on the agenda, human rights were central international concerns. In the four decades since the signing of the UN Charter and the adoption of the Universal Declaration of Human Rights, boundaries of state sovereignty became more and more porous, as any number of technical, economic and environmental challenges demonstrated. Moreover, areas that formerly were considered entirely domestic, such as minority and individual rights, became subject to external scrutiny. This led to a growing body of international conventions, rules, and norms aimed at regulating the humanitarian behavior of states. Following the creation of several prominent nongovernmental organizations, like Amnesty International, Jimmy Carter placed human rights at the center of his presidential platform. While controversy was not lacking, human rights became viewed as less Western and more universal. But until recently the capacity of the international community to respond when such norms are violated has been meager. However, 40 years of international norms-creation led to the possibility of need for norms-implementation. In December 1988 the General Assembly adopted Resolution 43-131, which formally recognized the rights of civilians to international aid and the role of nongovernmental organizations in natural disasters and similar emergencies.¹⁵

Implicit in this discussion is the requirement for the United Nations to continue to evolve with the world situation. This evolution will result in more military participation in humanitarian operations, while at the same time, traditional peacekeeping operations will remain important. For the U.S., this creates two issues. First, since the armed forces have not regularly participated in these types of operations, a decision must be made as to the nature and extent of U.S. involvement. Second, to formulate its own position on, and to help in the development of, the answer to the central question: Whether a nation's violations of the human rights of its own inhabitants are alone sufficient to justify humanitarian intervention by the UN as a new norm of international law, or must there be a direct threat to international peace and security before the UN can act? If the answer is the former, then it is important that the UN define in advance the circumstances in which it will take action with or without a nation's consent. If the United Nations is to become involved in such issues it will need new mechanisms to insure that its mission of maintaining international peace and security is strengthened.

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CHAPTER II

PROPOSALS TO STRENGTHEN U.N. COLLECTIVE SECURITY EFFORTS

The Case for Codifying "Chapter 6½"

As previously discussed, the number and variety of peacekeeping or more recently "second generation operations" the UN has undertaken continue to demonstrate a need for more capable UN military units. At this time, insufficient military capability exists to underwrite more exacting and multifarious mandates.

In addition, there is concern that the UN may be overstepping boundaries set by the current Charter. In Chapters VI and VII no allowances are made for the protection of humanitarian assistance personnel or goods, or for enforcing peace when both parties are not interested in peace. However, as discussed in the previous chapter, the General Assembly did pass a resolution concerning this issue. One resolution discussed the delivery of humanitarian aid and the second resolution provided mechanisms to protect personnel providing such aid from hostile interference. The analysis then moves to the clear "new world order" implications of current UN sanctioned operations: the operations in northern Iraq on behalf of the Kurds in 1991 (Operation PROVIDE COMFORT) and in southern IRAQ (Operation SOUTHERN WATCH) on behalf of the Shiites, Operation RESTORE HOPE in Somalia, and international activities on behalf of the besieged Muslim population of Bosnia and Herzegovina.

The operations in Iraq represent direct assaults on the Westphalian principle of state sovereignty, defined as the "supreme power of the state, exercised within its boundaries, free from

external interference."¹ Implicitly, each operation promotes the contrary position that individuals and groups within nation-states have international rights. These rights, in some cases (such as atrocities against the citizens of the nation), supersede the sovereign right to govern and assert an international right to intervene in what was traditionally viewed as the internal affairs of a nation. This international right of intervention is an idea formally proclaimed by UN Secretary General Boutros Boutros-Ghali. When he discussed his concept of the principle of universal sovereignty as "underlying the rights of the individual and the rights of the people is a dimension of universal sovereignty that resides with all humanity and provides all peoples with legitimate involvement in issues affecting the world as a whole." This is the underlying concept for UN efforts in Somalia, as stated in Security Council Resolution 794 which states, in part, that "the magnitude of human tragedy constitutes a threat to international peace and security."² If humanitarian intervention will become the norm in international affairs, efforts must be made to determine when such efforts are appropriate and fair to those involved. The task before the United Nations was best stated by Jarat Chopra and Thomas Weiss in an article from Ethics and International Affairs:

The struggle toward a law of humanitarian intervention is a two-fold task: to mollify contradictions between human rights and interventions and to codify norms so that humanitarianism cannot be used to justify unacceptable and self-interested interventions. Overcoming the abuse of humanitarianism as a justification for ulterior motives is the common ground in the debate and a useful starting point for discussion. Drawing upon both the analysis of humanitarian intervention and re-examination of legal meanings of terms in a political context

provides the means to build bridges and act. Legal definition and political agreement together provide the means to unify "justice" and "peace" through humanitarian action.³

These discussions have brought about a change in attitude by the United Nations towards the use of military forces. Forces acting under the authority of the Security Council could find themselves easily involved in some sort of humanitarian intervention, even though use of forces for this purpose is not called for in the UN Charter. UN Secretary General Dag Hammarskjold (1953-61) referred to these actions as Chapter Six and a Half actions because they fall between Chapter VI of the Charter, which calls for the peaceful resolution of conflict, and Chapter VII on the use of enforcement measures should negotiation fail.

The concept of Chapter Six and a Half came about during the initial discussion of the UN Charter. The U.S. decided that international enforcement measures would be impractical.⁴ At the time the U.S. opinion was that no one would ever agree on what enforcement measures would work. Ad hoc agreements were, in most cases, unreliable. Many authorities in this area now believe, that the way to achieve peace and security is to properly plan for it and that this can best be done by strengthening the UN Charter. Although Chapter 6½ is considered to be customary international law, its content should be clarified through negotiation and formal amendment of the Charter.

Accomplishing the goal of drafting a workable Chapter 6½ can be done in the near term. The research needed to undertake such a project has already taken place. The issue is creating a more

effective Charter and many authors have written on the subject; Grenville Clark's and Louis B. Sohn's "World Peace Through World Law", Harold Stassen's "Restructuring Suggested for the United Nations Organization in 1995"(his fifth draft), Marcus Raskin's revision of his proposals for world disarmament, originally proposed in his book, The Common Good, and Professor of International Law Benjamin B. Ferencz's book (in process) in which he plans to provide for specific wording for UN Charter amendments. Richard Hudson has written extensively on his proposal for a "Binding Triad" system of voting in the General Assembly.⁵

The Case for Chapter VII Article 43 Agreements

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 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.

In considering the means of supplying the Security Council with the armed forces necessary for carrying out its decisions, the

architects of the Charter faced three broad alternatives. The first and most radical was to establish a truly international force which would be over and above national armies and indeed might at some time replace them. The second alternative was to leave the enforcement of Council decisions to an ad hoc coalition of national forces acting under some form of overall international direction. The third alternative also relied upon a system of national contingents, but with advance agreement by the members as to the forces and forms of assistance to be supplied.⁶ It should be noted that only the second alternative has found much favor, both in the political statements and actions of the members.

Under any of the alternatives full permanent-member participation in a collective security system is important for three reasons. First, unless the permanent members show that they are ready to do their share, other UN members (including the major economic powers) will be reluctant to negotiate the Article 43 agreements covering their own contributions that are the cornerstone of collective security. Second, collective security stands or falls on credible deterrence, and that in turn depends on the expectation that all five permanent members will normally take part in UN enforcement actions, although the degree of participation will depend on the national policies and capabilities of each individual nation. For instance, no other nation can surpass the U.S. capability for on demand airlift in significant numbers. So, the UN would probably want the U.S. to provide that capability to UN forces. Finally, in the smaller conflicts that

make up the greater part of the world's violence, the permanent members must share the burden if collective action is to work at all. While participation by Western members of the UN will be necessary in making any collective security effort work some balance must be struck. The surest way to bankrupt collective security is to expect that the Western members of the Security Council will always assume a disproportionate share of the burden.⁷

A central question for the United States and other UN members is whether the United Nation's system for deterring and defeating aggression should rely on ad hoc coalitions assembled and led by the United States (or another permanent member) or whether an institutionalized system should now be created as provided for in Article 43?⁸ Cold War differences prevented the forming of a UN Standing Army; however, in view of new geopolitical realities, all issues are being reconsidered.

There is a serious proposal being put forth that merits special attention by all members, particularly the United States. Some forty to fifty UN members in different parts of the world could enter into Article 43 agreements designating units of brigade strength (2,000 to 3,000 soldiers) that would be available for use by the Security Council as a Rapid Deployment Force to deal with threats to the peace and acts of aggression. These units, totaling 100,000 men would be prepared in advance of a crisis with common training, standardized or interoperable equipment and joint exercises under a UN commander. When a crisis occurred, those national contingents most suited for the purpose would be called

up. In most cases, this call-up would be far less in number than 100,000.

The five permanent members, like other UN members, would assign units of their ground forces under Article 43 agreements (e.g., the Ready Brigade of the 82nd Airborne Division could be the U.S. contribution). Additionally, the permanent members could also be asked to pledge air and naval units or airlift and sealift capability. In many conflict situations, it would be preferable to keep the permanent members, or at least the United States and Russia, in a back-up military role, with ground forces of other UN members on the front line.⁹ The advantage of this proposal is that it keeps the UN from looking like a front for U.S. or Russian foreign policy. If U.S. forces are not in the forefront the cries of "international colonialism" from the non-aligned nations may not be as great.

A UN Rapid Deployment Force (UN-RDF) of this kind would be available for a variety of purposes:

- 1) to be stationed preemptively on the border of any UN member that was threatened by aggression;
- 2) to defeat aggression if it occurred;
- 3) to end mass repression against civilian populations (e.g. the Kurds in northern Iraq) that constitute a threat to international peace and security;
- 4) to undertake humanitarian relief in the

face of natural disasters (e.g., in Bangladesh); and

5) to combat acts of terrorism and international drug trafficking.¹⁰

The UN-RDF could be deployed only by the Security Council and therefore could operate only when there were nine affirmative votes of the fifteen Security Council members and when no veto was cast by a permanent member. Such a force would not be powerful enough to deal with all kinds of aggression. Action by the United States, either alone or with its allies would still be necessary in certain circumstances in the exercise of the right of individual or collective self-defense against aggressors. This right is guaranteed under Article 51 of the Charter. Nevertheless, a UN-RDF would constitute a political tool as well as military deterrent in most situations, particularly where it could be deployed preemptively on the border of a threatened country.¹¹ This is one of the proposals put forth for strengthening the UN. Many others are in the works and the current world situation will shape the final form of the organization. At this moment, an ad hoc group of officers assigned to the UN is traveling to the member states asking what forces or capabilities would they be willing to contribute to a UN Standby Force? This "Group of 7 Colonels" does not include a US officer, even though sources at the UN acknowledged that the U.S. was asked to participate. The U.S. must reconsider this issue. For instance, within the U.S. government there is no agreement that the group should even be invited for

discussions with U.S. officials. The U.S. position should be to fully participate in any dialogue concerning these new security arrangements.

Before the U.S. can seriously debate the issue of collective security vis-a-vis defense policy, it must come to some sort of agreement on how far it is willing to go. The thought of formal Article 43 agreements are perfectly blasphemous to some and some even advocate repeal of the UN Participation Act passed some 48 years ago. Regardless of how the role of preventive diplomacy and peacekeeping will be settled in the future, the fact remains that the UN has a wide variety of powers that can be put to use if the states show political creativity or reach an agreement to use them.¹²

1. Donald M. Snow Peacekeeping, Peacemaking and Peace-Enforcement: The U.S. Role in the New International Order. (Carlisle Barracks, PA: US Army War College, Strategic Studies Institute, February 1993) p. 2

2. Donald M. Snow Peacekeeping, Peacemaking and Peace-Enforcement: The U.S. Role in the New International Order. (Carlisle Barracks, PA: US Army War College, Strategic Studies Institute, February 1993) p. 2

3. Jarat Chopra and Thomas G. Weiss, "Sovereignty Is No Longer Sacrosanct: Codifying Humanitarian Intervention." Ethics and International Affairs, Vol.6 (New York: Carnegie Council on Ethics and International Affairs, 1992) p. 116.

4. Augustus R. Norton and Thomas G. Weiss Headline Series #292, UN Peacekeepers: Soldiers With A Difference. (New York: Foreign Policy Association, Spring 1990) p. 9

5. Stanley K. Platt, "Challenge and Response: U.N. Charter Amendments for a Safer and Better World." (Minneapolis, MN: World Federalist Association, February 1993) DRAFT photocopy
6. Leland M. Goodrich, Edvard Hambro and Anne Patricia Simons. Charter of the United Nations, Commentary and Documents, 3rd ed. (New York: Columbia University Press, 1969) p.317-318
7. Joseph P. Lorenz "The Case for Collective Security" in Two Views on the Issue of Collective Security, A Report in a series on Post-Gulf War Challenges to the UN Collective Security System, by the Special Middle East Program in Peacemaking and Conflict Resolution, by the United States Institute of Peace. (Washington: United States Institute of Peace, 1992) p. 24
8. Richard N. Gardner "Collective Security and the "New World Order": What Role for the United Nations?" in Two Views on the Issue of Collective Security, US Institute of Peace (Washington: U S Institute of Peace, 1992) p.9
9. Ibid., p. 10.
10. Ibid., p. 11.
11. Ibid., p.11.
12. Albert Legault and others, The State of the United Nations: 1992, Reports and Papers No. 3 (Providence, RI: Academic Council on the United Nations System, Watson Institute, Brown University, 1992) p. 19

CHAPTER III

CONSTITUTIONAL AND LEGISLATIVE ISSUES REGARDING U.S. PARTICIPATION IN UN MILITARY OPERATIONS

One of the primary issues regarding U.S. support of measures to strengthen the United Nations ability to enforce Security Council decisions by military action is the issue of constitutionality. This issue involves consideration of various laws which effect the ability of the President to deploy armed forces for combat. The UN Participation Act of 1945, the War Powers Resolution of 1973, and the proposed Senate Joint Resolution 325, also known as the Collective Security Participation Resolution, will all effect U.S. policy. The latter legislation is of concern because this is the first time the United States is debating the issues of actually complying with provisions of the UN Participation Act. This legislation would allow the Department of Defense to designate units specifically tasked to participate in UN-sponsored military operations and would allow those forces to be placed under UN command and control. In other cases, notably Korea and most recently Kuwait, the U.S. acted as executive agent for the UN (although it must be noted that the United States is not mentioned anywhere in the UN resolutions concerning Kuwait) and led a multinational coalition.

There are many questions to consider; Primarily, will this affect U.S. sovereignty? Also, will this action subvert the authority of the President as Commander-In-Chief or the Congress in its position to advise or declare war? Another question that

arises is that if these forces are under UN control, who has the final authority over these troops?

The United Nations Participation Act of 1945

This legislation was controversial even when originally drafted. The true spirit of the debate was captured in the summary notes from the Congressional History:¹

UN Participation. The fear that agreements under Article 43 would deprive Congress of its Constitutional authority to declare war was voiced again during debate on a measure (S 1580 to implement U.S. Membership in the UN. As reported to the Senate Nov. 6, the bill provided that any agreement to furnish troops must be approved by a majority of the Senate and House, after which the President would have the power to order them into action. Sens. Wheeler, Forrest Donnell (R Mo.) and Robert A. Taft (R Ohio) led the attack on the bill during debate Nov. 26-Dec. 4, but to no avail. Amendments rejected by the Senate included those by Donnell, to require approval of troop agreements by a two-thirds vote of the Senate, 14-57; by Wheeler, to require Congressional approval of the use of troops in each "specific case in which the Council proposes to take action," 9-65; and by Taft, to require the U.S. representative to refuse to vote in any dispute unless the Security Council decision was in accord with international justice and well as international peace and security," 18-40. The Senate passed S 1580 Dec. 4, 67-7, with Wheeler and six Republicans opposed. The House passed a slightly amended version Dec. 18, 344-15, with 14 Republicans and Merlin Hull (P Wis.) opposed, and conference report was approved by voice votes Dec. 19. As enacted, S 1580 provided for Senate confirmation of the U.S. representative to the Security Council, five delegates to the General Assembly, and delegates to other UN agencies; authorized the President to take the necessary action to impose economic sanctions voted by the Council, and to deploy troops pursuant to agreements approved by Congress; and authorized payments of the U.S. share of UN expenses (PL 79-264).²

The text of the United Nations Participation Act of 1945 is contained in the United States Code, Volume Nine, Title 22-Foreign

Relations and Intercourse, Section 287d.

§ 287d. Use of armed forces; limitations

The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act. or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general location, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with Article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreements or agreements the armed forces, facilities, or assistance provided for therein: Provided, That, except as authorized in Section 287d-1 of this title, nothing herein contained in shall be construed as an authorization to the President by the Congress to make available to the Security Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities and assistance provided for in such special agreement or agreements.

Section 287d-1 is an amendment drafted in 1949 which authorized the President to deploy not more than 1000 troops in support of UN actions which are specifically directed under Chapter VI of the UN Charter. Actual deployment of forces under Chapter VI does not require further authorization from the Congress.

Of primary interest in this entire debate is the assignment of U.S. forces to UN command under provisions of Article 43 of Chapter VII of the UN Charter. In a Senate hearing on this issue Professor Louis Henkin, Professor Emeritus, Columbia University School of Law, made some important points:

1. The UN Charter is a treaty of the United States. Having been properly ratified it has become law of the United States, the law of the land.

2. By adhering to the Charter, the United States, equally with other member states, assumed important legal obligations, above all, of course, the obligation not to attack other States except in self-defense if an armed attack occurs.

3. By adhering to the Charter, member states have conferred upon the Security Council, "primary responsibility for the maintenance of international peace and security" and have agreed to accept the decisions of the Security Council when acting in accordance with the Charter.

4. All members of the United Nations have agreed to accept and carry out the decisions of the Security Council under the present Charter. Decisions are mandatory and legally binding. Recommendations from the Security Council are not legally binding, but entitled to great weight.

5. The principle obligations of a member is derived from chapter VII of the Charter. There are four main articles of interest--articles 39, 41, 42, and 43.

6. Under article 39, the Council decides if there is a breach of the peace, threat to the peace, or act of aggression. Article 41 provides that the Security Council may decide on what measures not involving the use of armed force are to be employed. Article 42 provides that the Security Council may take such action by air, land and sea forces as may be necessary. Article 43 requires member states to make available to the Security Council armed forces when called for by the Council and in accordance with special agreement or agreements.³

In summary, a determination of a threat to the peace by the Security Council is binding on all members. Since Article 43 is

the crux of the current debate, Professor Henkin states that in his view, Article 43 is mandatory. Article 43 creates a legal obligation for states to negotiate such agreements on the initiative of the Security Council as soon as possible. The failure to do so to date has not removed the obligation. The promise of a new world order now makes it possible to envisage the UN functioning as originally intended.⁴ As discussed previously, the U.S. is obligated to conclude Article 43 agreements, but the article itself stipulates that such agreements be ratified by the signatory states in accordance with their respective constitutional processes.

The United Nations Participation Act expressly authorizes the President to carry out an agreement concluded between the United States and the Security Council to make forces covered by the agreement available to the Security Council. Congress thereby authorized the President to designate U.S. military contingents, pursuant to Article 43, for action by the Security Council without requiring further congressional approval.⁵ It should be noted that this legislation only provided for deployment of 1000 troops and then only under provisions of Chapter VI of the Charter.

The War Powers Resolution of 1973

Short Title

Section 1. This joint resolution may be cited as the "War Powers Resolution."

Purpose and Policy

Sec. 2. (a) It is the purpose of this joint resolution

to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgement of both the Congress and the President will apply to the introduction of United States Armed forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under Article I, Section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States armed forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

Consultation

Sec. 2. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.⁶

One of the questions concerning the UN Participation Act is whether or not it has been superseded by the War Powers Resolution. In the War Powers Resolution, the Congress denied that the President had the authority to introduce troops into combat situations without Congressional authority. A President may argue that the authorization granted by the UN Participation Act pursuant to article 43 agreements already provided the authorization called for by the War Powers Resolution. It appears that presidents have

regarded the War Powers Resolution as an unconstitutional effort to control the acts of the President as Commander-in-Chief. In providing U.S. forces for the Multinational Force Observers in the Sinai and the Peacekeeping Force in Beirut, President Reagan, for political reasons only, complied with Section 4 (a)(2) of the resolution. To date, no U.S. President has actually conformed to the requirements of the resolution. This section required that he report in writing the purpose of the deployments. Congress later passed resolutions supporting the President's actions. In both of these situations, it was not intended for U.S. forces to become actively involved in combat, but they were equipped for combat and capable of offensive operations.⁷ Many experts in constitutional law agree that the War Powers Resolution can be interpreted in two ways: (1) requiring Congressional approval prior to deployment of troops for any reason and (2) already preauthorizing the President to act under Article 43 of the UN Charter. The object in concluding any Article 43 agreements between the United States and the Security Council is to affirm again the President's authority to make those forces available without new authorization from Congress.⁸

1. Congress and the Nation, 1945-1964; A Review of Government and Politics in the Postwar Years. (Washington: Congressional Quarterly Service, 1969) pp. 97-98.

2. Ibid.

3. U.S. Congress. Senate. Committee on Foreign Relations, Arming The United Nations Security Council-The Collective Security Participation Resolution, S.J. Res. 325. Hearings (Washington: U.S. Govt. Printing Off., 1992) pp. 20-21.

4. Ibid., p. 21.

5. Ibid., p. 23.

6. Public Law 93-148 [H.J. Res. 542], 87 Stat. 555, 50 U.S.C. 1541-1548, passed over President's Veto November 7, 1973.

7. Robert F. Turner The War Powers Resolution: Its Implementation In Theory and Practice. (Philadelphia: Foreign Policy Research Institute, 1983) pp. 80-81.

8. U.S. Congress. Senate. Committee on Foreign Affairs. Collective Security Participation Resolution. pp.27-28.

CHAPTER IV

THE COLLECTIVE SECURITY PARTICIPATION RESOLUTION, S.J. 325

Article 43 of the UN Charter provides a mechanism for the Security Council to enforce mandates through the use of military force. It specifically requires member states to dedicate armed forces for the maintenance of international peace and security. The 1945 U.N. Participation Act provides a statutory basis for U.S. participation in such forces; and under that act, the Congress must approve agreements negotiated with the Security Council. The War Powers Resolution requires the President to seek consultation and approval of the Congress before introducing U.S. armed forces into combat. An argument can be made that the UN Participation Act already fulfills the requirements of the War Powers Act. Some clarification may be in order before the U.S. enters any formal Article 43 agreements. The Collective Security Participation Resolution would provide that clarification. It would preauthorize the dedication of U.S. military units for duty with the United Nations.¹

The most important section of this proposed legislation is section three which reads as follows;

Senate Joint Resolution 325

SEC. 3. AGREEMENT AND ACTION UNDER ARTICLE 43 OF THE UNITED NATIONS CHARTER.

(a) **NEGOTIATION OF AGREEMENT.**-Congress urges the President to take all appropriate steps to negotiate under Article 43 of the United Nations Charter "a special agreement or agreements" with equitable terms under which dedicated forces from

various countries, including the United States would be "available to the Security Council . . . for the purpose of maintaining international peace and security."

(b) **CONGRESSIONAL ROLE.**- In recognition of the importance of an Article 43 agreement to the United States national security interests, Congress--

(1) urges the President to consult with the foreign affairs and defense committees of the Congress in the course of negotiating an Article 43 agreement;

(2) expresses its intent to give prompt consideration to any such agreement negotiated under Article 43 of the Charter.

(c) **AUTHORIZATION TO USE FORCE PURSUANT TO ARTICLE 43.** Congress affirms the principle that, upon congressional approval of a United States agreement under Article 43 of the Charter, the President shall be authorized to direct that the United States Armed Forces designated in such agreement be employed as may be necessary to support decisions of the United Nations Security Council.²

The new world order has required a rethinking of global security issues. There are apt to be more Somalias, Saddam Husseins, and more Bosnia-Hercegovinas. A collective security system may be the best way to handle these new threats to international peace and security. There are three options available to the United States in this new order:

(1) We can become the world's policeman, this option is unwise and unpalatable to both U.S. citizens and citizens of the world.

(2) We can do nothing; however, our status as world superpower does not give us an option of practicing isolationism.

(3) We can encourage collective security efforts that make the United Nations the world's policeman. The U.S. can assume a role of partner or first among equals in the UN.

This legislation could provide the emphasis needed to empower the UN to aggressively tackle the problems which another Bosnia-Herzegovina, Somalia and others may present to the international community. In addition, this alternative is potentially far less costly than any other options, both in terms of money and American casualties. If the U.S. is to continue to be the world leader, we must seize any opportunity to take the initiative and explore new ideas. If the U.S. encourages other member states to sign article 43 agreements, the goal of fair and realistic burden sharing will be realized. This effort can formalize swift, multinational decision and response.³

Senator Joseph Biden is the sponsor of this legislation and he makes an important point when discussing entrusting U.S. security to other interests.

It does not mean the entrusting of American security--or the entrusting of American troops--to a collective body of questionable reliability. The assignment of U.S. and other forces to the United Nations means that only specifically designated troop units are committed, first, to participate in advance planning for coordinated use, and second, to be available for action pursuant to a UN Security Council decision to which the United States itself must be a party.⁴

The object of this legislation is not to increase the possibility of American casualties in combat. It can have the exact opposite effect. The resolution will encourage multilateral defense mechanisms which can be used reliably without depending entirely on U.S. Armed Forces. It probably can remove the dilemma where force is required but not used unless American forces deploy and carry most of the load in a multilateral force.

This act would encourage fair burden sharing. Collective military action could become a reality and forces could respond quickly. This measure will enhance world security without detracting from our ability to act unilaterally if necessary.

The new world order deserves a chance to succeed. Continual reliance on ad hoc, military security arrangements for UN actions is unwise and unnecessary. The United States is a member of the Security Council. If at any time the use of force appears to work against U.S. interests, we still have the veto power. There should be little concern about the loss of U.S. sovereignty. The U.S. can help in drafting the qualifications of forces participating in this UN force. The details of actual arrangements should be worked out by the Departments of Defense and State and the Security Council.

Senator Biden stated in his address to the Congress:

In strengthening the institutions of collective security, a well-negotiated article 43 agreement would help move the world beyond the current expectation that effective military action will be taken only with American forces in the lead. By enacting the collective security participation resolution, Congress would affirm its support for a sound article 43 agreement as integral to a serious American agenda for a new world order.⁵

This legislation is currently still in the Joint Committee process. It currently enjoys the support of senior Democratic members of the Senate and House, notably Senators Simon (D-IN) and Senator Boren (D-OK). The resolution has not been brought up for a vote as of yet. The present administration has not fully articulated its position on the bill, but campaign speeches by President Clinton indicate that he would support such a bill. The

current political climate in Washington suggest that the administration wants to concentrate on the economic package before working on any new projects.

1. U.S. Congress. Senate. Committee on Foreign Relations, Arming The United Nations Security Council-The Collective Security Participation Resolution, S.J. Res. 325. Hearings. (Washington: U.S. Govt. Printing Off., 1992) pp.1-2

2. "Collective Security Participation Resolution," Congressional Record, 2 July 1992, p. S9855.

3. Ibid., p. S9853.

4. Ibid., p. S9854.

5. Ibid.

CHAPTER V

COLLECTIVE SECURITY WILL BE EFFECTIVE IF THE UN TAKES THESE ACTIONS

International support for UN peacekeeping appears at a all-time high. This is symbolized by the awarding of the 1988 Nobel Peace Prize to the "Blue Helmets" of the UN. In addition to its recent successes in helping to create the preconditions for settlements in Afghanistan, the Persian Gulf, Angola, Namibia and Central America, the UN stands poised to play a leading part in ending the 20-year civil war in Cambodia. Plans are also under way for a UN-sponsored plebiscite in the Western Sahara. Even the Cyprus dispute, which has dogged the UN for a quarter of a century, may yet be resolved despite the present stalemate. Partly as a result of U.S. pressure, the organization instituted budgetary reforms and, lately, has managed to mitigate bloc politics, particularly the North-South and East-West confrontations that marred its earlier years.

However, it is time for Washington to undertake new policy initiatives at the UN. U.S. policymakers should focus on two types of issues: policies necessary to improve traditional peacekeeping operations in the immediate future, and institutional innovations that would enable the UN to expand its operations to meet new challenges in the 1990s and beyond.

The traditional model of peacekeeping has worked well when parties to a conflict allow the interposition of neutral forces under international control. But unless the United States

cooperates in urgently addressing three unresolved peacekeeping problems--financing, management and peace-enforcement-- the current euphoria surrounding the UN as a critical element in the quest for international peace and security could quickly turn into disenchantment.¹

One of the key reasons for lack of US participation in peacekeeping operations prior to this point and a key element in resistance to entering Article 43 agreements is the inability of the UN to manage a Standby or Standing Force. The U.S. can provide a great service to the UN by assisting in the development of training facilities for UN forces. The United Nations is keenly aware of the need to train all levels of peacekeeping troops. This commitment to training of forces could be the first step in reducing the anxiety Americans have about placing U.S. troops under the command of foreign officers.

The policy should be to begin training for involvement in the so-called second generation operations. These operations are very specialized. Providing humanitarian assistance, supporting UN sponsored elections, or disarming rival factions calls for highly qualified officers and troops. The U.S. commitment to the UN's multinational military planning and operations would complement, not undercut, its current military obligations--both multilateral (to NATO and other alliances) and unilateral (for its own defense). There is no disagreement that the U.S. must maintain a capability to act unilaterally in the event that allies are unwilling or unable to assist in a crisis. Although ideally the UN would handle

world crises, the experience in Bosnia-Herzegovina illustrates that even under the best of intentions it is not always possible to find a quick solution. However, there is no contradiction in the same units being trained and ready for action in any traditional peacekeeping or second generation operation.²

At least for the foreseeable future, forces trained in the NATO structure may well form the core of almost any major multilateral enforcement operation under UN auspices. The 1991 operation against Iraq provides a telling example. For all the support provided by the many other nations in the multinational effort, the most critical military action was undertaken by those coalition partners whose forces had been trained in or were otherwise associated with NATO military procedures. It is simply a fact that the forces of NATO's member states--which includes many of the world's most advanced economies--are among the best equipped and technologically adept in the world. They also have had the inestimable advantage of 40 years experience in developing a multinational operating capability--a common set of procedures and terms for military communications, shared information systems, common logistics and intelligence, an integrated command, mutually compatible military doctrine, and interoperable equipment.³

Such compatible systems are the essential ingredient of an efficient military force that transcends national lines, and what is required to develop them is common training. Taking NATO's experience in the past half-century as a guide, an effective UN enforcement capability for the 21st century will require a

considerable commitment to planning at all command levels. However, unlike the NATO of the Cold War, UN enforcement forces have no particular foe or scenario against which specific contingency plans can be formulated and training tailored; they will have to plan for and train to counter unknown adversaries.⁴

Many experienced military officers see a NATO-like organization as being the only workable method for establishing procedures for a permanent UN military force planning and training staff. The UN, with the help of the U.S., should develop a NATO-type system of pre-identified forces that train together. This force could train at regional bases. Officers could be required to conduct regular training at various sites around the world and staffs could be linked by electronic means to practice wargaming and CPXs (command post exercises). This will be absolutely essential if this rapidly deployable force is to work smoothly once activated. Rigorous training exercises are needed to produce a multinational, rapid-deployment force whose several national elements can be instantly integrated. Such training would ingrain in the personnel of all predesignated national units the same clear doctrine on command and engagement.

Training is an especially urgent requirement for the development of effective partners among the military forces of Third World countries. In very few developing countries is the standard of training of sufficient rigor to produce a reliable fighting force on which their partners might confidently rely. For reasons of both politics and practicality, UN authorized military

options in Third World nations should contain forces from the region whenever possible. It is essential that the UN enforcement forces include militarily credible components from countries in the developing world. In areas where sensitivity about the colonial past is still keen, an international force composed of mostly of Europeans and Americans may arouse suspicion and antagonism, even if it flies the UN flag.⁵

Those missions which will involve so-called second generation operations will require troops with specialized training beyond that of troops engaged in traditional peacekeeping. These troops will need more offensive capability and more political sophistication to recognize potential ramifications of their actions. These forces may have to fight their way into the combat zone and, in some cases, use force to physically separate the combatants. Thus, they will be called upon to engage in offensive actions where miscalculations can worsen the situation. Moreover, they will likely inflict and suffer casualties, possibly making them less welcome and undercutting domestic support back home for their activities.⁶

Another benefit of joint training with UN units is the training that U.S. Armed Forces would receive. It is a fact that U.S. forces, particularly ground forces, do not have an overabundance of experience in peacekeeping operations, which require conducting business in a fundamentally different way. Thus, a humanitarian intervention operation or a Bosnia-like scenario will require different training.

Because of their heavily political emphasis, these situations will require considerable "interagency cooperation" within the Executive branch of government. This cooperation will be necessary to coordinate the activities of non-military government agencies, such as the Drug Enforcement Agency or the US Information Agency. In addition to those activities, coordination between military and civilian NGO's (non-government organizations, e.g., the Red Cross or Red Crescent, CARE, etc.) will be necessary. Direct cooperation between the Departments of Defense and State will be required. Thus, entering these second generation operations will require, at the very minimum, some level of national and international, joint interoperability.⁷ Using the current difficulties in achieving jointness among U.S. forces as an example, imagine the problems associated with fielding a large international force. Another area of concern in the United States is the ability of the United Nations to effectively command a large force in the field, especially if the operation is in a hostile environment. The issue of command and control is a serious one and the UN is beginning to devote the proper time and effort to remedy the problem. The establishment of designated, multilateral forces available to the Security Council for crisis management and enforcement will require the development of a continuous United Nations military command with appropriate planning staff.

There are many proposals for revitalizing the military staff capabilities of the UN. Two proposals are either to establish a NATO-like command structure or to completely reorganize the UN

Military Staff Committee. Although there is much concern about any action which may require a re-writing of the Charter, this reluctance will have to be overcome if the UN is to maintain its credibility. The benefits outweigh the inconvenience of trying to get 181 nations to agree on the changes.

Although the Security Council's role is vital, it is the Office of the Secretary-General that is the key to success in traditional peacekeeping. The Office of the Secretary-General is requested by the Security Council to plan, prepare and conduct peacekeeping operations. Many branches of the Secretariat are involved in these tasks, including the political, legal, administrative, human resources, logistics, and public information branches.⁸ The Secretary-General's key staff aide is the Under-Secretary-General for Peacekeeping Affairs (USGPA). The USGPA is part of an integrated team within the Secretariat dealing with peace processes, such as peacemaking through negotiations and peacebuilding through nation-building (as in the cases of Namibia and Cambodia respectively). This arrangement enables the USGPA to remain informed about overall peacekeeping operations and contribute its expertise to the decision-making process. The office has responsibility for the overall management of peacekeeping operations. The Secretary General has a staff to manage peacekeeping: the USGPA, the military advisor to the Secretary General, and the Field Operations Division (FOD) of the General Services. These three elements fulfill three functions: political (the USGPA); military (the military advisor), and

administrative (FOD).⁹

The current arrangement is unwieldy and cannot keep up with the wide variety of peacekeeping operations now in force. Major General Rikhye, former military advisor to UN Secretary-General Dag Hammarskjold and widely recognized as one of the world's foremost experts on peacekeeping operations, has proposed a reorganization of the UN staff responsible for peacekeeping operations. General Rikhye's proposal is to establish a staff which is more military in its organization. The Field Operations Division usually appointed military officers with the expertise they required to provide services needed in the field. In his opinion, this is a poor substitute for a well-organized staff that includes technical specialists (e.g. logisticians). This military staff should work together as a single team and report to one senior military staff officer, who in turn reports to the Secretary-General. If other ideas are not forthcoming, the U.S. should consider full implementation of his recommendations as a condition for further U.S. participation in U.N. military operations.

There are currently 60,000 peacekeepers in the field carrying out 13 operations stretching from El Salvador to Angola to the former Yugoslavia to Cambodia. Costing \$2.8 billion the UN has recognized the need for a sweeping overhaul of how it runs these operations. The goal is the development of a 24-hour-a-day operations center. This operations center will have secure voice and data communications with peacekeeping operations around the world. There are also efforts to improve intelligence support to

UN field commanders. Most of this support will probably come from the United States.¹⁰

In order for the United Nations to continue to enjoy the support it now receives, it must continue to actively seek new ways to be more effective. There is no question that the support of the world's last superpower is needed to accomplish this goal.

1. Augustus R. Norton and Thomas G. Weiss, Headline Series #292, UN Peacekeepers: Soldiers With A Difference. (New York: Foreign Policy Association, Spring 1990) p. 22.

2. Partners for Peace, Strengthening Collective Security for the 21st Century. A Report of the Global Policy Project by R. James Woolsey, Chairman. (New York: United Nations Association of the United States of America, 1992) p. 34.

3. Ibid., p. 34.

4. Ibid., p. 35.

5. Ibid., p. 35.

6. Donald M. Snow Peacekeeping, Peacemaking and Peace-Enforcement: The U.S. Role In the New International Order. (Carlisle Barracks, PA: U.S. Army War College, Strategic Studies Institute, February 1993) p. 17.

7. Ibid., p. 34.

8. Indarjit Rikhye Strengthening UN Peacekeeping, New Challenges and Proposals. (Washington: United States Institute of Peace, 1992) p. 37.

9. Ibid., p. 38.

10. Paul Lewis. "U.N. Is Developing Control Center to Coordinate Growing Peacekeeping Role," The New York Times, 28 March 1993, p. 10:1-6.

CHAPTER VI

US DEFENSE POLICY AND COLLECTIVE SECURITY

On May 1, 1993 the United States reached an important point in our nation's national defense strategy. On that day 5,000 U.S. troops were under UN command authority in Somalia. For the past forty years of the Cold War, the U.S. has been extremely reluctant to put U.S. troops under anything but, U.S. command authority for any reason. The current world situation is requiring that America seriously reconsider our national military strategy. We cannot afford to be the world's only enforcement mechanism.

The new relations between the United States and the former Soviet Union have placed the UN Security Council in the position of being able to carry out mandates for the settlement of disputes. In the past, polarization prevented the UN from achieving any concrete goals if either the U.S. or the former Soviet Union was dissatisfied. This is emphasized by the number of peacekeeping missions now in force. In fact, the UN has had more peacekeeping operations in force during the last five years than it did in the previous 40 years. There are currently 60,000 UN peacekeepers and the number is expected to increase during the next few years.¹

The National Security Strategy

Former President George Bush said that the new world order is not a fact, it is an aspiration and an opportunity. The opportunity is to build a new international system in accordance with our own values and ideas.²

The current strategy list as one of our primary objectives in the 1990's is to maintain; "Healthy, cooperative and politically vigorous relations with allies and friendly nations. To build and sustain such relationships, we seek to:

- strengthen international institutions like the United Nations to make them more effective in promoting peace, world order and political, economic and social progress;

- establish a more balanced partnership with our allies and a greater sharing of global leadership and responsibilities..."³

As more Americans begin to think in terms of global collective security the military will also have to think in those terms. The military must consider what effect this might have on future roles and missions.

There is no dispute over the fact that the U.S. should remain prepared to carry out military missions unilaterally when required. However there is widespread opinion that in the future U.S. national interests will coincide with international interests. These interests will be better served, if they are conducted through collective security measures in which the U.S. takes part. This will gain full authority, respect and cooperation from the international community.

A recent Roper poll conducted on behalf of the UN Association of the US (UNA-USA) indicated that most Americans approve of efforts to strengthen the UN. Eighty percent of respondents indicated in the event of future problems involving aggression the UN should take the lead. Fifty-five percent thought that in conflicts among countries which the U.S. has an interest, the U.S.

should use its forces to support UN forces in settling the dispute.
(Table 1)

The National Military Strategy of the United States

One of the strategic principles of the national military strategy is the principle of collective security. Increasingly, we expect to strengthen world response to crises through multilateral operations under the auspices of international security organizations. In the 1991 Gulf War, the United Nations played a role envisioned by its founders--orchestrating and sanctioning collective resistance to an aggressor. The new international order will be characterized by a growing consensus that force cannot be used to settle disputes and when the consensus is broken, the burdens and responsibilities are shared by many nations.

While support of formal alliances such as NATO will continue to be fundamental to American military strategy, the United States must be prepared to fight as part of an ad hoc coalition if we become involved in conflict where no formal security relationships exist. We must also retain the capability to operate independently, as our interests dictate.⁴

To support the above principle the Defense Department has embarked on several initiatives to support the United Nations. A National Security Directive signed on 25 November 1992 provides for several actions;

- Supports infrastructure to allow more rapid/better planned responses

- Directs policy of civilian and military multilateral assistance

-Support Secretary-General Boutros-Ghali's "Agenda for Peace" by;

1. Specify forces or capabilities available on short notice
2. Creating enhanced UN peacekeeping planning staff
3. Creating a modern communications and information center for UN Headquarters
4. Improving fiscal management of UN operations
5. Creating a UN Training Center⁵

Supporting a collective security agreement with the U.N. can only enhance our national security. Polls show that the American people are basically for these ideas, however, many may not fully understand the ramifications of them. Leaders in both branches of the government must help get the message out. The U.S. government must tie the issue of collective security in with the "domestic imperative." Fiscal constraints require that the United States look at all means at its disposal to insure world stability. The domestic imperative is here.

In an article entitled "The Primacy of the Domestic Agenda" by Peter G. Peterson and James K. Sebenius an important proposition was put forth:

"Proposition I. After four decades of the cold war, failure to make progress on a "domestic agenda" now threatens America's long-term national security more than external military threats that have traditionally preoccupied security and foreign policy. While the world remains a dangerous place requiring us to maintain military strength,

our failure to invest in productive capacity, research and development R&D, and infrastructure: the crisis in American education; the exploding underclass, and other domestic problems may have greater direct domestic impact on "the United States as a free society with its fundamental institutions and values intact" than the threats from abroad, such as the possibility of Soviet nuclear attack, which have traditionally occupied the national security community. Moreover, continued failure to address these domestic priorities may entail a progressive loss of both political will and economic capacity to take actions abroad that promote our real national security interests."⁶

The United States must continue its role of world leadership. Domestic concerns only emphasize the fact that to be secure we must have confidence in all measures which provide for the protection of the U. S. In order to have that confidence we must ensure that we participate in any effort to make the world a more secure place for all.

1. Michael W. Sonnenfeldt, "Collaborative Peacekeeping," The Wall Street Journal, 22 April 1993, p. 19:1-2

2. U.S. President, Policy Statement, "A New World Order," National Security Strategy of the United States, August 1991, (Washington: The White House) p. v.

3. Ibid., p.3.

4. U.S. Dept. of Defense, National Military Strategy of the United States (Washington: January 1992) pp. 8-9.

5. National Security Directive, Number 74, signed 25 November 1992, The White House , Washington, DC

6. Peter G. Peterson and James K. Sebenius, "The Primacy of the Domestic Agenda," Graham Allison and Gregory F. Treverton eds., Rethinking America's Security: Beyond Cold War to New World Order (New York: W.W. Norton, 1992)

TABLE 1

Public Opinion on Collective Security

American public opinion appears to be favorable to strengthening the capabilities of the United Nations in dealing with conflicts elsewhere in the world, judging by recent opinion research:

When faced with future problems involving aggression, who should take the lead--the United States or the United Nations?

United States	United Nations
17%	80%

Source: Greenburg-Lake, Inc., June 1991, for Americans Talk Issues

When there are conflicts among other countries where the United States has an interest, should the United States be prepared to use U.S. forces so that conflicts are resolved the way we think they ought to be, or should we support use of United Nations forces so that they are resolved in a way that tries to accomodate all sides?

U.S. Forces	U.N. Forces	Depends*	Don't Know
18%	55%	19%	8%

* Volunteered answer; choice not offered

Should U.N. member countries, including the United States, make standing commitments to provide military units to the United Nations for use as a U.N. force, if the force is needed to deal with a serious armed conflict, or should individual countries decide on a case-by-case basis whether to send troops when the U.N. calls for them?

Standing Commitments	Individual Case-by-Case	Don't Know
42%	45%	14%

Sometimes countries have internal conflicts that cause massive sufferings and death to many civilians. Some people say that, in such a situation, the outside world should step in--with force if necessary--even against the wishes of the country's government to restore order and to help the civilians. Others worry that a lot of countries have such problems and say that outsiders should not interfere in a country's internal affairs.

A. In a case of such internal violence, should the United Nations have the right to step in and restore order, or not?

U.N. Should	U.N. Should Not	Don't Know
58%	28%	14%

B. What if the U.N. member countries can't agree--should individual countries, such as the United States, have the right to step into the conflict to restore order, or not?

Countries/U.S. Should	Countries/U.S. Should Not	Don't Know
37%	45%	18%

Source: Roper Organization, March 1992

Reprinted from Partners for Peace, Strengthening Collective Security for the 21st Century. A report of the Global Policy Project by R. James Woolsey, Chairman. New York: United Nations Association of the United States of America, 1992

CHAPTER VII

CONCLUSIONS

In this paper I have discussed the issue of collective security and the defense policies of the United States. The focus of this research has been on two main areas: (1) To help define U.S. defense policy for the 1990's and beyond is it necessary to codify the unwritten Chapter 6½ of the United Nations Charter? (2) Is it in the best interests of the United States to formally enter article 43 agreements with the UN Security Council?

In an article written last summer, author Richard N. Gardner suggested that the United States engage in what he called "Practical Internationalism." He argued that the statement "foreign policy begins at home" is a powerful inducement to look inward. While concluding that the U.S. cannot be a world leader with a stagnant economy and a disintegrating social structure, he recognized that many domestic policy issues have their basis in activities abroad, therefore, the United States must continue to be actively engaged worldwide.¹ Consider the following arguments for continued engagement:

1. Measures to prevent aggression and bring stability to the Middle East help assure access to oil supplies essential to our economy.
2. Trade negotiations to open foreign markets ensure export of American goods and services, thus keeping Americans at work.
3. Agreement to curb proliferation of weapons of mass destruction may keep them from being aimed at our nation.

Political and economic realities compel nations to think in terms of cost-sharing and decision-sharing when it comes to matters of collective security.² The United States and its principal partners recognized that a new era was opening for the UN when they stated at the G-7 London Summit in July 1992:

We believe the conditions now exist for the United Nations to fulfill completely the promise and vision of its founders. A revitalized United Nations will have a central role in strengthening the international order. We commit ourselves to making the UN stronger, more efficient and more effective in order to protect human rights, to maintain peace and security for all and to deter aggression. We will make preventive security a top priority to help avert future conflicts by making clear to potential aggressors the consequences of their actions. The UN's role in peacekeeping should be reinforced and we are prepared to do this strongly.³

In view of the reasons discussed above, several conclusions can be drawn about United States support of increased collective security efforts by the United Nations:

(1) It is in the best interests of the United States to support collective security efforts through the United Nations Security Council.

(2) The United States is the world's only remaining superpower, however, political and economic realities in the U.S. mandate increased burden sharing. The American public and international opinion do not support a world policeman role for the U.S.

(3) Increased burden sharing for collective security

measures are necessary if the "domestic imperative" is to be in the forefront of U.S. government policy into the next century.

(4) If the United States is to retain its world leader status it must take the initiative in negotiating new arrangements.

(5) This is the proper time to consider entrance into formal Article 43 agreements with the United Nations Security Council.

(6) The United Nations Participation Act of 1945 and the War Powers Resolution of 1974 are not impediments to negotiation of a formal agreement.

(7) Before negotiation of an Article 43 agreement, the United States must actively pursue codification of a Chapter 6½ of the United Nations Charter. Doing so will provide guidelines to prevent the UN from overstepping its authority with regard to the maintenance of international peace and security. Although the Secretary General argues that the concepts of national sovereignty are becoming outdated, the international community is not prepared to provide the Security Council unfettered authority to interfere in a sovereign nations right to govern. Chapter 6½ will establish limits on that authority and ensure that interventions occur only for humanitarian reasons. This will

ensure that an Article 43 agreement negotiated with the Security Council maintains U.S. interests.

(8) Taking these initiatives will ensure the United States' leadership position for years to come. It will increase our international status while providing resources to continue domestic imperatives.

(9) Entrance into these agreements will not in any fashion interfere with our ability to act unilaterally if necessary, nor will they diminish U.S. Armed Forces capabilities in any area.

(10) The issue of sovereignty is of no major concern. United States sovereignty is not challenged by these agreements. Any agreement reached with the UN must be ratified by the U.S. Congress and any actions taken by the UN Security Council must have the approval of the U.S. The veto ensures U.S. interests are considered in any action contemplated by the Security Council. The UN Charter itself calls for member states to ratify any agreements reached under Article 43.

(11) There will be increasing situations where U.S. interests cannot be protected without cooperation from other nations. It is essential that the national leadership educate the U.S. public about the need to stay involved in international affairs. This will make the case for collective security

agreements more palatable to all Americans.

1. Richard N. Gardner, "Practical Internationalism: The United States and Collective Security," SAIS Review, Summer-Fall 1992, p. 36.

2. Ibid. , p.37.

3. Ibid., p. 37.

CHAPTER VIII

RECOMMENDATIONS

1. The United States should actively participate in efforts to strengthen United Nations collective security efforts.
2. The above can be accomplished by seeking consensus with other nations to codify Chapter 6½ of the United Nations Charter. This action would provide guidelines to the Security Council in directing actions not covered in Chapters VI and VII.
3. The United States should negotiate an Article 43 agreement with the Security Council when practicable, that is, when the political will exists to do so.
4. This article 43 agreement should only be negotiated after a Chapter 6½ is added to the UN Charter. Additionally, the UN must make those fiscal, managerial and operational improvements necessary to manage such a standby force.
5. The United States should offer assistance to the United Nations in establishing training areas and other facilities necessary to make such a UN Force effective. The initiatives called for in former President George Bush's speech to the UN on 21 September 1992 should be carried out as soon as possible.

6. The United States should include collective security arrangements as part of the national military strategy. This includes making the fiscal changes needed to support collective security efforts.

7. If an article 43 agreement becomes untenable with other member nations, the United States should support a movement to incrementally seek these agreements. There should be a division of labor among the member states. For instance the U.S. could provide logistic and intelligence support, Canada could provide infantry or armor units, the U.K. could provide sealift or combat aircraft. In each situation where the Security Council activates a UN force these nations would provide the same capability each time. Nothing in the agreement would keep a member nation from providing more support in any form if they deemed it necessary.

8. The United States must decide the division of labor concerning peacekeeping operations. Both the Departments of State and Defense have responsibilities in this area. The peacekeeping portfolio could be divided into Chapter VI for State and Chapter 6½ and Chapter VII for the DoD. Some level of coordination between the two departments must exist regardless of the final outcome.

9. Another issue not specifically addressed in great detail in this paper is important to mention. Funds for peacekeeping

operations should be centralized in one account held by either DoD or State. The U.S. must develop a realistic schedule for costs of all (airlift, sealift, personnel, etc.) military services provided to the UN. Voluntary contributions should be kept to a minimum until an agreement is reached concerning U.S. assessment for peacekeeping operations. We can no longer afford to make voluntary contributions and pay 30.4% of the peacekeeping bill.

10. The United States should increase the number of officers working at the UN and in various UN operations. This will establish a cadre of officers who are experienced in the area of international politics and the nuances of working in multilateral arrangements.

11. The U.S. should establish an office to monitor the progress of all collective security issues. This office would coordinate actions of both State and the Pentagon and keep track of money spent, services provided, ongoing projects or requests, and peacekeeping issues under review. (This office is currently being established in the Pentagon.)

12. The United States should maintain the capability to act unilaterally when necessary.

13. When the United States deploys troops in the field under UN control, the U.S. must continue to provide logistical support as

much as possible. Direct intelligence support should also be provided to U.S. forces in addition to that provided by the UN. The goal is to ensure that U.S. forces are not victims of misdirection of critical information. Officers in command of such forces must be trained in analysis. Peacekeeping operations can change quickly, not providing time for consultation in hostile situations.

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