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THE UNITED NATIONS AND REGIONAL ORGANIZATIONS (THE ROLE OF REGIONAL ORGANIZATIONS IN CARRYING OUT PEACEKEEPING OPERATIONS)

by Andrea Gioia

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Contents: 1. Regional groupings of States in the United Nations Charter; 2. The concept of "regional arrangements or agencies"; 3. Regional unions and the peaceful settlement of "local disputes"; 4. Regional unions and "enforcement action"; 5. New aspects of regional action in the field of the maintenance of international peace: "preventive diplomacy", "peace-making", "peace-keeping", and "post-conflict peace-building"; 6. Regional unions and peace-keeping operations; 7. Conclusions.

1. The role of regional systems in the maintenance of international peace and security became a subject of analysis after the end of the First World War, when the first permanent universal organization for peace and security was established: the creation of the League of Nations and, after the Second World War, its replacement with the United Nations Organization inevitably gave rise to the questions of the compatibility and interrelationship of the universal system with existing and future groupings of States.

The Covenant of the League of Nations did not contain express provisions for the coordination of universal and regional action: one reason for this was undoubtedly the original attitude of the framers of the Covenant, who wanted a strong universal organization that would not be weakened by explicit approval of regional arrangements. However, Article 21 of the Covenant provided that: "Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace". Article 21, which was inserted in the vain hope of securing US Senate approval, thus made it clear that "regional understandings" were not incompatible with the Covenant, but, in the absence of more explicit provisions, coordination between the universal system and such "regional understandings" was left entirely to the good will of individual States party to both systems.

The United Nations Charter tries to reconcile regional and universal action in a more explicit way. Its provisions, however, result from a compromise between two competing approaches and, inevitably, present some ambiguities. The so-called "universalist" approach was favoured by, among others, the United States, and was reflected

in the original Dumbarton Oaks Proposals, which advocated a strong universal organization, primarily controlled by the five permanent members of the Security Council, and left little room for regional action. On the other hand, the so-called "regionalist" approach, which was favoured by several other States and, especially, the Latin American and Arab States, clearly emerged at the San Francisco Confgerence. The Latin American States, in particular, wanted to preserve the inter-american system, which had developed since the end of the XIXth Century: their main objectives were, first, to achieve priority for regional agencies with respect to the settlement of disputes, and second, to avoid subordination to the United Nations for fear that the veto right granted to permanent members of the Security Council would in fact prevent regional action.

A somewhat ambiguous compromise between the two approaches is embodied in Chapter VIII of the UN Charter, which is entitled to "regional arrangements", consisting of Articles 52 to 54. Other relevant provisions in the Charter are Articles 24, 33, 43, 48, and 51.

Under Article 24(1), "primary responsibility for the maintenance of international peace and security" is conferred to the UN Security Council. Such "primary responsibility" is, however, not exclusive, and does not preclude, in particular, a role for regional systems. In fact, Article 52(1) states that: "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such asrrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations". Thus the Charter makes it clear that regional systems are not, *per se*, incompatible with the universal system. It does not, however, define "regional arrangements or agencies", nor does it specify what matters are "appropriate for regional action".

As far as coordination between the UN and regional systems is concerned, the Charter specifically deals with two issues: the pacific settlement of disputes, on the one hand, and enforcement action, on the other.

As for the pacific settlement of disputes, Article 52(2) provides that parties to "regional arrangements" and members of "regional agencies" "shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council". For its part, Article 33, in Chapter VI of the UN Charter, lists "resort to regional agencies or arrangements" among the peaceful means which the parties to a dispute are obliged to resort to "first of all". Thus primary jurisdiction for regional systems is apparently recognized. However, Article 52(4) specifies that: " ... [Article 52] in no way impairs the application of Articles 34 and 35", which give authority to the Security Council to "investigate any dispute, or any situation which might lead to international friction or give rise to a dispute" (Article 34), and provide that "any Member of the United Nations may bring ... [such a dispute or situation] to the attention of the Security Council or of the General Assembly"

(Article 35). The interrelationship between the UN and regional systems is further complicated by Article 52(3), providing that: "The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council".

As for enforcement action, Article 53(1) provides, first of all, that: "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority". In this respect, Article 43, which envisaged the conclusion of "special agreements" whereby "armed forces, assistance and facilities ... necessary for the purpose of maintaining international peace and security" would be made available to the Security Council "on its call", specified that such agreements would be concluded "between the Security Council and Members or between the Security Council and groups of States". It is a well-known fact, however, no such "special agreements" have so far been concluded. From a more general piont of view, Article 48(2) provides that: " ... [Decisions of the Security Council for the maintenance of international peace and security] shall be carried out by Members of the United Nations direcltly or through their action in the appropriate international agencies".

But the key provision on the interrelationship between the UN and regional systems, which is also contained in Articler 53(1), is the requirement that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council". Thus the Charter makes it clear that, when it comes to "enforcement action", primary jurisdiction is given to the United Nations. However, no definition of "enforcement action" is given. Moreover, there are two exceptions to the rule: one exception, which is now merely of historical interest, is embodied in the last words in Article 53(1), dealing with "measures against any enemy State"; the other one is embodied in Article 51, dealing with "the inherent right of individual or collective self-defence if an armed attack occurs". Independent regional action must, however, end, in the case of measures taken against an enemy State, when the UN is "charged with the responsibility for preventing further aggression by such a State"; in the case of self-defence, when the Security Council takes the "measures necessary to masintain international peace and security".

The picture is then completed by Article 54, which requires that: "The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenmance of international peace and security".

In conclusion, it seems sufficiently clear that, while recognizing and encouraging regional action in the maintenance of peace, the UN Charter intends to subordinate such action to UN supervision, and, when it comes to enforcement action, to strict UN control. The language used in Chapter VIII, however, is rather ambiguous and, not surprisingly, has given rise to different interpretations both in legal literature and in the practice of States. Additional

difficulties have been created by the development of new concepts in UN practice, which are not expressly covered by the provisions in the Charter: whereas Chapter VIII is based on the distinction between the peaceful settlement of disputes and enforcement action, concepts such as "preventive diplomacy", "peace-making", "peace-keeping" and "post-conflict peace-building" are increasingly used in UN practice and have to be related to the provisions in Chapter VIII.

The purpose of this paper is to try to clarify the legal relationship between the United Nations and regional arrangements in the maintenance of peace. Such a clarification seems to be particularly important now that the role of regional action is being rediscovered in the context of the new international situation that emerged after the end of the so-called "Cold War". An attempt will be made, first of all, to identify the "regional arrangements or agencies" that are covered by Chapter VIII (paragraph 2); secondly, the interrelationship between the universal system and regional systems will be examined in the context of the peaceful settlement of disputes (paragraph 3) and of enforcement action (paragraph 4); finally, an attempt will be made to relate Chapter VIII to the new concepts of preventive diplomacy, peace-making, peace-keeping and peace-building (paragraph 5). Special attention will be devoted, in this context, to peace-keeping operations conducted through regional arrangements (paragraph 6).

2. The first question arising from an interpretation of Chapter VIII relates to the groupings of States to which its provisions refer. Chapter VIII speaks of "regional arrangements or agencies", but does not define the two expressions. Unfortunately, the *travaux préparatoires* do not help clarifying this question.

At the San Francisco Conference, Egypt proposed that regional arrangements should be defined as "organizations of a permanent nature grouping in a given geographical area several countries which, by reason of their proximity, community of interests or cultural, linguistic, historical or spiritual affinities, make themselves jointly responsible for the peaceful settlement of any disputes which may arise . as well as for the safeguarding of their interests and the development of their economic and cultural relations". The proposal was, however, rejected, partly because it was seen as too restrictive, and also for fear of reopening the difficult negotiations which had led to agreement on the provisions of Chapter VIII. No further attempts were, therefore, made to define the concept.

This lack of definition has led to considerable controversy in legal literature as well as in State practice, and has often been considered as one of the factors undermining the operation of Chapter VIII. On the other hand, attempts to restrict, in one way or another, the category of regional arrangements covered by Chapter VIII have been unconvincing.

The first question to be discussed is the meaning of the word "region": it has been rightly pointed out that there is no precise geographical concept of a "region". Despite the rejection at San Francisco of the Egyptian proposal requiring the existence of a grouping of States "in a given geographical area", some writers maintain that there should necessarily exist "some degree" of territorial proximity of members of a regional arrangement: this conclusion would be warranted by the purpose of Chapter VIII, which is seen as the granting to regional groupings of the power to resolve "local disputes" (Article 52(2)); morover, the contrary opinion would cause the "decentralized system of the UN for securing the peace" to "largely loose its effectiveness" (Hummer/Scweitzer). But these arguments are not very convincing: once it is admitted that there is no scientifically viable criterion to delimit a "region" an that a "region" can only be delimited from a political point of view, there seems to be no satisfactory criterion for determining what "degree of territorial proximity" is required. Moreover, the purpose of Chapter VIII is not only to grant regional arrangements the power to solve "local" disputes, but also to give the Security Council the power to utilize regional arrangements for enforcement action under its authority, or to authorize regional enforcement action: the only question in this context is whether or not the matter is "appropriate for regional action".

In my opinion, the inevitable conclusion is that, as a matter of principle, every grouping of States founded on the geographical situation *or* the common interest of its members can qualify as a "regional" arrangement within the meaning of Chapter VIII. It is true that the three international organizations that are recognized by everybody as being "regional" agencies under Chapter VIII, i.e. the Organization of American States (OAS), the Organization of African Unity (OAU), and the League of Arab States (LAS), are based on a certain "proximity" of their members. But there is no reason to exclude from Chapter VIII, on this ground alone, other arrangements in which such "proximity" is not present in a comparable degree, such as, for example, the North Atlantic Treaty Organization (NATO), or the Organization of the Islamic Conference (OIC).

The second important question to be discussed relates to the meaning of the words "arrangements" and "agencies". Under the definition proposed by Egypt at San Francisco, only "organizations" would have qualified as regional institutions under Chapter VIII. But the present wording of Chapter VIII clearly calls for a less restrictive interpretation: even if the terms "organization" and "agency" were considered to be synonimous, the terms "agency" and "arrangements" clearly cannot be so considered. Although it could be argued that every "agency" is based on an "arrangement", not every "arrangement" purports to create an "agency". In other words, the degree of institutionalization required of regional "arrangements or agencies" is not predetermined by the UN Charter: members of a "region" can certainly create a fully-fledged "organization", by which I mean an intergovernmental organization with a separate legal personality, operating through organs of its own; but nothing prevents them from setting up a less

developed "institutional union", operating through common organs of the member States, or even a "simple union", operating through the (mere) cooperation of its members. Whereas the OAS, the OAU, and the LAS undoubtedly constitute regional "organizations", nothing warrants the exclusion from entities covered by Chapter VIII of other regional groupings whose precise legal nature is still the subject of some discussion among legal writers.

Moreover, although all regional groupings are based on an "arrangement", such an "arrangement" needs not necessarily be a formal treaty, binding under international law: the term "arrangement" is ambiguous enough to allow for the inclusion of regional groupings, such as the Organization for Security and Cooperation in Europe (OSCE, previously known as the CSCE, Conference on Security and Cooperation in Europe), which are based on political agreements, as such not legally binding. What *is* probably required, in my opinion, is some degree of permanence and stability, whithout which a grouping of States could not even be regarded as an international "union", be it an institutional or a simple union. In other words, it is doubtful that occasional groupings of States can qualify as regional arrangements for the purposes of Chapter VIII: one could recall, in this respect, the opinion expressed by the International Court of Justice in the *Nicaragua* case, according to which the so-called "Contadora Group" could not be considered as a "regional arrangement" under Chapter VIII.

Having thus examined the concept of "regional arrangements or agencies", there remains the question of their purpose, i.e. "the maintenance of international peace and security". Although there is nothing in the Charter to prevent the creation of regional unions in other fields, Chapter VIII is specifically concerned with arrangements or agencies that can directly contribute to the maintenance of peace and security. Thus the so-called "functional" unions, such as the Council of Europe (CE), the European Community (EC), the Organization for Economic Cooperation and Development (OECD), the Caribbean Community (CARICOM), the Economic Community of West African States (ECOWAS), the Cooperation Council for Arab States of the Gulf (GCC), and others, would, in principle, be excluded from Chapter VIII. But of course this could only be a ***prima facie*** conclusion, since it cannot be excluded that some such unions may evolve and acquire functions in the field of the maintenance of peace. The EC, for example, is now part of a wider European Union (EU), which includes a common foreign and security policy; the GCC was founded as a comprehensive union which, although primarily economically oriented, has gained increasing weight in the security field; the ECOWAS has, since 1981, acquired the functions of a defensive alliance and of a regional system for collective security.

But the main question concerning the purpose of regional unions derives from a tendency to confine the provisions of Chapter VIII to those arrangements or agencies purporting to set up a "collective security" system ***within*** the region: according to this view, "it must always be a matter of an ***inter se*** relationship, i.e. the regional activities under

Chapter VIII must be taken by or against member States of the regional arrangement/agency" (Hummer/Schweitzer). As a consequence, defence alliances, i.e. unions that are exclusively or primarily concerned with mutual assistance against *external* aggression, such as NATO, would not be covered by Chapter VIII. This view was also supported in the past by members of regional military alliances, in order to avoid the obligation to "fully" inform the Security Council of activities taken or contemplated, which derives from Article 54: they preferred to see such alliances as collective self-defence unions under Article 51, which only requires UN members to report self-defence measures that are actually taken. This attitude is certainly understandable, inasmuch as the disclosure of information about contemplated action in self-defence could destroy its effectiveness. On the other hand, a good case could be made that Article 54 is inapplicable to self-defence, thereby undermining the main political argument supporting the exclusion of defence alliances from Chapter VIII.

In my opinion, there is nothing in the Charter that warrants the exclusion of regional alliances from Chapter VIII. While it is true that Article 51 appears in Chapter VII, it is equally true that its purpose is *not* to establish the compatibility of regional alliances with the UN Charter: although originally adopted to meet the concerns of regional organizations, Article 51 deals with individual, as well as collective, self-defence and, according to the now prevailing opinion, collective self-defence does not presuppose a previous agreement, let alone an institutional alliance. Moreover, while it is true that Article 52(2) seems to presuppose the existence of a regional system for the pacific settlement of disputes and that regional alliances usually lack such a system, there is nothing in Article 53 to prevent the Security Council from utilizing regional alliances for enforcement action under its authority or from authorizing such action on their part: even if directed against States not party to the regional system, such action would arguably still fall within the wider framework of the UN "collective security" system. This conclusion is further confirmed by the last phrase in Article 53(1), under which measures against an "enemy State" could be taken by "regional arrangements" without Security Council authorization: it cannot be denied that such measures concerned third States and could be taken outside the "regional" area.

A final question concerns the condition for the legal admissibility of regional unions: under Article 52(1), such unions and their activities must be "consistent with the Purposes and Principles of the United Nations". It is necessary to recall, in this respect, that, according to Article 103, "in the event of a conflict between the obligations of the Members of the United Nations under the ... Charter and their obligations under any other international agreement", obligations under the Charter "shall prevail". Explicit reference to regional "activities" in Article 52 is especially significant, inasmuch as an inconsistency between the UN Charter and regional "arrangements" is unlikely to occur: on the contrary, such arrangements often expressly state their compatibility with the Charter

At the San Francisco Conference, several proposals were made in order to make a review of this condition possible, but none was accepted. As a consequence, one cannot properly speak of a hierarchical relationship between the UN and regional unions. Moreover, regional unions are not, and indeed cannot be, members of the United Nations, irrespective of whether or not they possess a separate legal personality. In order to avoid inconsistencies, the United Nations must, first of all, rely on joint membership of States in both systems. In addition, recent UN practice places a special emphasys on the need to enhance cooperation between the UN and regional unions: in December 1994, the UN General Assembly adopted a "Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security" (Declaration on Cooperation). The Declaration points out that cooperation can take various forms, including exchange of information and the holding of consultations, participation in the work of the UN, exchange of personnel, material and other assistance. Some regional unions have been granted "observer" status within the General Assembly, and in some cases formal agreements have been concluded between the UN and regional unions.

In conclusion, as pointed out by the UN Secretary-General in his 1992 report "An Agenda for Peace", "the Charter deliberatly provides no precise definition of regional arrangements and agencies, thus allowing useful flexibility for undertakings by a group of States to deal with a matter appropriate for regional action which also could contribute to the maintenance of international peace and security". According to the Secretary-General, "such associations or entities could include treaty-based organizations, whether created before or after the founding of the United Nations, regional organizations for mutual security and defence, organizations for general regional development or for cooperation on a particular economic topic or function", and even "groups created to deal with a specific political, economic or social issue of current concern". While this last reference could be questioned in light of the ICJ *dictum* regarding the "Contadora Group", the very pragmatic approach taken in the report seems to confirm the above analysis.

Recent UN practice is consistent with this pragmatic approach: apart from the OAS, the OAU and the LAS, other unions have been, at least informally, recognized by the UN as "regional arrangements or agencies", such as the OSCE, which was granted observer status by the General Assembly in 1993. In August 1994, the Secretary-General convened the first meeting of the heads of a number of regional unions: participants in the meeting were, apart from the OAS, the OAU and the LAS, the then CSCE, the Commonwealth of Independent States (CIS), the OIC, the (British) Commonwealth Secretariat, the EU, the Western European Union (WEU), and even NATO; ECOWAS was also invited, but could not participate.

3. As pointed out before, Chapter VIII deals with two aspects of the role of regional unions in the maintenance of peace: the peaceful settlement of "local disputes" and "enforcement action". Both aspects are dealt with in a way that has given rise to discussions in legal literature and in State practice. As far as the pacific settlement of disputes is concerned, the provisions in Article 52 have given rise to two competing interpretations: according to the first interpretation, which was at first strongly supported by the Latin American States, the settlement of "local disputes" by regional unions has priority over the Security Council's procedures under Chapter VI; the opposing interpretation, which was originally supported mainly by the socialist States, but is now also advocated by the Latin American countries, favours concurrent jurisdiction of regional unions under Chapter VIII and of the Security Council under Chapter VI.

Practice in both the United Nations and regional unions is not very conclusive on this question. Generally speaking, though, there seems to have been a shift from a widespread preference for a sort of "exhaustion of local remedies" principle to the progressive acceptance of a principle of "free choice" by the parties to the dispute. The shift has been particularly clear in the practice of the OAS, which has proved that regional dispute-settlement can be very controversial when the regional union is dominated by one Superpower: whereas the original inter-american system went as far as obliging the parties to settle regional disputes first within the system itself, its provisions were amended since 1975 to open the way for the concurrent jurisdiction of the United Nations. Within the UN, the 1982 GA "Declaration on the Pacific Settlement of International Disputes" (the so-called "Manila Declaration") confirmed, on the one hand, that "States parties to regional arrangements or agencies shall make every effort to achieve pacific settlement of their local disputes through such regional arrangements or agencies before referring them to the Security Council", but added, on the other, that "this does not preclude States from bringing any dispute to the attention of the Security Council or the General Assembly in accordance with the Charter of the United Nations".

In conclusion, the present situation seems to be that "division of labour" between the UN and regional unions is "a matter of practicability and discretion" (Schreuer), which enhances the need for cooperation between the universal and the regional systems. The 1994 GA Declaration on Cooperation affirms that "States participating in regional arrangements or agencies are encouraged to consider the possibility of using or, where appropriate, establishing or improving at the regional level procedures and mechanisms for ... the peaceful settlement of disputes, in close coordination with the preventive efforts of the United Nations". The same Declaration, however, stresses, in the Preamble, "the primary responsibility of the Security Council, under Article 24 of the Charter, for the maintenance of international peace and security, and then reproduces, almost *verbatim*, the provisions of Chapter VIII. It seems clear, therefore, that, while member States of both the UN and regional unions are encouraged to promote cooperation

between the two systems in order to avoid conflicting action, obligations under the Charter must prevail whenever conflicts do occur. A brief attempt to clarify the legal situation under the Charter seems, therefore, necessary.

A rather ingenious theory has been put forward in German legal literature, according to which a correct interpretation of Article 52 has to distinguish between two aspects of the division of labour between the UN and regional unions: the first aspect relates to "formal procedural" jurisdiction, whereas the second relates to "merit-based" jurisdiction: at the procedural level, Article 52(4) leaves unimpaired the right of States to appeal to the Security Council and the right of the Council to examine the case under Articles 34 and 35 in Chapter VI; however, as far as jurisdiction on the merits is concerned, the Security Council could not make recommendations to the parties under Articles 36 and 37 "as long as it is not evident that the means employed on a regional level are ineffective" (Hummer/Schweitzer). It is pointed out that this interpretation is the only one that makes the rather unhappy formulation of Article 52(3) comprehensible: Security Council's encouragement of regional dispute-settlement "on the initiative of the States concerned" would then mean that, when members of the regional system turn to the Security Council and draw its attention to the existence of a dispute, the Security Council could investigate the case under Article 34 and could take provisional measures - such as referral, or referral back, to the regional union, postponement of treatment until the regional union has presented a report, maintenance of the topic on its agenda - but could not take measures under Articles 36 and 37 on the merits of the dispute. In conclusion, Article 52, being *lex specialis*, would exclude the application of Articles 36 and 37, but only "as long as the regional procedure promises an effective securing of the peace" (Hummer/Schweitzer).

This interpretation has the merit of avoiding concurrent jurisdiction on the merits, which could lead to conflicting action by the UN and regional unions. However, its practical value seems considerably undermined by some necessary qualifications. In particular, whereas it is true that Article 52 is *lex specialis* vis-à-vis Chapter VI, it is nonetheless true that Article 52 (2) and (3) only speak of "local disputes": their provisions do not apply when States not party to the regional system are involved in a dispute. Moreover, Article 52(1) makes it clear, from a general point of view, that the role of regional institutions is confined to "matters ... appropriate for regional action", and it seems difficult to accept the view that "the regional agencies decide for themselves when a question is appropriate for regional action" (Hummer/Schweitzer): on the contrary, Article 52, read in conjunction with Article 24, seems to leave considewrable discretion to the Security Council as to what disputes are appropriate for regional settlement procedures. Finally, it seems necessary to point out that, whatever its relation to Chapter VI may be, Article 52 leaves the provisions of Chapter VII virtually unimpaired.

In conclusion, it would seem that a real priority of regional dispute-settlement mechanisms can only exist in case of disputes involving no actual or potential threat to international peace; when a potential threat to the peace exists, the Security Council could always decide that the matter is not appropriate for regional action and, as a result, its powers under Chapter VI, including Articles 36 and 37, would remain unimpaired. In practice, therefore, the legal situation seems to reflect the principle of "free choice" that has emerged in recent State practice: as Professor Bowett puts it, "reference to a regional organization's procedures becomes a matter of convenience, not of obligation, and much depends on the willingness of the parties to accept such a reference". When a dispute actually involves a "threat to the poeace" - and, even more so, when there exists a "breach of the peace" or an "act of aggression" - there can be no question of regional priority: the Security Council could take "action" under Chapter VII, and it could make recommendations for the settlement of the dispute similar to those it could make under Articles 36 and 37. Thus, in cases like the Falklands war of 1982, the situation in Nicaragua in 1982-83, the invasion of Grenada in 1983, or the invasion of Panama in 1989, nothing in Chapter VIII could have prevented the Security Council from exercising "merit-based" jurisdiction, or taking enforcement action, irrespective of the initiatives taken by the OAS or other regional unions.

4. When it comes to "enforcement action", Chapter VIII itself clearly gives priority to the United Nations: under Article 53, "the Security Council shall, where appropriate, utilize ... regional arrangements or agencies for enforcement action under its authority", but "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council".

Article 53 needs to be related to Chapter VII of the UN Charter, dealing with Security Council's "action with respect to threats to the peace, breaches of the peace, and acts of aggression": it is only when one such situation exists that the Security Council can take "action", and Article 53 broadens the means at the disposal of the Council by giving it access to regional unions. In this case also, the Security Council has a wide discretion in assessing whether or not utilization of regional unions, or authorization of regional action, are "appropriate" under Article 52(1). It must be pointed out, in this respect also, that the *travaux préparatoires* confirm the view that nothing in the Charter restricts utilization of regional unions to enforcement action *within* the regions concerned; nor can it be said that regional action can only be authorized against a member of the regional union. The question remains, however, of whether action against a third State is permissible under the terms of the regional union: whereas, as stated above, obligations under the

Charter must prevail over conflicting obligations under regional arrangements, nothing in Chapter VIII gives the Security Council the power to oblige States to take action inconsistent with such arrangements.

Having said this from a general point of view, it must be pointed out that the two situations envisaged in Article 53 are rather different in nature. When the Security Council utilizes regional unions for enforcement action "under its authority", one can properly speak of United Nations action, rather than of "regional" action. It has been said that regional unions act, in this case, as "subsidiary organs" of the United Nations. While it is perhaps more correct, at least when "regional" armed forces are made available to the Security Council, to speak of organs of member States - or, as the case may be, of a regional organization - placed at the disposal of the United Nations, the fact remains that their activities are, in principle, directly attributable to the United Nations. On the other hand, when the Security Council merely "authorizes" enforcement action "under regional arrangements or by regional agencies", it is more difficult to speak of United Nations action, unless, perhaps, the Security Council reserves for itself, at the very least, the overall political control of regional activities.

As far as the utilization of regional unions by the Security Council is concerned, it would seem that, despite the imperative language of Article 53, the Council cannot oblige regional unions to take enforcement action. As seen above, regional unions, even when possessing a separate legal personality, are not, and cannot be, members of the United Nations. It is true that members of regional unions would, in most cases, all be members of the United Nations, but it is difficult to directly derive from Article 53 an obligation on their part to take action on behalf of the Security Council. In this respect also, it seems necessary to relate Article 53 to the provisions of Chapter VII. Article 43, in particilar, envisaged the conclusion of "a special agreement or agreements" whereby "armed forces, assistance and facilities ... necessary for the maintenance of international peace and security" would be made "available to the Security Council, on its call": such agreements were to be concluded "as soon as possible" between the Security Council and member States or "groups of Members". As pointed out above, however, the "special agreements" envisaged in Article 43 have never been concuded: as a consequence, enforcement action under the authority of the Security Council could only be taken on the basis of *ad hoc* agreements with member States or regional unions, concluded on a case-by-case basis. But no such agreements have ever been concluded except in the context of the so-called "peace-keeping operations", which will be examined below, and none of these have been concluded with members of regional unions as such, or with regional organizations. In other words, regional unions have never so far been utilized by the Security Council for enforcement action under its authority.

Coming now to regional action "authorized" by the Security Council, the possibility for regional unions to use force on their own initiative was a hotly debated issue at the San Francisco Conference. The Dumbarton Oaks Proposals

already stipulated that no enforcement action could be taken at the regional level without Security Council authorization, but this stipulation, coupled with the so-called "Yalta Formula" granting veto power to the permanent members of the Security Council, would have resulted in granting each of the five Great Powers the faculty to prevent regional action, and met with strong opposition on the part of several States. The Dumbarton Oaks stipulation was only accepted after the recognition of the "inherent right of individual and collective self-defence" in Article 51, which was inserted at the end of Chapter VII of the Charter. It is, therefore clear that no Security Council authorization is required for collective self-defence against an "armed attack", even when action is taken in the framework of a regional union. Another exception to the authorization requirement was provided for in Article 53 itself, which authorized "regional arrangements" to take measures against "enemy States", but this provision is to be considered as obsolete since, *inter alia*, all such "ememy States" have been admitted as members of the United Nations.

The question arises, in this context, of whether there are exceptions to the authorization requirement other than self-defence: it has been suggested, for example, that reprisals not involving the use of force do not require authorization. More generally, it could be argued that no authorization is required in all cases where regional unions merely coordinate measures that individual members could lawfully take under international law. This question, however, must properly be placed in the context of the more general question regarding the meaning of "enforcement action" in the context of Article 53.

As pointed out before, Article 53 does not define "enforcement action". The same expression is also used in Articles 2(5), 5, and 50; in some cases "enforcement action" is opposed to "preventive action", but nowhere in the Charter is a definition to be found. Article 2(7) refers to "enforcement measures under Chapter VII", but Chapter VII, for its part, only speaks of "action", arguably because Security Council action under Articles 39 *et seq.* could be regarded as "preventive" or "enforcement" action, depending on the existence of a mere "threat to the peace" or an actual "breach of the peace" or "act of aggression".

Be that as it may, the negotiations at San Francisco seem to point once again to the need to relate Artiche 53 to Chapter VII, to the effect that measures under both Articles 41 and 42, would constitute enforcement action under Article 53, at least when an actual threat to the peace or act of aggression is involved. However, such a restricted view has been contested by some States, especially in the context of measures taken by the OAS.

Both in the case of measures taken against the Dominican Republic in 1960 and in the case of the exclusion of Cuba from the OAS in 1962, it was argued that "enforcement action" does not include measures short of military force. In the "Cuban quarantine" case of 1962, it was also argued that "enforcement action" only includes mandatory action, to the exclusion of action merely recommended by a regional union to member States. Finally, when the OAS

established a military force to deal with the situation in the Dominican republic in 1965, it was argued that "peace-keeping operations" conducted with the consent of the "host State" do not constitute "enforcement action".

Leaving aside, for the time being, the question of "peace-keeping operations", which are not expressly covered by Chapter VII, the argument that "recommendatory" action is not "enforcement action" is not very convincing. The 1962 advisory opinion by the International Court of Justice in the *Certain Expenses* case is sometimes quoted to support this argument, to the effect that "enforcement action" amounts to "coercive action", to the exclusion of action merely recommended by an international institution; but the Court was dealing with "peace-keeping operations" established at the request, or with the consent of the States concerned, whereas "sanctions" adopted by member States upon the recommendation of a regional union are clearly taken against a target State, and without its consent.

As for the argument that measures not involving the use of force are not "enforcement action", notwithstanding Article 41 in Chapter VII, it has to be conceded that, during the discussions in the Security Council on the 1960 Dominican crisis and on the 1962 Cuban crisis, the majority of the member States seem to have assumed that neither the imposition of economic "sanctions", nor the exclusion of a member from a regional union amounted to "enforcement action". UN practice, however, is not very conclusive on this point.

The view is sometimes put forward that the kinds of measures that the Security Council can take under Article 41 could be taken within the framework of regional unions without Security Council authorization, at least when regional action merely amounts to coordination of measures that individual States can lawfully take under international law. It has been pointed out, in this respect, that "no general prohibition of economic sanctions or other reprisals exists in public international law" (Frowein), but resort to the concept of reprisals seems to complicate, rather than clarify, the matter. Reprisals are, technically, circumstances precluding the wrongfulness of State action: inasmuch as coercive action constitutes, *per se*, a violation of an international obligation, such action could be justified as a reprisal, or countermeasure, where it constitutes a reaction to a previous violation of international law by the target State. But reprisals can only be taken by the "injured" State or States: whereas one could argue that, when there has been a previous violation of an *erga omnes* obligation, all States - or, as the case may be, all members of a regional union - can be considered as injured States, resort to collective self-help other than collective self-defence is still a somewhat controversial issue.

Moreover, it could also be argued that legality under international law is not the appropriate criterion for determining the kind of collective action that can be taken under the UN Charter: both the Security Council and regional unions are entrusted with political, rather than judicial, functions, and the object of both Chapter VII and Article 53 is the maintenance of international peace and security in cases where there is a threat to the peace, breach of the peace, or

act of aggression. Both the existence of a previous violation of international law and the international legality of enforcement measures seem to be irrelevant in this context. Inasmuch as a situation exists that warrants the application of Chapter VII, the Security Council is given the competence to recommend or decide what measures States can or have to take to help maintaining peace, irrespective of whether or not such measures are consistent with existing international obligations.

Whereas it is true that individual States are not prevented by the Charter to take measures that are either lawful *per se* or justified as reprisals, action recommended or decided in the framework of a regional union has to conform to the provisions in Chapter VIII. In the absence of a clear definition of "enforcement action" under Article 53, it would seem that, as is confirmed by the *travaux préparatoires*, at least measures under both Articles 41 and 42, inasmuch as they are "coercive measures", have to be authorized by the Security Council.

A related and equally controversial question is whether or not authorization on the part of the Security Council must be preventive and express. According to one view, authorization could be given at any stage of regional action: this view would be confirmed by the 1960 Dominican crisis, since the Soviet Union proposed authorization of OAS action after this had already been taken. Similarly, according to some writers, authorization could also be implicit and even result from the mere inaction of the Security Council. The fact that the Security Council has rarely given express prior authorization of regional action under Chapter VIII, and that it has never condemned action taken within the framework of a regional union, may seem to give some weight to such opinions. On the other hand, it has been rightly pointed out that such views would loosen UN control over regional action, and would even encourage illegal acts by regional unions, in the hope that authorization would come afterwards or that condemnation would be prevented by the exercise of the power of veto within the Security Council.

The view is sometimes put forward, from a more general point of view, that regional action should be permitted whenever the Security Council fails to exercise its primary responsibility for the maintenance of international peace and security. However, the drafting history of Article 51 clearly shows that this view is untenable: at the San Francisco Conference, members of regional unions were fully aware of the dangers implicit in the granting of veto power to the permanent members of the Council; it cannot, therefore, be maintained that, because of the use of the veto, regional unions must be given a wider freedom of action than envisaged in the Charter.

Recent UN practice seems to point to a more correct relationship between the Security Council and regional unions, at least where the use of military force is envisaged. In the context of a number of resolutions adopted under Chapter VII, in particular in the context of the situation in the former Yugoslavia, the Council expressly gave prior authorization to member States, acting individually or through regional arrangements or agencies, to take "all necessary

measures" to deal with parrticular sutuations. Chapter VIII was expressly mentioned in such resolutions. Moreover, the situation in the former Yugoslavia has given risae to an interesting developmenmt: the provision by NATO of air power to support an ongoing UN "peace-keeping operation". This shows that, even when merely authorized by the Security Council, enforcement action in the framework of regional unions can complement United Nations efforts ion the maintenance of international peace and security.

5. United Nations practice in the field of the maintenance of international peace and security no longer conforms to the Charter distinction between the pacific settlement of disputes and enforcement action. New concepts are increasingly being used not only to indicate the various activities that can be undertaken by the United Nations itself, but also when it comes to encouraging a deeper involvement of regional unions in the maintenance of peace. Significantly, the 1994 GA Declaration on Cooperation lists "the peaceful settlement of disputes, preventive diplomacy, peacemaking, peace-keeping and post-conflict peace-building" as means through which regional arrangements or agencies can, "in their field of competence and in accordance with the Charter, make important contributions to the maintenance of international peace and security": regional unions are encouraged to consider "ways and means for promoting closer cooperation and coordination with the United Nations" in these fields, "with the aim of contributing to the fulfilment of the purposes and principles of the Charter".

Some clarification of these new concepts can be found in the 1992 Secretaty-General report "An Agenda for Peace", which contains definitions. "Preventive dipèlomacy" is defined as "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur". According to the Secretary-General, preventive diplomacy can include "measures to build confidence", "fact-finding", "early warning", "preventive deployment", and the establishment of demilitarized zones.

"Peace-making" is defined as "action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations", but then examples are made that include "sanctions", as well as "use of military force", and the deployment of "peace-enforcement units".

"Peace-keeping" is defined as "the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well". Peace-keeping is further characterized as "a technique that expands the possibilities for both the prevention of conflict and the making of peace".

Finally, "post-conflict peace-building" is defined as "action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict". According to the Secretary-General, such action can include "disarming the previously warring parties and the restoration of order, the custody and possible destruction of weapoons, repatriating refugees, advisory and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening governmental institutions and promoting formal and informal processes of political participation".

It must be emphasized that such a categorization of activities, whatever its value may be in UN practice or from the point of view of political science, has no precise legal meaning. As the Secretary-General has recognized, the concepts of preventive diplomacy, peace-making, peace-keeping and peace-building are "integrally related": fact-finding, for example, though classified among techniques for "preventive diplomacy", can sometimes be considered as a means for the peaceful settlement of disputes (Article 33 of the Charter lists "enquiry" among such means), and, depending on whether or not a "conflict" has already arisen, can be described as "preventive diplomacy" or "peace-making"; moreover, where it entails the sending of a mission in the field, it can also be described as "peace-keeping", at least when military personnel are involved. The category of "peace-keeping", in particular, is really a technique that can be used for "preventive diplomacy", "peace-making", or "peace-building".

The legal irrelevance of the categorization seems to be further confirmed by the 1995 Secretary-General report "Supplement to An Agenda for Peace", where the categories are augmented from four to six: "peace-making" is coupled with "preventive diplomacy", but "sanctions" and "enforcement action" become separate categories; "peace-keeping" and "post-conflict peace-building" remain separate categories; "disarmament" is added as a new category.

The emerging picture is one of ambiguity and confusion, at least from a lawyer's point of view. The Charter only distinguishes between the peaceful settlement of disputes (Chapter VI) and action with respect to threats to the peace, breaches of the peace and acts of aggression (Chapter VII). As far as regional unions are concerned, Chapter VIII distinguishes between the peaceful settlement of local disputes (Article 52) and enforcement action (Article 53). Consequently, as far as the range of activities described as preventive diplomacy, peace-keeping, peace-making or peace-building are concerned, the only relevant questions, from the point of view of the UN Charter, are whether or not the United Nations can perform a particular activity, and which are the competent organs, and, when it comes to regional activities, how can a particular activity be related to the "division of labour" delineated in Chapter VIII.

In the next paragraph, I shall try to clarify the legal relationship between the United Nations and regional unions in the field of "peace-keeping" activities, which are certainly the most important. From a general point of view, it must be pointed out that all regional activities in the maintenance of peace - be they preventive diplomacy, peace-making,

be pointed out that all regional activities in the maintenance of peace - be they preventive diplomacy, peace-making, peace-building or other - must be tested against Chapter VIII: if they consist of peaceful settlement of disputes, Article 52 (2) (3) and (4) apply; if they amount to enforcement action, Article 53 applies. Activities that neither consist of peaceful settlement of disputes nor amount to enforcement action - such as, for example, confidence-building or early warning - are to be considered as permitted by Article 52(1), if "appropriate for regional action" and "consistent with the Purposes and Principles of the United Nations" . Inasmuch as the Security Council is given wide discretion in determining what is appropriate for regional action, cooperation between regional unions and the United Nations is essential to avoid possible conflicts. The 1994 Declaration on Cooperation, though encouraging, in particular, the promotion of confidence-building measures at the regional level, as well as the use or establishment of "procedures and mechanisms for the early detection, the prevention and the peaceful settlement of disputes", has made it clear that regional efforts have to be undertaken "in close coordination with the preventive efforts of the United Nations".

6. As rightly pointed out by the UN Secretary-General, peace-keeping is "the invention of the United Nations". Peace-keeping operations developed in UN practice as special procedures for the maintenance of peace, but are not expressly provided for in the UN Charter. Under the definition proposed by the Secretary-General, "peace-keeping" is "the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military/or police personnel and frequently civilians as well"; the involvement of military forces seems, therefore, to be the essential feature of peace-keeping operations.

There have been two main types of peace-keeping operations: military observer groups, and peace-keeping forces. Both types of operations are established by the resolution of a UN organ, usually the Security Council, and the operations as such can be considered as subsidiary organs of the United Nations. The Secretary-General is usually entrusted with the task of recruiting military observers on an individual basis, whereas peace-keeping forces consist of military contingents placed by member States at the disposal of the United Nations on the basis of *ad hoc* agreements concluded with the Secretary-General. Military observer groups are usually charged with verification functions that can be described as "fact-finding", whereas peace-keeping forces have been charged with a variety of additional functions, ranging from interposition between the parties to a conflict or dispute, to the maintenance of law and order, humanitarian assistance and other functions: both military observer groups and peace-keeping forces could, therefore, be considered, depending on the circumstances of the case, as instruments for preventive diplomacy, perace-making, or peace-building.

Whereas military observers are usually unarmed, peace-keeping forces are armed forces, but are usually not supposed to use force except in self-defence; they are, moreover, usually expected to act impartially. Especially recent UN practice, however, has seen several departures from the "classical" features of peace-keeping operations: there have been cases where peace-keeping forces, in particular, have been given mandates that have led them "to forfeit the consent of the parties, to behave in a way that was perceived to be partial and/or to use force other than in self defence".

Various features differentiate these peace-keeping operations from the kinds of action originally envisaged in the UN Charter. These have led to considerable controversy both in legal literature and in State practice regarding their legality under the Charter, as well as which UN organ is competent to establish them. However, this controversy seems to have lost some momentum: originally strongly opposed by some member States, UN peace-keeping operations now seem to be accepted by everyone, at least when they are established by the Security Council. Consequently, it does not seem necessary to examine the question of their precise legal basis in the context of this paper, except in so far as it has implications for the legal relationship between the United Nations and regional unions.

A number of peace-keeping operations have in fact been established in the framework of regional arrangements or agencies. Observer groups were created by the OAS on a number of occasions, and the OAU also established a "Neutral Military Observer Group" in 1982, which was entrusted with verification functions in Rwanda and Uganda. One could also mention the EC-CSCE Monitor Mission in Yugoslavia, which, though charged with functions additional to mere verification, was composed of unarmed monitors.

But there have also been a number of cases where regional peace-keeping forces have been established: the OAS created an "Inter-American Armed Force" in 1965 for the purpose of "co-operating in the restoration of normal conditions in the Dominican Republic, in maintaining the security of its inhabitants and the inviolability of human rights, and in the establishment of an atmosphere of peace and conciliation in which democratic institutions will be able to function"; the OAU created a "Neutral OAU Force in Chad" in 1981 to supervise the cease-fire, ensure freedom of civilian movement while disarming the population, restore and maintain law and order, and help organize and train an "integrated armed force"; the LAS created an "Arab Security Force" in 1961 to give "effective assistance to safeguard the independence of Kuwait"; in 1976, it further established a peace-keeping force - the "Symbolic Arab Security Force", later expanded to become the "Arab Deterrent Force" - in order to "maintain security and stability in Lebanon". Other examples include: the "Commonwealth Monitoring Force" established within the framework of the British Commonwealth in 1979 in order to supervise the cease-fire in Rhodesia; the "Cease-Fire Monitor Group" created by the ECOWAS in 1990 in order to supervise the implementation and ensure strict compliance with a cease-fire it had imposed on all the parties to the conflict in Liberia; a peace-keeping force established by the CIS in 1994, in order to deal

with the situation in Georgia. Finally, the latest - and, perhaps, most significant - example of a regional peace-keeping force is the "Implementation Force" (IFOR) set up in 1995, mostly in the framework of NATO, in order to "ensure compliance" with obligations undertaken under the peace agreement concerning Bosnia-Herzegovina.

Peace-keeping forces have sometimes been set-up by occasional groupings of States, outside the framework of an existing international union: the "Multinational Force and Observers", created under a 1981 agreement between Egypt and Israel, and the "Multinational Force" deployed in the Lebanon in 1982-84, are cases in point. It is doubtful, however, that such occasional groupings of States can be considered as "regional arrangements or agencies" within the meaning of Chapter VIII of the UN Charter.

From the point of view of their structure, regional peace-keeping operations do not substantially differ from UN operations, which were clearly taken as a model. Depending on whether or not the regional union has a separate legal personality, such operations can be considered as being organs of an international organization, or common organs of the member States; in cases where the integration is minimal, one could merely speak of co-ordinated action of the participating States. But the main question that concerns us here is, of course, the legal interrelationship between the United Nations and regional unions in the establishment and conduct of peace-keeping operations.

The controversial question is essentially whether or not peace-keeping operations amount to "enforcement action" within the meaning of Article 53 of the UN Charter: although the Security Council has never so far utilized regional unions for peace-keeping operations "under its authority", the question remains of whether regional peace-keeping requires prior authorization from the Security Council.

Extreme views have sometimes been put forward in this respect. In the 1965 Dominican case, it was contended that peace-keeping can never amount to enforcement action; the 1962 ICJ advisory opinion in the *Certain Expenses* case is often quoted to support the view that enforcement action does not cover operations established with the consent of the "host State", i.e. the State in whose territory the force is to operate. At the opposite extreme, the view has been put forward that peace-keeping always amounts to enforcement action, inasmuch as it involves the deployment of armed forces.

Such extreme views fail to take into account that there is no legal definition of "peace-keeping", and that peace-keeping operations have developed in UN and regional practice in a variety of ways that cannot be reconciled with either of them. In particular, with all due respect to the opinion of the ICJ, consent on the part of the host State is a rather artificial criterion for establishing the non-coercive nature of an operation in all situations where there is a conflict within a State rather than between States: the view that intervention on the side of the legitimate Government is always permitted under international law seems rather outdated and, in any case, as pointed out above, the lawfulness of

regional action under general international law does not necessarily deprive it of the character of "enforcement action" under Article 53. Moreover, in some cases the host State is in a state of anarchy, or semi-anarchy, and it is difficult, if not impossible, to determine which party to the conflict is the "legitimate" Government. It is significant, in this respect, that under the definition proposed by the UN Secretary-General, the consent of "all the parties concerned" is a necessary feature of "classical peace-keeping".

The 1994 GA Declaration on Cooperation confirms that the proper answer to this question lies somewhere in the middle: the Declaration encourages regional arrangements or agencies "to consider, in their fields of competence, the possibility of establishing and training groups of military and civilian observers, fact-finding missions and contingents of peace-keeping forces, for use as appropriate, in coordination with the United Nations and, when necessary, under the authority or with the authorization of the Security Council, in accordance with the Charter". The General Assembly seems to have thus taken the view that, in some cases, poeace-keeping does amount to enforcement action. Its pronouncement is all the more significant in the light of a clear statement in the Preamble of the Declaration to the effect that "peace-keeping activities undertaken by regional arrangements or agencies should be conducted with the consent of the State in whose territory such activities are carried out": this would seem to support the view that the consent of the host State does not necessarily deprive a peace-keeping operation of the character of enforcement action within the meaning of Article 53 of the UN Charter.

In my opinion, this is the correct view. Whereas simple observer groups can easily be dismissed as not constituting enforcement action when they act with the consent of the host State, the deployment of a peace-keeping force would constitute enforcement action in all cases where the force is given a mandate that exceeds the principles of "classical" peace-keeping, i.e. consent of all the parties concerned, impartiality and the non-use of force except in self-defence. Whereas one could argue that, in such cases, the term "peace-enforcement" would probably be more appropriate than "peace-keeping", this is clearly a merely terminological nicety that does not affect the legal situation: this requires that regional action be conducted under the authority, or with the authorization, of the Security Council.

Turning now to the practice of the Security Council, it must be conceded that the attitude taken by the Council is not very conclusive. Apart from the case of the OAU force in Chad, in which the Council "took note" of the decision of the OAU to establish the force, no clear "authorization" was given except in the recent case of IFOR in Bosnia-Herzegovina. This attitude is not very encouraging, since there can be little doubt, in my opinion, that several other operations undertaken by regional unions considerably exceeded the requirements of "classical" peace-keeping.

On the other hand, the "authorization" given to "Member States acting through or in cooperation with [NATO]" to establish IFOR clearly confirms that, in principle, "peace-keeping" operations do sometimes amount to

enforcement action: it is significant, in this respect, that the Council authorized the taking of "all necessary measures", and that it expressly spoke of "enforcement action by IFOR", while taking note, at the same time, that the parties to the peace agreement had "consented to IFOR's taking such measures". While Chapter VIII was not expressly mentioned and authorization was given "under Chapter VII of the Charter", the Council requested States participating in the operation "to report to the Council, through the appropriate channels and at least at monthly intervals": since the operation does not amount to collective self-defence under Article 51, such a request seems to be based on Article 54.

Apart from cases where "peace-keeping" really amounts to "enforcement action", the relationship between the UN and regional unions intending to engage in peace-keeping operations is to be governed by Article 52 (2) (3) and (4) in all cases where such operations can be considered as "efforts to achieve pacific settlement of local disputes". In such cases, and in all other cases, cooperation between regional unions and the United Nations is to be seen as essential in order to avoid conflicts. As pointed out in the 1994 GA Declaration on Cooperation, such cooperation can take various forms, ranging from the exchange of information and the holding of consultations, to the making available of personnel, material and other assistance.

In this last respect, interesting developments in recent practice include instances of "co-deployment" and "joint operations". Cases of co-deployment concern the deployment of United Nations field missions in conjunction with the ECOWAS operation in Liberia and the CIS operation ion Georgia: in the opinion of the UN Secretary-General, such cases, if successful, "may herald a new division of labour between the UN and regional organizations, under which the regional organization carries the main burden but a small UN operation supports it and verifies that it is functioning in a manner consistent with positions adopted by the Security Council". As an example of a "joint operation", the Secretary-General mentioned the UN mission in Haity, the staffing, direction and financing of which are shared betwee the UN and the OAS: this case is also singled out as "a possible model for the future that will need careful consideration".

7. [Conclusions]