

**REGIONAL ARRANGEMENTS AND THE UNITED NATIONS :  
A STUDY OF THE ORGANIZATION OF AFRICAN UNITY**

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## CONTENTS

	<u>Page</u>
PREFACE	1
Chapter I INTRODUCTION	1
Chapter II REGIONALISM UNDER THE UNITED NATIONS	19
Chapter III THE ORGANIZATION OF AFRICAN UNITY: GENESIS AND FACTORS FOR ITS FORMATION	39
Chapter IV THE OAU AND DECOLONIZATION	75
Chapter V THE OAU AND PEACEFUL SETTLEMENT OF DISPUTE BETWEEN AFRICAN STATES	111
Chapter VI CONCLUSIONS	147
APPENDICES	154
SELECT BIBLIOGRAPHY	174

## PREFACE

In the present-day trouble-torn world, maintenance of peace and security has become a matter of global concern. Local or regional conflicts are always vulnerable to assume global dimensions, thus posing a serious threat to international peace and security. The establishment of the United Nations is the best manifestation of this concern. The United Nations provides top priority to the maintenance of world peace and security.

There also exists regional organizations/arrangements like the Organization of American States (OAS), the Organization of African Unity (OAU), the League of Arab States etc, whose major objective is also the maintenance of peace and security in their respective regions. The Charter of the United Nations recognizes the existence of regional organizations which are avowed to carry out their functions within the framework of the United Nations Charter. The Charter of these regional organizations also declare that they operate within the framework of United Nations Charter. This linkage and common objective of the United Nations and regional organizations supplement each other's role and furthers the cause of maintenance of world peace and security.

These linkages and the role of regional organizations, especially the OAU with the United Nations, in maintaining peace and security in the region, have not received adequate scholarly attention. The OAU since its inception in 1963, has emerged as

a reckonable force in maintaining peace and stability in Africa in spite of the massive difficulties that the Organization faces in this direction. This is not to suggest that it has succeeded in this task satisfactorily.

With this main objective in view, the present study has been undertaken to analyse and assess the role of the OAU in maintaining peace and security in Africa and its linkages and viability as a regional organization within the framework of the UN Charter.

Non-availability of complete OAU documents was the major handicap faced by me. The subject having been so comprehensive and available literature so vast, I could not have been able to sift the grain from the chaff, without the able guidance and diligent supervision of my supervisor, Professor M.S. Rajan, Centre for International Politics and Organization of the School of International Studies, Jawaharlal Nehru University. He gave me all the necessary encouragement and supervised this work with diligence. I am also grateful to Dr. V.S. Mani for the valuable advice he rendered to me at various stages of this work.

I am thankful also to my colleagues Biraja Shankar Rath, Sanjay Tripathi, Fred Opio and others who stood by me through the heavy odds that confronted me in the course of this work.

I am equally indebted to Mr and Mrs Kaboe of Kenya High Commission who demonstrated their affection in the course of

this work. This work would not have seen the light of the day without the affection, concern and patience that emanated from my beloved partner in life, Dr Agnes Yeboah.

I am equally thankful to the staff of Jawaharlal Nehru University Library, Sapru House Library and the Indian Academy of International Law and Diplomacy Library for their willing cooperation and ready assistance throughout the period of this work.

My stay and academic work here in India would not have materialized without the massive sacrifice by my father, Mr Paul Boakye Duah. To him and my mother, I will always owe them a debt of gratitude and it is my humble prayer that the Almighty grant them long life.

This dissertation has been typed with great diligence and devotion by Mr Shiv Sharma and thus my thanks to him.

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PHILIP BOAKYE DUAH

## Chapter I

### INTRODUCTION

One of the fundamental problems of international politics has been how to create conditions under which stable, peaceful and cordial relations among nations are possible. The increasingly complex problems of modern society in the spheres of economic, social, technical and in particular, security, have led nations to seek international co-operation through multilateral diplomacy in international forums. These have resulted in the growth of various limited and compact global and regional organizations. Regional organizations/arrangements have been in existence for decades.<sup>1</sup> For various reasons, however, it was not until the coming into existence of the United Nations that regional organizations/arrangements were given adequate recognition.<sup>2</sup>

Without going back into history, suffice is to say that prior to the First World War, there existed numerous pacts, alliances and arrangements which had the semblance of regional arrangements. The Holy Alliance, for example, was a famous mutual aid pact initiated by Czar Alexander I of Russia and

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- 1 For a detailed background or origins of regional organizations/arrangements, see J.N. Hughan, The Study of International Government (New York, 1963). Also see K.M. Pannikar, "Regionalism and World Security", India Quarterly (New Delhi), vol.2, no.2 (1966), p.120.
  - 2 Chapter VIII of the United Nations Charter is entirely on regional arrangements. Also, Articles 33(1) and 51 pertain to regional arrangements/organizations.

agreed upon by Austria and Prussia. The signatories pledged themselves "in the name of the Most Holy and Indivisible Trinity -- to remain united by the bonds of a true and indissoluble fraternity as members of the one and the same Christian nation."<sup>3</sup> In 1815, the Congress of Vienna established the confederation of thirty-eight central European states and cities. The confederation had set the maintenance of peace and security of its members as one of its major objectives. In the Western Hemisphere, a good example of regionalism was the Pan-American Republics which got underway in 1826 and became an encouraging manifestation of the Inter-American solidarity by 1914. Although the century prior to the First World War is replete with many examples of regional security arrangements, yet, there were others which were non-security oriented and found expression in such spheres as transportation, communication, economic law and jurisdiction. The German Zollverein of 1856 could be cited as a unique example of economic cooperation which prepared the way for the political unification of Germany in 1871. There were also economic arrangements in Switzerland, Italy, Austria, Hungary, the Iberian Peninsula and the Scandinavian area, all of which preceded the establishment of political unity.<sup>4</sup>

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3 Cited in Frederick L. Schuman, International Politics (New York, 1965), p.206.

4 For details, see Adolf B. Drucker, "Regional Economic Principles and Problems", in Regionalism and World Organization (Washington, D.C.: Public Affairs Press, 1944), pp.104-108.

But these regional arrangements did not take a uniform pattern of development. The only common trend was their security orientation or the economic improvement of the entities concerned. It was only after the First World War that regionalism found a limited expression in the League of Nations Covenant. Article 21 of the Covenant, for the first time in the history of a comprehensive international organization, gave recognition to a regional arrangement as follows:

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.

Though Article 21 of the League Covenant for the first time gave formal recognition to the concept of regional "understandings" no efforts were made to define it generally; with the result that the various security arrangements that sprang up during the inter-war period (1919-1939), such as the Draft Treaty of Mutual Assistance (1922-23) in Europe, the Geneva Protocol for the Pacific Settlement of Disputes (1925) and many others<sup>5</sup> were essentially security-oriented but considered by their creators to fall under the umbrella of regional arrangements.

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5 For other examples and details, see, E.H. Carr, International Relations between the Two World Wars: 1919-1939 (London: Macmillan, 1973), pp.38-97.



THE PROBLEMS OF DEFINITION

Thus, despite their existence for quite long, the precise meaning and definition of regional arrangements has been a subject of much controversy and heated debate. The League of Nations never went beyond Article 21 of its Covenant. With the demise of the League of Nations and the eventual establishment of the United Nations, much attention was devoted to the concept of regionalism by the framers of the UN Charter as some of its ~~early~~ drafts<sup>s</sup> (inspired by disillusionment with the performance of the League of Nations in the sphere of maintenance of international peace and security) emphasized the regional approach to the organization of security. The war-time British Prime Minister, Winston Churchill, for instance, stressed the need of a regional approach for the maintenance of peace and security balance; he believed that the League's experience demonstrated that "it was only the countries whose interests were directly affected by a dispute who could be expected to apply themselves with sufficient vigour to secure a settlement."<sup>6</sup> Despite much debate and discussion, the framers of the UN Charter could not arrive at any agreeable definition of regional arrangement.

In the course of the discussions at San Francisco, the Egyptian Delegation made a proposal to introduce, in effect, a

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6 Cited in Ruth B. Russell, A History of the United Nations Charter (Washington: Brookings Institution, 1958), p.107.

definition of regional arrangements into the Charter. It was proposed that:

There shall be considered as regional arrangements, 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 dispute which may arise between them and for the maintenance of peace and security in their region, as well as for the safeguarding of their interests, and the development of their economic and cultural relations. (7)

This proposal was rejected on the ground that while it clearly defined obvious, "legitimate and eligible factors for a regional arrangement", it probably failed to cover all the situations which might be covered by regional arrangements.<sup>8</sup> The explanation given for rejecting the Egyptian proposal suggests that the phrase "regional arrangement" as used in the UN Charter, obviously does have a wider scope than the Egyptian proposal would admit. This difficulty in arriving at a definite meaning of the phrase "regional arrangements" has given rise to a great deal of controversy which has resulted in much academic debate on the issue.

This controversy has occasioned the use of various terms like 'regionalism', 'regional arrangements', 'regional

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7 United Nations Conference for International Organization (UNCIO), UN Doc. 553 (San Francisco, 1945), p.850.

8 UNCIO, UN Doc. 889/4/12, p.505.

organizations', which have been used as synonymous by some scholars, while others assign different meanings to each term. Thus, the views on regionalism are so varied that Joseph S. Nye has observed: "... regionalism, a term that covers such diverse functional as well as geographical regional phenomena as European integration, the Commonwealth, and the voting-bloc in the United Nations. This concept is in fact as ambiguous that we can only agree with the suggestion that the time has come to replace it with more precise terms."<sup>9</sup> Similarly, A.P. Rana writes:

It may at once be stated that arriving at an acceptable and reliable definition of regionalism has proved to be somewhat [an] intractable task so far. Definitions, of course, exist; but as a scholar has put it, 'there is generally no accepted academic definition of a region'.<sup>(10)</sup>

Thus, on the one hand, a regional arrangement is supposed to be formed by states in geographical proximity of each other, like the Organization of American States (OAS); on the other hand, it is argued that a regional arrangement need not necessarily be formed by states geographically close to each other. In the latter category, reference is made to the North Atlantic Treaty Organization (NATO) and the Commonwealth of Nations, having membership scattered far and wide.

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9 Cited in "World Politics", (Princeton), vol.22, no.1, October 1968, p.88.

10 A.P. Rana, "Regionalism - Problems of Definition and Identification", International Studies (New Delhi), vol.18, no.4 (December 1979), p.491.

Several definitions, however, have been advanced by various scholars on the subject. According to Thomas Frank:

A regional organization is any grouping of states in some defined geographical context with historic, ethnic or social-political ties, which habitually acts in concert through permanent institutions to foster unity in wide range of common concerns. (11)

Bruce M. Russett offers four criteria indicative of regionalism, namely, social and cultural homogeneity; shared political attitudes and behaviour; political interdependence and geographical proximity.<sup>12</sup> So, to Russett, any regional arrangement fulfilling the above criteria may aptly be considered as such. These criteria may not, however, be found in areas which are normally identified as regions. West Asia, for example, is often identified as a region, but the presence of Israel in the area prevents any congruence between the region as a whole and the phenomenon of regionalism within it. Similarly, India and Pakistan are supposed to belong to the region of South Asia, but if one goes by Russett's criteria, regionalism does not exist in the area.

The above difficulty has led some writers to view the concept of regionalism in an elastic form. Alf Ross, for example, opines that the expression "regional" does not require that the participating states in a regional arrangement

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11 Thomas Frank, "Who Killed Article 2(4)?", American Journal of International Law (AJIL) (Washington D.C.), vol.64, (1970), p.832.

12 For details, see Bruce M. Russett, International Regions and International System: A Study of Political Ecology (Chicago, 1967), Chapters I-II.

shall be within a certain geographical proximity.<sup>13</sup> Ross expresses the view that in Article 53(1)<sup>14</sup> of the UN Charter, the expression "regional arrangements" is used with reference to mutual assistance treaties concluded between states without any such connexion of a regional propinquity of states forming such an arrangement. Norman Bentwich and Andrew Martin argue on similar lines -- that although, ordinarily a "region" may mean a limited geographical area, yet at San Francisco, a proposal made for the inclusion, in the text of the UN Charter of a strict definition, based primarily on geographical proximity of "regional arrangements" was rejected, thus undercutting the geographical propinquity contention.<sup>15</sup>

Some scholars have distinguished between a "regional arrangement or organization" and a "regional system". A regional organization, in Joseph Nye's view, is based on a formal agreement among governments; possessing diplomatic forums and assisted by an associated international bureaucracy. Accordingly, Nye opines that the concept of a "regional system", which he defines<sup>5</sup> as "a regular pattern of international among

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13 See, Alf Ross, Constitution of the United Nations: Analysis of Structure and Function (New York, 1950), p.166.

14 Article 53(1) of the UN Charter, reads in part as follows:

"The Security Council shall, where appropriate, utilise such regional arrangements or agencies for enforcement action under its authority..."

15 See, Norman Bentwich and Andrew Martin, A Commentary on the Charter of the United Nations (London, 1951), p.100.

independent political units in a region"<sup>16</sup> is broader than the term "regional organization".

Nye further considers this distinction to be very important. Amplifying his contention, with West Asia as an example, he observes that West Asia as a whole can be regarded as a "regional system", technically speaking, because it represents a regular pattern of interaction of a varied kind between independent political units of a particular physical area -- an interaction ranging from cooperation to hostility. As such, it does not matter, if, for example, Israel, is hostile to the Arab states. Israel, according to Nye, is a regional state by virtue of its regular pattern of interaction with the Arab states of the area. Thus, Nye's views on regionalism can be summed up as follows. Firstly, regionalism in its broadest sense signifies a regional system, a regular pattern of interaction among political units geographically proximate to each other. Secondly, regionalism signifies the presence of the more particularistic regional organization, which is not necessarily congruent with the regional system. For example, the Arab League represents not the broader aspects of regionalism (i.e., a regional system), but its more specific particularistic aspect (i.e., a regional organization). Thus, Israel and the Arab states in their inter-state and intra-regional interactions,

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16 Joseph S. Nye, ed., International Regionalism: Readings (Boston, Mass., 1968), p.5.

represent one aspect of regionalism in West Asia and the Arab League, another aspect of regionalism in the same area.<sup>17</sup>

The problem of definition is further complicated by a line of distinction that is usually made between regional arrangements or agencies under Chapter VIII of the UN Charter and the right of "collective self-defence" provided for in Article 51 of the Charter. It is widely held that collective-self defence arrangements have a regional character either because they are concluded among a group of states in a given region or because they apply to a defined area that is more or less regional in nature. Besides, there are, or can be, essential differences between regional arrangements proper and military alliances. Van Kleffens offers three factors which distinguish between these two categories of regional arrangements. Firstly, in alliances, as distinct from regional arrangements proper, the accent is on closely concerted policy and action at all times, other than on a narrowly circumscribed object. Secondly, alliances may be offensive, while the aim of regional arrangements, if they are to deserve that name, is essentially, peaceful or defensive. Thirdly, two partners are enough to form an alliance, whereas a greater number is required if there is to be a regional arrangement. In other words, the collective element plays a greater part in regional arrangements

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17 Ibid., pp.8-15.

than in alliances.<sup>18</sup> In sum, therefore, "a regional arrangement in international politics may be described as some form of voluntary agreement or organization established to further joint action of states comprising, or having an interest in, some geographical area which is either generally recognized as a region or delimited by agreement."<sup>19</sup> It is in the context of the above definition that the Organization of African Unity will be studied here.

However, regional organizations may be classified under three broad categories, depending on their orientation and field of activity.

#### Regional Political Organizations

The regional political organizations have arisen mainly as the expression of some kind of regional solidarity in the face of politics of the outside world. These are also primarily concerned with the settlement of intra-regional disputes through diplomatic process or through limited peace-keeping machinery to control the use of force within the region. Besides, they may or may not present a common military or diplomatic front against an outside actor or actors. Examples of this type are the Organization of American States (OAS); the League of Arab

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18 See, E.N. Van Kleffens, "Regionalism and Regional Pacts", American Journal of International Law (AJIL) (Washington D.C.) vol.43, October 1949, p.668.

19 N.J. Padelford and C.A. Lincoln, International Politics (New York, 1954), p.609.



States; the Organization of African Unity (OAU); the Council of Europe, etc. The regional political organizations are described by some writers as "macro-regional organizations"<sup>20</sup> and "original"<sup>21</sup> regional organizations.

### Regional Military Organizations

The regional military organizations function primarily in the military-security sphere and are composed of states bound together by multilateral defence treaties designed to present a common military, or diplomatic, front against an outside actor or actors. They are primarily established to counter any external threat to its members. Examples of this type are the North Atlantic Treaty Organization (NATO); the Warsaw Treaty Organization (WTO); the treaty between the United States, Australia and New Zealand. These are also called regional alliance organizations by some writers.<sup>22</sup>

### Regional Functional Organizations

The regional functional organizations are the welfare-oriented organizations dealing with economic, social, cultural and other non-political and non-military aspects of international

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20 See J.S. Nye, Peace in Parts: Integration and Conflict in Regional Organization (Boston, 1971), p.5.

21 See Lynn Miller, "The Prospects for Order through Regional Security" in Richard Falk and Cyril E. Black, ed., The Future of International Legal Order (Princeton University Press), vol.1, p.572.

22 Ibid., pp.572-73.

cooperation. They regard the military security component as partly or wholly irrelevant to the purpose of the organization and concern themselves with the mutual desire to improve economic relations and to deal with other technical problems resulting from proximity and growing interdependence. Examples of such organizations are the European Economic Community (EEC); the European Coal and Steel Community (ECSC); the Nordic Council; the Organization for Economic Cooperation and Development (OECD); the European Free Trade Association (EFTA); Council for Mutual Economic Assistance (COMECON); the Latin American Free Trade Association (LAFTA); the Central American Common Market (CACM); the Economic Community of West African States (ECOWAS), the Colombo Plan and others.

The first two of the above categories may be called as "security regionalism" and the third may be characterized as 'functional regionalism'. It needs be noted, however, that many a regional organization today defy such classification because of their multi-functional and multi-dimensional patterns. The Commonwealth of Nations, for example, does not fall under any of the three classifications, though it is sometimes described as a regional organization.

#### REGIONALISM AND UNIVERSALISM

In this background, let us now discuss the controversy about regional and universal approaches to world peace. According to Joseph S. Nye, the regionalist arguments are based

on five main hypotheses.<sup>23</sup> The first of these is what he calls the restoration of multipolarity. According to this hypothesis, in a world in which there is a growing gap between the two Super Powers, in terms of military weaponry, there is bound to be an unstable power structure. Constant mutual attention and interaction between them create tension and, hence, reduce the capacity of each to tolerate changes in political alignments that might benefit each other. The outcome would be an inflexible system in which the Super Powers are drawn into distant conflicts in defence of marginal interests.<sup>24</sup> Regionalists, therefore, contend that regionalism is an important step towards restoring multi-polarity and flexibility in international relations.<sup>25</sup>

Secondly, it is contended by regionalists that the existence of small and weak states, more sovereign in name than in reality leads to the temptation of intervention in domestic affairs by Big Powers at any time when the latter feel their interests are threatened. To remove such threats, regionalists argue that such weak and small states could join

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23 Nye, n.20, pp.10-18.

24 For details, see also Karl Deutsch and J. David Singer, "Multipolar Power System and International Stability", World Politics (Princeton, N.J.), April 1964, pp.390-406. See also, R.N. Rosecrance, "Bipolarity, Multipolarity and the Future", Journal of Conflict Resolution (Beverly Hills, Cal.) (1966), pp.314-27.

25 See, for example, Roger Masters, The Nation is Burdened (New York, 1967), pp.58-61; see also George Ball, The Discipline of Power (Boston, 1968), pp.110-15.

to form larger regional units. Besides their own security, they could also gain economic benefits from such regional arrangements.

Thirdly, it is argued in favour of regionalism that economic organizations are a means of going beyond national sovereignty, and of creating "new relations between men and states."<sup>26</sup> By forming such functional economic organizations, the conflicts that so often arise between these states might be reduced as their efforts would be directed towards functional cooperation.

Fourthly, an important argument in favour of regionalism is that regional organizations have the potential of controlling local disputes among its members. It is argued by the regionalists that by "making peace divisible" regional organizations isolate conflicts and prevent local issues from becoming tangled with irrelevant problems and thus acquire global dimensions. Moreover, it is pointed out that regional organizations are particularly effective at conflict control and resolution, because geographical neighbours are more likely to understand the factual background of a conflict and hence can address themselves to solve such conflicts better.<sup>27</sup>

Fifthly, it is contended by the advocates of regionalism that, a global organization is too ambitious a proposition and

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26 See "A Ferment of Change", Journal of Common Market Studies, vol.1, no.3<sup>(1963)</sup>, p.211. (London)

27 See Nye, no.20, p.17.

thus cannot command the allegiance needed to fulfil its objectives in a world of opposing power groups. However, nations in a given region could work together with better cooperation and efficiency in areas of mutual benefit. Such countries having common interests in the region may take an active interest in the region.

The advocates of regionalism also contend that defence and security is easier to establish on the regional, rather than on the universal, level. They argue also that the outbreak of aggression will be of direct concern only to those states located within the area and that those states situated far away will not respond with assistance, because their vital interests are not threatened.

Another advantage which the advocates of regionalism point out is that relatively smaller states can, by virtue of their regional association get equitable representation in world organizations where such states often find it difficult to secure places on the major decision-making councils.<sup>28</sup>

The view is also held by the proponents of regionalism that the development towards universalism should be attempted gradually than quickly. It is, therefore, argued that regionalism is a necessary stepping stone towards universalism.

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28 See Ronald J. Yalem, Regionalism and World Order (Washington, D.C., 1965), pp.10-12.

As Robert Boothby has observed: "On the purely practical plan, regional organization is a prelude to any kind of global organization. We must build on firm foundations, from the bottom upwards."<sup>29</sup>

### The Other Side

Regionalism is not without its sceptics. The proponents of universalism to stable world order argue that it is virtually impossible to determine geographic regions suitable for any comprehensive system. And as a result of the development of science and technology, the problem of world peace and security as well as economic development and cooperation have assumed global dimensions. In view of this, national/regional divisions have become a virtual impossibility in an increasingly interdependent and highly complex world society.

It is pointed out by the adherents of universalism that regionalism encourages states to limit their obligations and thereby leads to the encouragement of isolationism. It is, therefore, argued that regionalism takes on the character of old-fashioned alliances which can lead only to inter-continental disputes and global wars. It also becomes an excuse for containing traditional enemies with big states surrounding

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29 Quoted in Allan de Russett, Strengthening the Framework of Peace (London, 1950), p.123.

themselves with unwillingly weaker states in clusters of military alliances and deeply involved in the ancient game of power politics, which is always at the disadvantage of the weaker and smaller states.<sup>30</sup>

From the above discussion, it is discernible that neither regionalism nor universalism can be adopted as the final, exclusive, principle in our search for a durable international peace and security and, hence, both universalism and regionalism would have a complementary role to play in the maintenance of world peace. The question, therefore, is not one of choosing between the two, but one of strengthening the contributions which regional and universal organizations can be useful auxiliaries to the indispensable universal system. As Pitman B. Potter has observed, "The principal task is not to waste time debating over regionalism versus universalism, but to study the ways in which, in concrete cases, the two principles can be utilized in combination and the standards to be applied."<sup>31</sup> In the light of the above, the next chapter attempts to make a study of regionalism under the United Nations.

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30 See N.D. Palmer, and Howard C. Perkins, International Relations, 3 edn. (New York, 1969), pp.409-15.

31 Pitman B. Potter, "Universalism Versus Regionalism", American Political Science Review (Washington, D.C.), vol.37, 1943, p.862.

## Chapter II

### REGIONALISM UNDER THE UNITED NATIONS

The ineffectiveness of the League of Nations to bring about durable international peace and security in its twenty years of effective existence (1919-1939), resulted in the formation of many regional security arrangements before the outbreak of the Second World War.<sup>1</sup> This was largely instrumental for the controversy which arose between the proponents of 'regional approach' towards world peace, on the one hand, and the advocates of 'universal approach' towards international peace and security, on the other. Hence, before the end of the Second World War, it became almost apparent from the various conferences of the allied leaders that the post-war world would be built on the basis of a global organization which would take into account both the regional and universal approaches to world peace and security.<sup>2</sup> This chapter, therefore, attempts a study of regionalism under the Charter of the United Nations.

#### DUMBARTON OAKS CONVERSATIONS AND REGIONAL ARRANGEMENTS

The Dumbarton Oaks conversations were a Four-Power conference<sup>3</sup> which drafted the "Proposals for the Establishment of a General

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- 1 For details of the various regional security arrangements, see, E.H. Carr, International Relations between the Two World Wars: 1919-1939 (London, Macmillan, 1973), pp.35-97.
  - 2 See, Ruth B. Russell, A History of the United Nations Charter (Washington, D.C., 1958), pp.462-65.
  - 3 The USA, USSR, Great Britain and China were the conferees, from 21 August to 7 October 1944. (Dumbarton Oaks is a private estate in Washington, D.C.).



International Organization", otherwise known as the Dumbarton Oaks Proposals. During the Conversations, regional arrangements figured prominently. Great Britain proposed that regional arrangements would be more useful for security than for political purposes, and suggested that they should be auxiliary to, consistent with, and under the supervision of, the universal body when matters of world security were<sup>2</sup> involved. The American view also favoured regional groups and considered them to be effective organs for purposes of peaceful settlement, as well as for enforcement<sup>of</sup> action. The agreement reached was that regional agencies should keep the Council informed of all their pertinent security activities. The United States, however, emphasized that such groups should not undertake enforcement action on their own initiative.<sup>4</sup>

The British and American views were included in Chapter VIII, Section (C) of the Dumbarton Oaks Proposals. The Soviet Union accepted these proposals. The Security Council was to encourage the settlement of local disputes through regional agencies, and to use these agencies "where appropriate for enforcement action under its authority."<sup>5</sup> The regional agencies were, however, not to take enforcement action without the authorization of the Security Council and were also to keep the Council informed of

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4 For details, see Russell, n.2, pp.472-74.

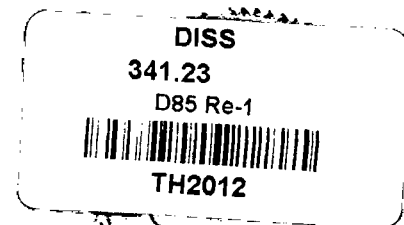
5 Quoted by Russell, *ibid.*, p.473.

their activities. China entered the conversations later and did not object to these agreements reached earlier. However, it suggested the adoption of its proposals which required the Security Council's approval of all regional arrangements to ensure compatibility with the purposes of the organization. The United States maintained that requiring the regional agencies to keep the Council informed of their activities would be sufficient. Although China did not insist on listing the point for further consideration, it continued to favour the principle of prior Council recognition of regional arrangements.

At this juncture of the conversations, the British delegate asked for the clarification whether the ban on regional enforcement, without the prior Security Council's consent would limit Allied freedom of action in enforcing surrender terms on enemy countries. There had already been a general consensus that the Allies would not transfer responsibility for the terms of the war settlement to the Security Council until the enforcement action had become fairly routine. In response to the above, the United States suggested that in the regionalist provisions of the Dumbarton Oaks Proposals, an exception might be made allowing action concerning enemy states to be "taken or authorized by the Governments having responsibility for such action" without prior Security Council's approval.<sup>6</sup>

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<sup>6</sup> Ibid., p.474.



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In sum, the Dumbarton Oaks Proposal on regional organizations was that while regional agencies might be utilized by the Security Council for enforcement purposes, "no enforcement action was to be taken under regional arrangements or by regional agencies without the authorization of the Security Council."<sup>7</sup> With the above, the Dumbarton Oaks Proposals embodied the principle of regionalism in the new world organization.

#### THE SAN FRANCISCO CONFERENCE AND THE CONTROVERSY OVER REGIONAL ARRANGEMENTS

The problem of regionalism was raised again at the San Francisco Conference in 1945, during the preparation of the United Nations Charter. The main question at issue was the maximum possible autonomy that could be safely accorded to regional arrangements within the universal security system.

As noted earlier, there had been a consensus among the Big Four during the Dumbarton Oaks Conversations on regional arrangements. Hence, one is tempted to ask why the question of regionalism became "one of the knottiest questions"<sup>8</sup> to be dealt with at great length. The regional arrangements proposals of the Dumbarton Oaks Conversations seemed to have undergone some

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7 United Nations Conference on International Organization (UNCIO), UN Doc., 553, vol.12, p.766.

8 Leland M. Goodrich, "Regionalism and the United Nations", Columbia Journal of International Affairs, vol.III, 1949, p.9.

modifications when the Big Three,<sup>9</sup> meeting at Yalta in February 1945, agreed on the voting procedure in the Security Council, under which unanimity of the Big Five was required for enforcement action against an aggressor.<sup>10</sup> As a result of the Yalta agreement, a new situation arose by which any permanent member of the Security Council could block approval for enforcement action contemplated under a regional system.

In the light of the above, many countries, particularly the Members of the Inter-American system, became apprehensive of their actions being blocked by states outside their region. Besides, there was the fear that the Security Council itself might not prove effective to deal with threats to peace or acts of aggression because of the time required for a concerted action by the Council.<sup>11</sup> The prior authorization by the Security Council before regional agencies could take enforcement action, became a major bone of contention at the San Francisco Conference.

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- 9 The Yalta Conference was attended by Roosevelt (USA), Churchill (Great Britain) and Stalin (Soviet Union). Here the Big Three accepted the voting arrangements in the Security Council.
- 10 The Yalta agreement led to Article 27(3) of the UN Charter <sup>(as amended)</sup> which reads as follows: "Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting."
- 11 For details, see Leeland M. Goodrich and Edward Hambro, Charter of the United Nations: Commentary and Documents (Boston, 1949), pp.297-305.

The Latin American states were eager to widen the scope of the general autonomy of regional organizations, especially to eliminate the requirement of the Security Council's prior authorization. Similarly, Australia, New Zealand and the Arab States were desirous of safeguarding and preserving their regional systems by obtaining autonomy of regional action. France was also worried about the possible renewal of German aggression and hence, insisted on freedom of action against ex-enemy states without the necessity for awaiting prior sanction by the Security Council. It was also the desire of the Soviet Union to free the East European bilateral mutual assistance pacts from any restrictive control of the United Nations Charter system.<sup>12</sup> As evident from the above, many countries wanted a specific exception from the Council's authorization inserted in Chapter VIII of Dumbarton Oaks Proposals. Australia, for example, proposed to add, at the end of the regional provisions a paragraph which read thus:

If the Security Council does not itself take measures and does not authorize action to be taken under regional arrangement or agency for maintaining or restoring international peace, nothing in this Charter shall be deemed to abrogate the right of parties to any agreement which is consistent with this Charter to adopt such measures as they deem just and necessary for maintaining or restoring peace and security in accordance with that agreement. (13)

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12 See debates in the Committee III/4, 14 May 1945, UNCIO Doc.228, vol.II, pp.48-50.

13 UNCIO Doc.588, vol:12, p.675.

The Latin American States, anxious to uphold the Monroe Doctrine, and eager to protect the Act of Chapultepec<sup>14</sup> had come to San Francisco, determined to make the inter-American system the basis of security enforcement in Western Hemisphere. They were apprehensive of the possibility that a 'veto' by an unfriendly permanent member of the Security Council could thwart any enforcement action contemplated by their regional security arrangements. They were also not happy with the exception covering the enemy states which they felt were for the benefit of Europe only. They, therefore, wanted the right of immediate self-defence action against aggression to be added in the Charter to safeguard the Monroe Doctrine. They suggested that the over all authority of the World Organization could be safe-guarded through a requirement that defensive action must be reported immediately to the Security Council, so that the latter might exert its superior authority if it so decided.<sup>15</sup>

With the above suggestion, there was a major breakthrough of the critical problem of finding a formula that would recognize the over-riding authority of the United Nations in all enforcement action, and yet permit the regional action some autonomy (in case of undue delay or ineffectiveness of the Security Council).

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14 The Act of Chapultepec was concluded at the Inter-American Conference on Problems of War and Peace, which met at Mexico City, 21 February-8 March 1945.

15 See UNCIO Docs 5<sup>8</sup>, vol.12, pp.677-80.

The compromise formula stated that the "right of self-defence"<sup>16</sup> is inherent in every nation, individually and collectively. Thus, in the event of an armed attack against any one or a group of countries associated for a mutual assistance, they could take concerted defensive action.<sup>17</sup> The consensus formula, however, instead of forming part of Section VIII-C,<sup>18</sup> on regional arrangements, was rather inserted in Section VIII-B of the Dumbarton Oaks Proposals which dealt with action against aggression. In its final form the compromise formula became Article 51 (of Chapter VII) of the UN Charter which reads as follows:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The insertion of this Article amounted to, as Inis Claude has observed, a compromise between the "theoretical preference for universalism and political pressures of regionalism."<sup>19</sup>

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16 For details, see Russell, n.2, p.702.

17 See UNCIO, Docs. 587, vol.12, pp.680-82.

18 Section VIII-C of the Dumbarton Oaks Proposals with modifications adopted at the San Francisco Conference in 1945 became Article 52, 53, and 54 of the UN Charter.

19 Inis L. Claude, Swords into Plough Shares: Problems and Progress of International Organization, 4 edn., (New York, N.Y., 1971), p.114.

In sum, after considerable debate and discussions, the provisions of Chapter VIII-C of the Dumbarton Oaks Proposals were adopted, and the three paragraphs became Article 52, 53 and 54 of the UN Charter respectively.

The Charter does not touch upon the legality of the existence of regional arrangements. What it does contain is a set of principles bearing upon the activities of regional organizations.<sup>20</sup> Article 52, however, recognizes the right of member states to establish regional arrangements or agencies for dealing with matters relating to the maintenance of international peace and security. The only explicit limitations imposed are that the matters dealt with must be "appropriate for regional action" and that the arrangements and agencies and their activities must be "consistent with the Purposes and Principles of the United Nations."<sup>21</sup> The article, however, goes beyond legitimizing such arrangements or constituting such agencies; it requires every effort to achieve pacific settlement of local disputes by these means before referring them to the Security Council.<sup>22</sup> Such a procedure is consistent with the obligation members assume under Article 33 of the Charter to seek, first of all, the settlement of their disputes by means of their own choice before appealing

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20 Eide Asbjorn, "Peace-keeping and Enforcement by Regional Organizations". Quoted in Ellen Frey-Wouters, "The Prospect for Regionalism in World Affairs", in Richard Falk and Cyril E. Black, ed., Future of International Legal System (Princeton University Press, 1969), pp.530-31.

21 Article 52(1) of the UN Charter.

22 Article 52(2) of the UN Charter.



not party to the regional arrangement. This was why Cyprus initially refused to accept an international peace-keeping force proposed by the North Atlantic Treaty Organization (NATO) members and appealed to the Security Council,<sup>24</sup> which decided to establish such a force. In another instance, the Organization of African Unity considered itself competent to deal with the unsettled Congo situation in 1963, but when Belgium and the United States carried out a military operation to rescue white hostages at Stanleyville, OAU members joined in by requesting the Security Council to consider the action as a violation of the UN Charter.<sup>25</sup>

The second requirement that such arrangements and agencies and their activities should be consistent with "the Purposes and Principles of the United Nations" is in line with the general principle that Charter obligations prevail over obligations of other international agreements entered into by members.<sup>26</sup> It also represents the view that prevailed at Dumbarton Oaks and was accepted at San Francisco: that the Global Organization for peace and security is the basic and over-riding one and that regional organizations and agencies function within that framework and subject to the same over-riding purposes and principles.<sup>27</sup>

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24 See UN Doc.S/5545, 15 February 1964.

25 See, SCOR, 19th yr., 1170th-1178th Mtgs., 9-17 December 1964; 1181st and 1183rd-1189th Mtgs., 22-30 December 1964; and Security Resolution 199, 30 December 1964.

26 See, Article 103 of the UN Charter.

27 Russell, n.2, pp.472-73.

to the Council. Article 52 also requires the Security Council to encourage the use of regional arrangements and agencies for the settlement of "local disputes" either on the initiative of the states concerned or by reference from the Council itself. However, paragraph 4 of Article 52 states that the effect of the first three paragraphs is to leave the application of Articles 34 and 35 unimpaired.

Now, there arises the question whether a particular matter is appropriate for regional action or not. While it is generally agreed and recognized that disputes between parties to regional arrangements are appropriate for settlement or adjustment by regional agencies, this does not necessarily exclude the possibility of Security Council consideration at the request of the parties, particularly where the possibility exists that a powerful state uses a regional agency for coercing a small state.<sup>23</sup> There is also wide agreement that certain matters relating to the organization and procedures of regional agencies are clearly appropriate for regional action. Thus regional organizations are able to determine their own membership, stipulate qualifications of membership and establish conditions of active participation as long as these were consistent with the purposes and principles of the Charter. There is also considerable support for the view that regional action under Article 52 is not appropriate in a matter involving a state

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23 See SCOR, 17th yr., 991st-998th mtgs., 27 February-23 March 1962.

Article 52(2) ~~of~~ places upon the parties to regional arrangements the obligation "to make every effort to achieve peaceful settlement of local disputes" before referring them to the Security Council, while paragraph 3 places on the Council the duty to "encourage the development" of peaceful settlement of local disputes through regional arrangements either by the state concerned or "by reference" from the Council. These provisions are in harmony with the general approach of the Charter to the peaceful settlement of disputes which is to encourage states, first of all, to seek to settle their disputes by means of their own choice.<sup>28</sup> Paragraph 4 provides that this article in no way impairs the application of Articles 34 and 35.

In principle, however, there has been general agreement that the party to a regional arrangement has the right to have its complaint considered by the Security Council or the General Assembly; at the same time, there is general agreement that, consistent with the general philosophy of the Charter, an attempt should be made to achieve a settlement through regional arrangements and other means of the parties' own choice before appealing to the United Nations organs. Failure to do so, however, is not necessary a reason for denial of a hearing or even a refusal by the Security Council or the General Assembly to adopt the necessary measures. One argument that usually carries weight is that the regional agency, being closer to the situation and in a

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28 Articles 33 and 36 of the UN Charter.

better position to evaluate it, should be given the first opportunity to achieve a settlement acceptable to the parties.

The general principle that regional arrangements shall only be used for enforcement action under the authority and authorization of the Security Council was accepted at Dumbarton Oaks. At San Francisco, Article 51 was introduced to allow a measure of autonomy for regional and other groupings in case of an armed attack, and the exception contained in Article 53 was adopted to permit collective measures without Security Council authorization against an "enemy state".

The measures that are expected from the requirement of Security Council authorization in this article fall into two categories: (i) measures against any "enemy state" as defined in paragraph 2 of this article provided for, pursuant of Article 107; and (ii) measures against such "enemy states" provided for regional arrangements directed against the renewal of aggressive policy on the part of any such state. In respect of both kinds of measures, the exception operates until such time as the Organization may, "on the request of the Governments concerned", be charged with responsibility for preventing further aggression.

The phraseology of this exception was the subject of extended and confused discussion at San Francisco. It was not easy to find a language that would give equal satisfaction to those deeply concerned with the danger of renewed "enemy" aggression and those whose interest was in having an effective general security organization with suitable provision for the

autonomy of regional arrangements and who were opposed to unduly prolonging the period of treating the "enemy states" as a special security problem. Some objected to relating the exception to regional arrangements, while others were unconvinced that mutual assistance arrangements strictly conforming to Article 51 would give adequate security. The price of the final agreement was a phraseology unsatisfactory to many states, since it allowed the exception to remain operative as long as any "government concerned" desired, and described as an exception to the principle of Article 53 measures which might, and in all likelihood would, be taken under arrangements that were in no real sense regional at all, but rather military alliances of the traditional nature.<sup>29</sup>

In the early postwar period, a number of treaties were concluded which implicitly or explicitly involved the exception of "regional arrangements directed against renewal enemy aggression", or at least could be regarded as coming under its terms.<sup>30</sup>

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29 Russell, n.2, pp.706-12.

30 These included the Treaty of Alliance between the Soviet Union and the United Kingdom, 26 May 1942; the Treaty of Alliance and Mutual Assistance between the Soviet Union and France, 10 December 1944; the Treaty of Friendship and Alliance between the Soviet Union and the Republic of China, 14 August 1945; the Treaty of Friendship and Alliance between France and the United Kingdom, 4 March 1947; bilateral treaties concluded by the Soviet Union and East European countries during the years 1943-48.

Article 54 was in substance included in the Dumbarton Oaks Proposals and was adopted at San Francisco without dissent. It places an obligation upon members of the United Nations and upon regional agencies. The obligation is more extensive than that assumed under Article 51 in that it extends to activities "in contemplation" as well as to those "undertaken". Its obvious purpose is to provide the Security Council with the information it needs to discharge its "primary obligation" under Article 24, and to exercise the degree of control over the activities of regional organizations in the maintenance of international security that Articles 52 and 53 in particular envisage.

It would seem that the purpose of this Article has been, in practice, blurred more often than not. Information supplied to the Security Council has been largely limited to texts of resolutions and other documentary materials. The language of Article 54, however, suggests that much more detailed reporting was envisaged: clearly, such would be necessary if the information is fully to serve the purpose of keeping the Security Council informed of what the regional agencies are doing and what can be expected of them in the maintenance of international peace and security.

#### REGIONALISM VERSUS GLOBALISM IN PRACTICE

In accordance with Articles 34, 35 and 39 of the Charter, Guatemala requested a meeting of the Security Council in 1954 to put a stop to aggression against it from the direction of Nicaragua and Honduras. Guatemala, supported by the Soviet

Union, argued that this was not a dispute but an act of aggression, and therefore the Security Council was required to act. Other members, while admitting Guatemala's right to appeal to the Council and that organ's over-riding concern with the maintenance of peace, nevertheless felt that the regional organization was in the best position to ascertain the facts and recommend measures. A draft resolution, introduced by Brazil and Colombia, provided for referring the complaint to the Organization of American States (OAS) "for urgent consideration" and requested it to inform the Council "as soon as possible, on the measures it has been able to take on the matter."<sup>31</sup> It was vetoed by the Soviet Union and a French proposal was adopted by which the Council called for the immediate termination of any action likely to cause bloodshed and requested members to abstain from giving assistance to such action. When the Guatemalan Government renewed its request for Council action, the Council by a vote of 4 to 5 with 2 abstentions, refused to place the item on its agenda, the prevailing argument being that the matter was under consideration by the OAS.<sup>32</sup>

Cuba maintained in July 1960 that it had the right to submit its complaint against the threats, reprisals, and aggressive acts of the United States to the Security Council,

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31 UN Doc. S/4236/Rev.1, 20 June 1954.

32 See SCOR, 9th yr., 675th and 676th Mtgs., 20 and 25 June 1954; also Reportory II, pp.448-58.

instead of first appealing to the OAS. The Council, by a vote of 9 to 0 with 2 abstentions, adopted a resolution adjourning consideration of the question, pending receipt of a report from the OAS, and inviting OAS members to assist in achieving a peaceful solution in accordance with the purposes and principles of the Charter.<sup>33</sup>

A general understanding was reached on the following grounds: the OAS had already been seized of with the matter. Under the Charter it is required or appropriate that regional arrangements should be used first, though use of such arrangements does not preclude recourse to competent United Nations organs; and in the absence of more complete information, the Council could not take a decision on substance until the conclusions of the OAS were known.<sup>34</sup> The General Assembly, on the other hand, passed a resolution on the same question when it came up for its consideration, reflecting the view that the competent United Nations organs can take appropriate action without requiring the parties first to make use of a regional agency <sup>or</sup> of waiting for such agency to act.<sup>35</sup>

The question of the priority of the United Nations or regional agencies has come up for further discussion in

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33 UN Doc., S/4395, 19 July 1960.

34 For discussion, see SCOR, 15th yr., 874th-876th Mtgs., 18-19 July 1960.

35 General Assembly Resolution 1616(XV), 21 April 1961. For debate, see GAOR, 909th and 910 Plen. Mtgs., 31 October-1 November 1960.



connexion with many subsequent occasions. In 1958, for instance, Lebanon agreed to Council deferment of consideration of its complaint of intervention by the United Arab Republic in its affairs until the League of Arab States had an opportunity to examine the matter. It reserved, however, its rights to request immediate convocation of the Security Council.<sup>36</sup> After the failure of the League of Arab States to take a decision, and on the request of Lebanon, the Security Council resumed consideration of the matter and decided to send an Observation Group to ensure against "illegal infiltration."<sup>37</sup> In February 1964, Somalia, in a like manner, agreed not to press its complaint against Ethiopia until the Organization of African Unity had concluded consideration of the matter. It later notified the Council of its decision accordingly.

The priority of the use of regional arrangements or measures over those of the United Nations received strong support from the African States and clear recognition by the Security Council during its consideration of the complaint of intervention by the United States and Belgium in carrying out military intervention to rescue white hostages in Stanleyville.

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36 UN Docs. S/4018, 2 June 1958 and S/4023, 11 June 1958.

37 UN Docs. S/5542, 14 February 1964; and S/5557, and S/5558, 18 February 1964.

The resolution adopted by the Council expressed in its preamble the conviction that the Organization of African Unity should be able "in the context of Article 52 of the Charter to help find a peaceful solution to all problems and disputes affecting peace and security in the continent of Africa." Further, the resolution supported and encouraged the OAU in its efforts to achieve national conciliation in the Congo.<sup>38</sup>

In conclusion, it may be said that under the UN Charter regional arrangements are recognized as necessary auxiliaries to the world organization in the maintenance of international peace and security. However, the precise relationship between the United Nations and regional arrangements in this matter remained ambiguous. As already noted, the UN Charter contained two sets of provisions dealing with this problem, namely, Articles 52(1), (2) and (3), coupled with Article 33 and 37 on the one hand, and Articles 52(4), 54, 103, 34, 35, 36 and 38 on the other.<sup>39</sup> While the first group of Articles assign a pre-eminent role to regional organizations in the field of international security, the latter group of Articles clearly subordinate such arrangements to the controlling authority of the Security Council.

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38 See SCOR, 19th yr., 1170th-1178th, 1181st, 1183rd-1189th Mtgs., 9-17 December 1964, and UN Doc. S/6128, 30 December 1964.

39 B. Andemicael, The OAU and the UN: Relations Between the Organization of African Unity and the United Nations (New York: African Pub., 1976), pp.1-3.

In brief, it may be stated that the framers of the UN Charter sought a compromise which could give regional organizations some autonomy but still keep them subordinate to the universal organization. As Wilfred Jankis points out:

In retrospect, it is fairly clear that Article 51 and the provisions of Chapter VIII did not result in a successful equilibrium. The lack of an effective balance between the principles of regionalism and universalism is partly due to the vagueness of some of the related Charter provisions.(40)

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40 Wilfred Jenkis, "Co-ordination: A New Problem in International Organization", Recueil des Course (Geneva), vol.II (1950), p.108.

### Chapter III

#### THE ORGANIZATION OF AFRICAN UNITY: GENESIS AND FACTORS FOR ITS FORMATION

The Organization of African Unity (OAU), which came into existence on 25 May 1963, in Addis Ababa, Ethiopia, is one of the important regional organizations of the world. Since its membership is open to African states only<sup>1</sup> which are located in the African region, it is called a regional organization. The 1963 Summit Conference of Independent African States, which gave birth to the OAU, was held in two stages. A preparatory conference of Foreign Ministers took place from 15 to 23 May 1963, and was followed immediately by a meeting of Heads of State and Government which concluded its proceedings on 25 May 1963, with the signing of the Addis Ababa Charter.<sup>2</sup> Thirty African states, thus, became the founder-members of the OAU. Morocco and Togo did not participate in the conference -- because Morocco disapproved of the presence of Mauritania in the Conference which it claimed as a part of the Moroccan kingdom, and Togo was absent because its new government was not recognized by many African states. Several representatives of the nationalist parties of dependent African territories were

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1 According to Article IV of the OAU Charter, each independent sovereign African state shall be entitled to become a member of the Organization. South Africa is, of course, debarred.

2 B.B. Ghali, "The Addis Ababa Conference", International Conciliation, no.546, January 1964, p.7.

also invited to participate in the Conference. George Ivan Smith represented the Secretary-General of the United Nations, and the Organization of American States was represented by the Chilean Ambassador to Ethiopia.

The history of the OAU is linked with the Second World War. In the years preceding and immediately following the World War, African nationalist leaders were mainly concerned with the more pressing problem of self-determination of dependent territories.<sup>3</sup> Kwame Nkrumah made an unsuccessful attempt to interest the African members of the French Assemblée Nationale in forming a Union of West African Republics as early as 1945,<sup>4</sup> but he continued his attempt for African unity. Nkrumah was, it should be noted, instrumental in organizing a West African National Congress in London in August 1946 which pledged itself to promote the concept of a West African Federation as a stepping-stone to the ultimate achievement of a United States of Africa.<sup>5</sup>

After the West African National Congress of August 1946, no serious organizational developments on an international basis took place until 1958, because Kwame Nkrumah, who had been the energetic secretary of the West African National Secretariat in London, left London on 14 November 1947 to become the general-

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3 Ghali, n.1, p.6.

4 Ibid.

5 A. Ajala, Pan-Africanism: Evolutionism, Progress and Prospects (London: Andre Deutsch, 1974), p.12.

secretary of the United Gold Coast Convention Party. Moreover, efforts were concentrated in the other African colonies to organize political parties in order to achieve their independence.

Shortly after Nkrumah became the leader of Government Business of Gold Coast in December 1953, he organized a conference at Kumasi (Ghana), which was attended by representatives of nationalist movements from both the English-speaking and French-speaking territories in West Africa, including independent Liberia. A Congress of West Africa was established here to encourage the African leaders of those territories still under colonial rule, and also in keeping in touch with one another.

In March 1957, Ghana became independent and as the Prime Minister of this newly-independent state, Nkrumah organized in April 1958 a conference of Independent African States in Accra, which aimed at "forging closer links of friendship, brotherhood, cooperation and solidarity."<sup>6</sup> The Conference marked the formal launching of the Pan-African movement on African soil.<sup>7</sup> It was attended by African leaders from Ethiopia, Liberia, Libya, Morocco, Sudan, Tunisia, the United Arab Republic and Ghana, the host country. Sowing the seeds of a future organization of African Unity, Nkrumah said in the conclusion of his speech at the conference: "Today we are one. If in the past, the Sahara

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6 Cited in Vernon McKay, African in World Politics (New York, 1963), p.109.

7 Earlier, the area of activities of Pan-African movement till 1958 was mainly Britain. See, Ajala, n.5, pp.1-12.

divided us, now it unites us. And an injury to one is an injury to all of us. From this conference must go out a new message: 'Hands off Africa! African must be free'."<sup>8</sup>

The Conference decided to set up permanent machinery for co-ordinating all matters of common concern to the African states; for examining and making recommendations on concrete, practical steps for implementing conference decisions, and for preparing the ground for future conferences. Significantly, the conference accorded a non-voting status to the representatives of the Algerian National Liberation Front, which was engaged in armed struggle against the French for Algeria's independence. This action was later to become one of the sources of friction in the movement towards African unity.

In December, the same year, Ghana acted as host to another conference, this time, of the African political parties. Apart from the conspicuous absence of the Nigerian Northern People's Congress (NPC) and the ruling political parties in French Africa except Guinea, the conference was attended by all African political parties from Cairo to Cape Town. On 5 December, Nkrumah declared that the "African Freedom Fighters" had assembled for the purpose of planning for a final assault upon imperialism and colonialism."<sup>9</sup>

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8 Ghana Daily Graphic (Accra) 16 April 1958.

9 Ibid., 9 December 1958, pp.1-4.

The Conference was divided into five main committees to deal with colonialism and racialism; to discuss socialism, discriminatory laws and practices; to handle the question of lands, implementation of the Universal Declaration of Human Rights of the United Nations; to concern itself with the progressive federation or confederation of geographical, regional, state groupings into an ultimate Pan-African Commonwealth of free, independent, united states of Africa; and, to consider the setting up of a permanent secretariat of the Conference, respectively.<sup>10</sup>

Apart from the presence of so many major African political parties, the conference itself was significant in many ways. For the first time in the history of Pan-Africanism, a resolution was adopted by a substantial representative gathering to promote a commonwealth of united free African states. It read that the conference:

- a) endorses Pan-Africanism and the desire for unity among African peoples;
- b) declares that its ultimate objective is the evolution of a commonwealth of Free African States;
- c) calls upon the Independent African states to lead the peoples of Africa towards the attainment of this objective; and

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10 Ibid.



d) expresses the hope that the day will dawn when the first loyalty of African States will be to an African Commonwealth.<sup>11</sup>

1959 marked a significant step forward in the Pan-African objective of a commonwealth of free African states. Concrete efforts were made in West Africa towards achieving that goal, first by Ghana and Guinea, and later by Ghana, Guinea and Liberia. They led to two important declarations: the Conakry Declaration of 1 May 1959; and the Sanniguellie Declaration of 19 July 1959.<sup>12</sup>

Earlier, Sekou Toure of Guinea and Nkrumah of Ghana held a series of talks in Accra from 21 to 23 November 1958, at the end of which it was announced that the two countries had decided to constitute themselves into a Union of West African States. The Union was meant to be the nucleus of a union of independent African States; membership was open to all other independent African states. The Union was expected "to build up a free and prosperous African community in the interest of its peoples and world peace."<sup>13</sup> It would have a common economic, foreign and defence policy, although each member was expected to have its

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11 See, 'Resolutions adopted by the All-African People's Conference, Accra, 5-13 December 1958' in Colin Legum Pan-Africanism (London, 1962), p.230.

12 For the texts of the above resolutions, see, *ibid.*, pp.178-81.

13 For details, see Ajala, n.5, p.20.

own army. In order to bring Africans closer together, the union would take necessary measures to co-ordinate historical research, teaching of languages, and cultural activities designed to promote the harmonious development of African civilizations.<sup>14</sup>

On the initiative of President Tubman of Liberia, a Summit Conference of the Heads of State of Ghana, Guinea and Liberia was held at Sanniquellie, a small Liberian village, in July 1959. In his welcoming address, President Tubman suggested that the conference should discuss African unity, African freedom, racial discrimination in South Africa, and a future conference of independent African states. He, however, suggested that all discussions on African unity should at that time be only of an exploratory nature. He wanted no final decision on the matter till other African countries, with fixed dates of independence, had become independent and then only "the specific form that unity should take will be satisfactory to all and spontaneously supported by all should be decided."<sup>15</sup>

There were, however, differences in views and approaches to the question of the proposed African unity among the three. Nkrumah said: "Let us not postpone the talks of laying the foundation of West African Unity... We cannot delay. Time passes. We must start with what we have."<sup>16</sup> Sekou Toure, on

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14 Ibid., p.21.

15 Ghana Daily Graphic, 18 July 1959, pp.1-5.

16 Ibid.

the other hand, held that no decisions be made at the conference merely by the "three heads of state, but by the African peoples."<sup>17</sup> He, therefore, wanted the conference to become a source of inspiration for the African people by doing something concrete.

Despite these exhortations and pleadings for immediate action, any decision on the method and timing of concrete measures towards African unity and cooperation was deferred by the three heads of state until Nigeria and the other African countries became independent. But they did agree to form 'the Community of Independent African States' with a view to achieving unity among independent African states. Each member state of the community was to maintain its national identity and constitutional structure. The community was to set up an economic council, a cultural council, and a scientific and research council. Membership would be open to all independent African states. The conference also agreed to convene a special conference of the foreign ministers of the independent African states which would concern itself with the projected French nuclear tests in the Sahara as well as with other problems of common concern to the African states.

In 1960 the Second All African People's Conference took place at Tunis between 25 and 30 January. Like the first, All African People's Organization (AAPO) Conference, it was

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17 Ibid.

attended by African political parties and trade unions, but it differed from its predecessor in that it not only paid attention to the political, economic and cultural aspects of Pan-Africanism, but also laid rather more emphasis on African unity.<sup>18</sup>

In accordance with the decision taken at the First Conference of Independent African States in April 1958, the second CIAS opened on 15 June 1960 at Addis Ababa, but only the Algerian provisional government, Cameroon, Ethiopia, Ghana, Guinea, Liberia, Libya, Nigeria, Somalia, Sudan, Tunisia and the United Arab Republic were represented. The absence of others, especially of Madagascar, the Mali Federation and Togo, all from the former French African empire, was an indication of things to come. Up till now the African leaders in the French community had shown little or no interest in Pan-Africanism. The political parties they led had not attended either of the two AAPO conferences. Their absence was partly due to the presence of the provisional government of Algeria at the Conference.<sup>19</sup> Morocco stayed away because of the presence of Mauritania, whose territory it claimed as part of Morocco and Congo could not participate because of internal political situation at the time.

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18 For details, see Legum, n.11, pp.45-50.

19 The presence of the provisional government of Algeria amounted to a more or less "de facto" recognition of the 'rebel' government. Since any recognition was regarded by France as an unfriendly act, these French community members would not like to displease de Gaulle's Government. The French ambassador to Ethiopia refused to attend the opening session of the conference because of the presence and flag of the Algerian provisional government.

The most controversial topic at the Conference was African unity. Although each delegation realized the need for African unity, there was a substantial disagreement on how that unity should be achieved and what form it should take. While Ghana, supported by Guinea, advocated political union and urged the conference to make use of the Sanniguellic Declaration as a basis for the achievement of a union of African States, Nigeria took the lead in opposing such suggestions. The leader of the Nigerian delegation pointed out that "at this moment the idea of forming a union of African States is premature." He went on: "At the moment we in Nigeria cannot afford to form union by government with any African States by surrendering our sovereignty."<sup>20</sup> Advocating the gradual and functional approach to African Unity, he wanted all artificial barriers between African countries to be dismantled, international roads to be built and the exchange of information to be promoted first, before any union of African states could be contemplated. And, thus, began the great debate on which approach would better lead to the Pan-African ideal of African unity. Thus, the Second CIAS marked the beginning of open controversy on the approach towards African unity.

Although certain African leaders in the French community were unenthusiastic about Pan-Africanism, they realized that

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20 Cited in Ajala, n.5, p.25. Also Dr Nnamdi Azikiwe, an eminent leader of Nigeria, had said during a press conference in America in July 1959, that if for many years certain parties had fought for their sovereignty, it was unlikely that they would surrender that sovereignty to a nebulous organization simply because they felt it necessary to work together. Ghana Daily Graphic, 22 July 1959.

some of its objectives were not altogether undesirable. They realized, for instance, that the goal of national independence as a prelude to the ultimate achievement of African unity was worthwhile. Consequently, all the member states of French West Africa and French Equatorial Africa had become independent by the autumn of 1960.

The responsibilities of independence soon made the new states realize that they could not isolate themselves. They must join forces with fellow states in order to find solutions to the problems facing them. Apart from the Congo situation which had taken a serious turn immediately after its independence on 25 May 1960,<sup>21</sup> the Algerian war of independence was still raging, at immense human and material cost. Moroccan claims to certain African territories, including Mauritania, presaged further frontier conflicts. An awareness of this situation led to the Brazzaville Conference of December 1960.

Abbe Fulbert Youlou of Congo (Brazzaville) took the initiative in calling for a meeting of the French-speaking countries to discuss, among other things, the Congo situation. The Congo crisis had already divided the independent African states, as certain African states<sup>22</sup> wanted immediate UN action

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21 For details, see I. William Zartman, International Relations in the New Africa (Englewood Cliffs, New Jersey, 1966), pp.13-26.

22 These states were the Cossablanca Group of States, or the radical states, e.g., Ghana, Guinea, Mali, Egypt etc.

to end the crisis while others<sup>23</sup> supported the UN Secretary-General who had ordered the UN troops present in the Congo against the use of force which could aggravate Katanga's secession.<sup>24</sup> The Brazzaville Conference, which took place between 15 and 19 December 1960, therefore, served as another lever of disunity within the Pan-African movement and created further obstacles in the way of African unity. Unlike the Brazzaville group,<sup>25</sup> which had praised the UN in the communique issued after the conference, certain other African states preferred action and the desire among these states for a solution led to the next conference, which took place at Casablanca in January 1961.

The Casablanca Conference was, in a way, a sequel to the Brazzaville Conference. It acted as a rallying point for those African states whose leaders were strongly convinced that if the Congo crisis were to be contained and an acceptable solution found, then the United Nations must be urged to change its ambiguous and unrealistic policy.<sup>26</sup>

Attended by the heads of state of Ghana, Guinea, Mali Morocco and the United Arab Republic, the Prime Minister of

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23 The Brazzaville States supported UN role in the Congo.

24 For details, see Ajala, n.5, p.45.

25 Cameroon, the Central African Republic, Chad, Congo (Brazzaville), Dalomey, Gabon, Ivory Coast, Madagascar, Mauritania, Niger and Senegal.

26 See Ajala, n.5, p.48.

the Algerian provisional government and the foreign minister of Libya, the Conference not only concerned itself with the Congo crisis but tried to find a practical way of achieving African unity. Hence, they decided to create an African consultative assembly, which would be composed of the representatives of every African state, have a permanent seat and hold periodical sessions. The following committees were also to be set up:

1. African Political Committee: comprising of heads of state or their duly accredited representatives, which would meet periodically in order to coordinate and unify the general policy of the various African states.
2. African Economic Committee: consisting of the ministers of economic affairs of the independent African states, which would meet periodically to take decisions on African economic cooperation.
3. African Cultural Committee: to be composed of the ministers of education of the independent African states.
4. Joint African High Command: made up of the chiefs of staff of the independent African states to ensure common defence.

Paradoxically, however, the apparent success of this conference only promoted further disunity in the already divided Pan-African camp-talk ~~started~~ of the 'Casablanca'



and 'Brazzaville' powers. These two groups were distinct and antagonistic camps. Between them stood the uncommitted African states such as Ethiopia, Liberia, Nigeria, Sierra Leone, Somalia, the Sudan, Togo and Tunisia. It was increasingly felt that every step must be taken to bring these three groups closer and work out an acceptable formula for their collaboration.

The initiative to convene a conference at which all independent African states would be present came from President Senghor of Senegal. It was advisable to have two sponsors from each of the three groups. Liberia and Nigeria represented the uncommitted group while Cameroon and Ivory Coast from the Brazzaville group, and Guinea and Mali from the Casablanca group agreed to sponsor such a move. All independent African states were invited to the conference scheduled to start on 8 May 1961, at Monrovia, capital of Liberia. But, at the eleventh hour, Ghana, Guinea and Mali called for a postponement, on the ground that preparations had been inadequate. Morocco refused to attend, because of the invitation to Mauritania, whose territory it claimed to be part of the old Great Moroccan Kingdom. The Sudan and the United Arab Republic also declined to attend. Behind all this was the refusal to invite the Algerian Provisional Government, which had, until then, taken part in most Pan-African conferences.

The Conference passed a series of resolutions, among which was one on the means of "promoting better understanding and cooperation towards achieving unity in Africa and Malagasy."

The delegates declared, however, that "the unity that is aimed to be achieved at the moment is not the political integration of sovereign African states, but unity of aspirations and of action considered from the point of view of African social solidarity and political identity."<sup>27</sup> The delegates expressed the hope that it would be possible for the absent 'sister states' to attend the next meeting, scheduled to take place at Lagos, Nigeria, in January 1962.

The Lagos Conference opened on 25 January 1962. The Dakar recommendations of the commission set up at Monrovia, as well as proposals submitted by Ethiopia, Liberia and Nigeria for a functional approach to African unity, were considered. After much deliberation, the Conference agreed in principle to set up an inter-African and Malagasy organization for the purpose of promoting a better life for the peoples of Africa, by enlisting the efforts of member states through cooperative and joint actions in various social and economic spheres. The proposed organization would have the following organs: an assembly of heads of state and government, a council of ministers, a general secretariat and commissions. The assembly would be the supreme organ, meet at least once every two years, and be empowered to consider all matters affecting relations between the member states. The council of ministers would

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27 African Summit in Monrovia, published on behalf of the Federal Government of Nigeria by the Federal Ministry of Information (Lagos, 1961), p.20.

meet at least once a year, and when occasion arose, could hold emergency meetings. It would be responsible for working out all areas of cooperation. The general secretariat was to be the organization's central administrative organ.<sup>28</sup>

Despite these developments, however, the three groups continued to exist separately: the pro-Western Brazzaville group, the Casablanca group organized to counter the stand taken by the Brazzaville group, and the uncommitted Monrovia group. The Casablanca and Monrovia groups formed separate Charters and, as seen earlier, they had different outlooks on African unity. Their differences became glaringly clear at Addis Ababa in 1963. While the Casablanca charter expressed "determination to promote the triumph of liberty all over Africa and to achieve its unity,"<sup>29</sup> the Lagos Charter laid more stress on sovereignty and non-interference in the internal affairs and referred to unity in only the most general terms.<sup>30</sup>

In the course of the year 1962, efforts were intensified to convene a conference of the countries of the Casablanca, Brazzaville and the Monrovia groups. Ghana and Guinea came out strongly in support of a united front. Negotiations were carried out both formally and informally through diplomatic

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28 See, West African Pilot (Lagos), 23 January 1962, pp.8-9.

29 Colin Legum, Pan Africanism: A Short Political Guide (London, 1962), p.187.

30 Ibid.

channels, at various international conferences attended by African delegations. State visits by Heads of State or Governments became frequent. Although during these diplomatic visits African unity was always high on the agenda, there were some factors that contributed greatly towards the attainment of the goal. Algeria, which had been a major bone of contention between the two groups, became independent on 3 July 1962. Congo - Brazzaville -- another decisive factor -- had a new government. The heads of state of the Casablanca group, meeting at Cairo in June 1962, supported the Guinean proposal for a continental conference. The Ghana President Dr Nkrumah, also called for a preparatory meeting of African foreign ministers at Addis Ababa. The Ethiopian government intensified its efforts to convene a conference of all independent African states at Addis Ababa in 1963. As a result, it became clear by the beginning of March 1963 that a conference of the African heads of state and governments would be held at Addis Ababa in May 1963 and it was widely believed that the proposed conference would lay for the first time in continent's history the basic foundation for unity.<sup>31</sup>

All the 32 independent African states under indigenous African rule, invited to attend the Addis Ababa Conference, agreed to take part in the conference. The Summit Conference,

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31 West Africa (London), 27 April 1963, p.477.  
See also, Ajala, n.5, pp.52-54.

to be preceded by a meeting of the foreign ministers, was scheduled to start on 22 May 1963.

### The Conference of Foreign Ministers

The Foreign Ministers' meeting began on 15 May 1963 at Addis Ababa. Nine separate agendas, submitted by various countries, were put forward before the meeting; the contents were, however, almost identical. The draft charter submitted by Ethiopia and Ghana's proposal for a union of African states, were discussed in the meeting. To draw up an acceptable charter, a sub-committee was appointed which shifted the task of drawing up the charter to the Heads of State. The foreign ministers recommended that the summit conference should accept the Ethiopian draft charter as a basis for discussion, with a view to drawing up the charter for an all-African organization. The Conference of the Foreign Ministers also forwarded to the Heads of State Conference nine resolutions dealing with African unity and charter, economic problems, decolonization, apartheid, general disarmament, the United Nations and Africa, as well as technical, educational, health and scientific institutions.

### THE SUMMIT CONFERENCE

The Summit Conference of all independent African states under indigenous African rule began at Addis Ababa, the capital of Ethiopia, on 22 May 1963. All the thirty-two countries, except Togo and Morocco, were represented either by their Heads

of State or Heads of Government. Never in the annals of history had so many leaders of any continent assembled in an effort to achieve continental unity.<sup>32</sup> Also, for the first time, the leaders of the various African groups sat together to work out the best formula for achieving African unity.

In his opening address Emperor Haile Selassie of Ethiopia dealt a death-blow to the discouraging recommendation of the Foreign Ministers on the charter of African unity. He, however, declared that "this Conference cannot close without adopting a single African charter. We cannot leave here without having created a single African organization."<sup>33</sup> He went on to describe the type of organization suitable for the achievement of African unity. His opinion was that the proposed organization should possess a well-articulated framework with a permanent headquarters and an adequate secretariat which would provide the necessary continuity between meetings. The organization should have specialized bodies. He stressed the importance of a conciliation commission which would be responsible for settling disputes between African states.<sup>34</sup>

President Ahidjo of Cameroon held the view that the proposed organization should be highly flexible one, because it would be

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32 Ibid., 1 June 1963, p.597.

33 Addis Ababa Summit 1963, Publications and Foreign Language Press Department, Ministry of Information, Addis Ababa, p.24.

34 Ibid.

premature at that stage for the African leaders to agree either on a federation or a confederation. He wanted the periodic meetings of all the African leaders to be institutionalized. The conference of the Heads of State and Government should weigh up experiences, decide upon alternatives, harmonize policies, and standardize decisions on the main issues of continental importance or requiring a common stand before international opinion.<sup>35</sup>

President Abbe Fulbert Youlou of Congo (Brazzaville) wanted there to be an African consultative assembly, an African executive, a conference of African heads of state, and a permanent secretariat. He was of the opinion that the capital of the United African States should be located in an extra-territorial area, independent of any African state. It should be clearly demarcated, if possible, by natural boundaries, and should be situated in "a central part of the African continent."<sup>36</sup>

After expressing his opinion that African unity could not be achieved in one full sweep, President Hubert Maga of Dahomey stated that it was a task to be approached and carried out "progressively if not immediately, by concrete and positive actions, the basis of which we can find here and now."<sup>37</sup>

President Sekou Toure of Guinea reminded the heads of

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35 John Woronoff, Organizing African Unity (New Jersey, 1970), p.134.

36 Addis Ababa Summit 1963, n.25, p.39.

37 Ibid.

state and government of the fact that African unity had become an aspiration common to all Africans. He dismissed any idea that there were insurmountable barriers to the achievement of unity. He spoke of his conviction that "African unity will grow a little more every day from now on; it will be a continuous creation, an irreversible work which will bind together all future generations to the generation which laid the foundation stone of unity at Addis Ababa."<sup>38</sup>

While agreeing with other speakers on the desirability for African unity, President Houphouet-Boigny of the Ivory Coast wanted the leaders to proceed by 'progressive stages'. He included non-interference in internal affairs of other states; recognition of equality of all states; condemnation of subversive activities, organized against one member state by another; and abhorrence of political assassination, as basic guiding principles of African unity.<sup>39</sup>

While calling it unrealistic to think of a continental government and parliament, President Tsiranana of the Malagasy Republic suggested certain fundamental institutions of an all-African and Malagasy cooperation. These included a conference of heads of state and government; a council of ministers; a general-secretariat; an African and Malagasy group at the United

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38 Ibid., pp.50-53.

39 Ibid.



Nations; a permanent conciliation commission; and an African and Malagasy organization for economic cooperation.<sup>40</sup>

There were not many differences in the frameworks provided for the future organization by various heads of states and government. President Hamani Diori of the Niger Republic, President Senghor of Senegal and others held similar views about the basic principles and structure of the proposed organization. They all advocated a gradual approach towards unity.<sup>41</sup>

President Nkrumah of Ghana, however, was against a gradual approach; instead, he wanted the delegates to "agree here and now to the establishment of a union of African states."<sup>42</sup> However, he received amazingly little support. The Brazzaville and Monrovia states had never been enticed by his visions. But even his partners in the Union of African States and the Casablanca states preferred a more limited approach. They made no gestures towards a 'union government' or even a super-organization. The only backing came from rather unexpected quarters, like from Milton Obote of Uganda.<sup>43</sup>

While the Heads of State were making speeches, the Special

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40 Ibid., p.54.

41 Ibid., pp.54-56.

42 See K. Nkrumah, Africa Must Unite (London, 1963), p.147.

43 Woronoff, n.35, p.131.

Committee of Foreign Ministers were busily preparing a charter. Although not drawn up by the Heads of State themselves, it was fully in keeping with their ideas and proposals. The Ministers deliberated intensively on 23-24 May and accomplished their task in record time. True, they were already familiar with the problem of organization from earlier meetings. But much credit also went to the Ethiopian draft, a very complete working document which was a fair synthesis of the previous African charters and organizations. Gradually the text was modified and improved upon by a sub-committee and then by the special committee itself.<sup>44</sup>

During the discussions, the Foreign Ministers gave the charter further depth. New items were added, the paragraphs were reshuffled to fix up the priorities, the objectives were broadened by including that of international cooperation, and the primary purpose of decolonization was made a principle as well. Certain changes were also made in the institutional machinery proposed in the original Ethiopian document.<sup>45</sup>

After two and a half days of open debate, the Summit Conference went into closed session which was largely confined to canvassing for the unanimous adoption of the charter

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44 Ibid., p.149.

45 Ibid., pp.152-55.

prepared by the Special Committee of the Foreign Ministers. The agreement to call their organization the "Organization of African Unity" was achieved. Among the specialized commissions proposed by the Special Committee, a defence commission was included. The plea for the establishment of a political union of Africa, advocated by Ghana, was rejected.<sup>46</sup>

At an exciting, solemn and impressive ceremony the Charter, rightly described by Emperor Haile Selassie as the 'Covenant of Unity', was signed by the Heads of State and Government of thirty-one independent African states on 25 May 1963. A new chapter in the political history of the African continent was thus opened. The Organization of African Unity came into being.

#### Factors for the formation of the OAU

A cursory examination of the various resolutions and declarations<sup>47</sup> that emerged from the conferences of the Pan-African groupings prior to the formation of the OAU shows that the leaders of Africa were not unaware of the potential dangers and weaknesses that afflicted the continent, without the removal of which the progress and prosperity of its peoples would ever remain a remote possibility. Across the continent,

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46 T.O. Elias, "The Charter of the Organization of African Unity", American Journal of International Law (Washington, D.C.) vol.51, no.2, 1965, p.345.

47 For these Resolutions and Declarations, see Colin Legum, Pan-Africanism (London, 1965), pp.151-280.

they witnessed the dangers posed by the dichotomies of language, culture and religion; by economic disparities; by the fledging controversies over territorial boundaries -- a legacy of the past -- all of which greatly frustrated any attempt towards development by the individual states. As such, the need was keenly felt, over a period of time, that if the continent were to survive as a viable political and economic entity, the only way out would be a high degree of cooperation in the political, economic, cultural, educational, scientific and technical spheres, inter alia.

The outstanding factor which facilitated the establishment of the OAU was the realization by the leaders of Africa that the continent of Africa must be rid off of imperialism, racialism and colonialism which constituted impediments to their progress, and repugnant to their very conscience. Thus, prior to the formation of the OAU, it was sufficiently realized that whereas disagreements existed on the 'approach' to continental unity, a tremendous measure of unity prevailed in the ranks of the African leadership with regard to decolonization -- a reality which no African leader denied. Decolonization was, therefore, accorded the priority it deserved by virtue of the reason that the peoples of the continent had for long been subjugated and exploited. The leaders recognized, therefore, that Africa could not determine its own destiny until its total emancipation was achieved. It was in line with the above that the African leaders felt the necessity for a far-reaching unity of action without which the continent might never be able to cast off the yoke of colonialism.

The realization also dawned upon the African leaders that if the continent were to play any important role in the community of nations, there was the need to speak with one voice which could only come about through unity. An indication of this manifested itself at the founding conference of Addis Ababa in May 1963. At the conference it was admitted by the leaders that the 'African Group' at the United Nations was ineffective and had to be revitalized and given a specific role and form.<sup>48</sup>

Yet another underlying factor for the establishment of the OAU is attributed to the impact the Asian-African Conference at Bandung (1955) had on the nascent African states. At Bandung a call had been given to all new nations to close their ranks, with a view to staying away and clear from the cold war confrontations of the two Power blocs. This call gave rise to a new brand of solidarity among all the ex-colonial peoples, with Africa being no exception.<sup>49</sup>

The above factors, by no means exhaustive, were instrumental in the eventual formation of the organization of African unity. These factors are evidently reflected in the purposes and principles enshrined in its Charter.

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48 See Woronoff, n.35, p.135.

49 Ibid.

### The OAU: Purposes and Principles

The Organization of African Unity (OAU) like other contemporary international organizations, is based on a voluntary cooperation of its Member-States for the attainment of certain objectives enshrined in its charter as 'Purposes and Principles'. These aims and principles are lucidly provided in Articles 11 and 111 of the Charter of the OAU respectively.

Article 11(1) of the Charter provides for an Organization to bring about the following:

- promotion of unity and solidarity of the independent-sovereign states of Africa;
- coordination and intensification of cooperation with the view to achieving a better life for the peoples of Africa;
- defence of the sovereignty, territorial integrity and independence of the African states;
- eradication of all forms of colonialism from the continent;
- promotion of international cooperation in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights.

Like the United Nations Charter, the Charter of the OAU does not indicate which of the above purposes are primary and secondary, thus, giving rise to different observations and

commentaries. Some commentators hold the view that the promotion of unity and solidarity take precedence over all others by reason of the fact that it was the motivating force behind the formation of the organization.<sup>50</sup> Others opine that the principal objective of the OAU is to emancipate the continent from the grip of colonialism and racial discrimination, as evidenced by the debates on the OAU Charter in Addis Ababa in May 1963 and re-affirmed on many subsequent sessions.<sup>51</sup>

It needs be added that the above observations and commentaries of the primary purposes of the OAU are in fact supplementary to each other. It is very much true that at the Summit Conference of the Heads of State and Government, priority was accorded to the total liberation of the continent from colonialism, a factor which immensely contributed to the establishment of the organization. A review of the Pan-African movements, in particular after 1945 till the formation of the OAU, illustrates that among the cherished objectives of the Pan-African Congresses figured prominently the endeavour to bring about unity and cooperation in the ranks of peoples of African descent and Africans. The activists of the movement placed much emphasis on unity for they realized that with combined efforts they could

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50 A. Ajala, for example, subscribes to this view. See, Ajala, n.5, p.65.

51 See, for example, Zdenek Cervenka, The Organization of African Unity and its Charter (London, 1969), p.13.

dismantle colonialism and imperialism. Thus, the two observations of the primary aims of the OAU need be looked at as supplementary and complimentary to one another.

In order to achieve the objectives stipulated in Article 11(1) of the OAU Charter, the Member States pledged to coordinate and harmonize their general policies with emphasis on the following spheres of activity:

- politics and diplomacy;
- economic, embracing transport and communications;
- education and culture;
- health, sanitation and nutrition;
- science and technology; and
- defence and security.

A perusal of the speeches <sup>52</sup> delivered at the Addis Ababa Summit Conference throws ample light on one major theme which was stressed by majority of the leaders. It not only concentrated on establishing a durable continental organization, but also aimed to reassert and reassure the confidence of the Member States in each other, as prior to the Summit Conference, the split in the ranks of the independent African States and a military take over in Togo had led to mutual suspicions and apprehensions. The Conference, therefore, adopted seven principles, which the Member States solemnly affirmed and to which they declared

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52 See, Woronoff, n.35, pp.128-41.



adherence. Embodied in Article III of the OAU Charter, these principles are as follows:

1. Sovereign equality of all Member States;
2. non-interference in the internal affairs of each other;
3. respect for the sovereignty and territorial integrity of each state and its inalienable right to independent existence;
4. peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration;
5. unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring states, or any other state;
6. absolute dedication to the total emancipation of the dependent territories; and
7. affirmation of a policy of nonalignment with regard to all blocs.

A close examination of the above principles would show that the first four principles are generally recognized principles of contemporary international law and reaffirm the corresponding principles of the UN Charter.<sup>53</sup> The remaining three principles

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53 For instance, the principle of 'sovereign equality' of the OAU Member States echoes Article 2(1) of the UN Charter, which provides that the organization is based on the principle of sovereign equality of all its members. The principle of 'non-interference' reflects the provision of Article 2(7) of the UN Charter.

have a special significance for Africa and were intended to be the guiding norms in the relations of the African states. It is noteworthy that the sixth principle emphasized an important objective of the OAU, namely, 'the eradication of the forms of colonialism from Africa.' It is also one of the Purposes of the United Nations (Article 1.3). The last principle arose from the conviction that if Africa were to contribute to the world peace, it could do so only by a policy of nonalignment.

The Addis Ababa Summit Conference duly recognized that the 'purposes and principles' would be difficult to realize without certain defined 'Rights and Obligations'. In accordance, therefore, Article V of the OAU Charter guarantees that "all Member States shall enjoy equal rights and have equal duties." Each Member State as such has the following rights:

- to be represented on all principal institutions of the organization and also to stand for election to all ad hoc committees which may be set up by any of the principal institutions of the OAU, as well as to the Commission of Mediation, Conciliation and Arbitration;
- to enjoy the right of one vote in each of the principal institutions - and committees;
- to request an extraordinary session of both the Assembly of the Heads of State and Government and the Council of Ministers, provided that such a request wins the support of two-thirds of the Member States;

- to nominate its nationals to any function within the framework of the organization and its General Secretariat;
- to receive certified copies of ratifications of Member States from the Government of Ethiopia (designated as the depository of the Charter), and all communications from the Administrative Secretary General;
- to renounce its membership; and
- to make a request for the amendment or revision of the Charter in accordance with the procedure laid down by Article XXXIII of the OAU Charter.

The right of attending all principal institutions does not, however, include the right of participating in the meetings of 'Special ad hoc' committees entrusted with specific assignments, such as the OAU 'Special Ad hoc Committee' on Nigeria, during the civil war.<sup>54</sup>

As there could be no durable 'rights' without corresponding 'duties', the Charter of the OAU contains such obligations in its various provisions which, in the main, may be as follows:

- each member state is required to implement the purposes of the organization as provided in Article 11;

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54 See, Carvenka, n.51, p.18.

- each member state is required to pay regularly its membership contributions for the upkeep of the organizations;
- each member state is equally expected to observe scrupulously the principles to which it had solemnly declared its adherence;
- all member states agree to settle disputes with each other by peaceful means, through the commission of Mediation, Conciliation and Arbitration;
- all member states pledge to refrain from interfering with the work of the Secretariat by exercising any influence or presence upon any member of its staff;
- all member states agree to contribute their quota towards the attainment of cooperation in all fields; and
- all member states pledge to implement the resolutions adopted by the Assembly of the Heads of State or Government and by the Council of Ministers, the latter's resolutions being subject to the endorsement by the Assembly.

This last obligation is not expressly provided anywhere in the OAU Charter. However, the resolutions are purported to be the highest decisions for the implementation of the

purposes and principles of the Charter of the OAU, to which all Member States pledge their adherence.

The above principles and purposes embodied in the OAU Charter are very much convergent to those of the UN Charter.

Like OAU, Organization of American States (OAS) and the League of Arab States are also effective regional organizations. The establishment of the OAS was a culmination of efforts that date back to the early nineteenth century to envisage regional security system in the Western Hemisphere.<sup>55</sup> The OAS since its establishment, has been active and successful to some extent in bringing about the de-escalation of most security conflicts in the Western Hemisphere. Though there still exist territorial disputes between OAS Member States like Argentina-Chile, Chile-Bolivia-Peru, Peru-Ecuador and Colombia-Venezuela, but the continued existence of the OAS has been instrumental in inhibiting the outbreak of hostilities between the member states. There has prevailed a strained relationship between the United States and some Latin American countries like El Salvador and Nicaragua owing to the former's policy of intervention in latter countries. But these developments have not minimised the significance of the OAS as an effective regional organization.

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55 Mark W. Zacher, International Conflicts and Collective Security, 1946-77 (New York, 1979), p.88.

Both OAU and OAS are regional organizations catering for the interests of their respective regions. The problems faced by the OAS are different from that of OAU. In OAS, all states are independent sovereign countries whereas in Africa the problem of apartheid and racist regime of South Africa is a formidable challenge before the OAU. It has played a commendable role in rallying support of African states and mobilising international public opinion against South Africa.

Similarly, the League of Arab States established in 1945, is another regional organization in Arab World.<sup>56</sup> During 1946-77, there had been 17 wars, crises and military interventions between Arab States. The most effective role played by the Arab League has been rallying Arab support against Israel since its formation. The OAU and Arab League share certain common problems. The North African states of Algeria, Egypt, Morocco, Tunisia and Libya are members of the OAU as well as Arab League.

The Arab League's intervention in the Algerian-Moroccan war in 1963 was partially successful although the OAU had a more dominant influence in the management of this conflict than did the League.<sup>57</sup>

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56 For details on the background history of Arab League, see, J.S. Baliga, "Ten Years of the Arab League", Middle East Affairs, vol.6, March 1965, pp.65-69. Also see Robert MacDonald, The League of Arab States: A Study in the Dynamics of Regional Organization (Princeton, 1965).

57 Zacher, n.55, p.193.

The nature of disputes among the member states of OAU, OAS and the Arab League mainly pertain to the boundaries inherited from the colonial powers. There prevails within the Arab world a consensus on the legitimacy of the boundaries inherited from the colonial powers. Similarly the Latin American countries, which are members of the OAS, also endorse the same point of view.

In the case of the OAU, the consensus is much more obvious as is the case in the Arab League. Consensus is the main raison d'etre of the organization. It is difficult to say that among OAS, OAU and Arab League, which organization has been more effective in each other's comparison. Each organization has its own regional problems which require an amicable and peaceful solution. The very fact that these organizations are surviving prove their utility.

## Chapter IV

### THE OAU AND DECOLONIZATION

The desire to free all Africa from colonialism was the strongest impulse for the creation of the various continental groupings over the years. As already noted in the previous Chapter, this prime mover was also active in the efforts to form the Organization of African Unity. The link between the two is underlined by proclaiming the 25th of May, the day of the OAU was founded, "African Liberation Day."

When the OAU was established, the first wave of decolonization in Africa had virtually run its course after having advanced with remarkable speed. The second wave, though given considerable impetus by the OAU, was blocked by formidable obstacles raised by the remaining colonial and settler regimes.

One way or another, all the peoples in Africa had suffered from colonialism, an unnatural status that had to be replaced by the natural and just rights of liberty. The OAU Charter, therefore, proclaimed the "inalienable right of all people to control their own destiny."<sup>1</sup> This is why the Organization had before it as its main purpose to "eradicate all forms of colonialism from Africa."<sup>2</sup> Since this "inalienable right" was

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1 Preamble (para 2) of the OAU Charter.

2 Article II (1d) of the OAU Charter.



still denied to millions of people on the continent, it was necessary to lay down a concrete policy of decolonization. The OAU made this its primary function. However, since the methods of attaining the end were so many and varied, its major task was one of co-ordination. Even if it did not wield all the weapons, it endeavoured to keep up a constant barrage against African foes.

The spearhead of the struggle was relatively independent of the Organization of African Unity. These were the wars of national liberation movements that had sprung up in the Portuguese African territories and were being ignited in Rhodesia (now independent Zimbabwe), South Africa and South West Africa (or Namibia). The nationalist movements were largely autonomous internally and externally. The rest of Africa had little influence on their choice of leaders, strategy and tactics, military campaigns or ideology. Unfortunately, disagreements on various aspects of these policies had created divisions in the nationalist movements and rather than forging closer links in the struggle for freedom. They promoted specific political lines and quarrelled with opposing groups.<sup>3</sup>

Since the liberation movements were not strong enough to win the wars alone, they turned for aid towards already free countries in Africa. The Summit Conference of Addis Ababa immediately set up a special fund to give liberation movements

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3 See, for a detailed analysis, R. Gibson, African Liberation Movements (New York: Oxford University Press, 1972), pp.105-21.

the material and financial aid they needed to pursue their struggle. The Member States were required to contribute to the Freedom Fund. But it was also desirable for outside donors to channel their assistance through a more neutral body like the OAU. The Summit, therefore, established a Co-ordinating Committee for the Liberation of Africa, "responsible for harmonizing the assistance from African states and for managing the Special Fund."<sup>4</sup>

The OAU also had an obligation to make the struggle as effective as possible. For this reason, the Heads of State and Government urged the freedom fighters "to co-ordinate their efforts by establishing common action fronts wherever necessary so as to strengthen the effectiveness of their struggle and the rational use of the concerted assistance given them."<sup>5</sup> The Committee's most delicate task was to eliminate division and discord to make way for a broad strategy in each territory and eventually for all the fronts. Rivalry, and even antagonism, among the movements were often cited as the major flaws in the struggle and discouraged active and wholehearted support by the African community. In July 1964 in Cairo, for example, the Council of Ministers had to regret "the continued existence of multiple rival liberation movements... in spite of the efforts

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4 Jon Woronoff, Organizing African Unity (New Jersey, 1970), p.204.

5 Ibid.

of the Committee of Liberation to reconcile them."<sup>6</sup> Over the years, repeated appeals had to be made for unity. Committees of good offices or individuals were sent to reconcile and help movements cooperate or merge.

The Co-ordinating Committee, thus, had twin duties to perform -- to co-ordinate aid to the liberation movements and at the same time, using its authority and power of the purse, to co-ordinate the actions of the liberation movements. Originally it was a "Committee of nine" consisting of Algeria, Congo (Leopoldville), Ethiopia, Guinea, Nigeria, Senegal, Tanzania, Uganda and the UAR. In 1965, Somalia and Zambia were added. It was made a relatively small and compact body, including some of the major contributors and the all-important border states, so that it could work more efficiently. The Committee was, however, responsible to the Council of Ministers and the Assembly for its directives and budget. As the Committee was to be Africa's main tool in pursuing decolonization, it was given considerable leeway, although its actual powers were never clearly defined.

To weaken its foes politically and economically was the Organization's second line of attack. Sanctions were introduced to exert further pressure. The Addis Ababa Summit Conference had already resolved "the breaking off of diplomatic and consular relations between all African States and the Governments of

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6 Ibid., pp.204-5.

Portugal and South Africa, so long as they persist in their present attitude towards decolonization."<sup>7</sup> The Heads of State and Government also called for an "effective boycott of foreign trade of Portugal and South Africa"<sup>8</sup> by prohibiting imports, closing ports and airports to them and forbidding their planes to overfly the African States.

In its first Ordinary Session during 17-21 July 1964 at Cairo the Assembly of Heads of State and Government decided to reinforce its efforts by creating a machinery to review the implementation of its resolutions both inside and outside Africa -- Bureau of Sanctions in the OAU Secretariat. Its task was to co-ordinate efforts among the Member States and cooperate with friendly states towards effective boycott. In case it was not able to make members or nations outside Africa apply sanctions, it could keep watch and inform the OAU, and public opinion, of any progress or back-sliding.

Thus, the measures adopted by the OAU or taken within its framework against colonial or settler regimes included the following: urging Member States to sever diplomatic and economic relations and all forms of communication with those regimes; requesting Member States to provide moral and material assistance, including financial aid, military training, and transit facilities, to national liberation movements already

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7 Ibid., 205.

8 Ibid.

fighting against those regimes; and providing co-ordinative services in both respects through the OAU Co-ordinating Committee for the Liberation of Africa and the Sanctions-Bureau of the OAU Secretariat.

THE ORGANIZATION OF AFRICAN UNITY AND THE  
UNITED NATIONS ON DECOLONIZATION

Decolonization constituted an area of mutual political concern between the OAU and the United Nations. There are three main aspects which bear upon the questions of compatibility and complementarity between the two organizations: United Nations responsibility, versus OAU autonomy in the recommendation of collective measures;<sup>9</sup> OAU pressure to influence United Nations policies and to bring about a further collaboration for more effective action; and the problem of reporting to the Security Council any measures planned or undertaken by the OAU.

The degree of autonomy enjoyed by a regional organization in taking collective measures is governed essentially by the provisions of Article 53 of the UN Charter, but Article 51 is also relevant. Article 53(1) states:

The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council...

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9 The term "collective measures" is understood to have a broader connotation than the terms "action" or "enforcement actions" referred to respectively in Chapters VII and VIII of the UN Charter.

Article 51, whose concept of "collective self-defence enables regional organizations or other groupings of States to take initial action against armed attack on their own responsibility, states:

... measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council...

Thus, while "enforcement action" by a regional organization requires Security Council authorization, "collective self-defence" in response to an "armed attack" need not have such authorization. But since the Charter does not provide a definition of "enforcement action", the limit of regional authority under Article 53 remains unclear. The scope of the right of collective self-defence is also less than clear, as it would depend upon the meaning given to "armed attack" as well as on other criteria of self-defence.

With regard to "enforcement action", the main issues bearing upon the authority of a regional organization such as the OAU are the following:

- Whether the term refers to measures involving the use of force, as described under Article 42, as well as to the non-military measures enumerated in Article 41, namely, the severance of diplomatic and economic relations and the interruption of all forms of transport and communication with a State threatens or breaks international peace and security;

- whether the term applies to non-mandatory measures as well as to mandatory measures;
- whether it encompasses such regional collective measures as material assistance to liberation movements for the purpose of restoring self-determination and independence.

As regards "enforcement action", it seems that the term was intended to apply to all measures that the Security Council would decide to take under both Articles 41 and 42.<sup>10</sup> But in two cases -- the Dominican Case (1960) and the Cuban Case (1962) -- the Security Council expressed its unwillingness to question the competence of the organization of American States (OAS) to take diplomatic and economic measures agreed upon among its members, thus lending substantial weight to the interpretation that such measures did not amount to "enforcement action".<sup>11</sup>

As regards the second issue whether "enforcement action" under Article 53 refers to non-mandatory as well as mandatory regional measures, it is argued that the measures based on recommendations are precluded. If a regional organization recommends the use of military force, other than for defence against armed attack, without Security Council authorization,

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10 See, Inis L. Claude, Jr., "The OAS, the UN and the United States", International Conciliation (New York), no.547 (1964), p.50.

11 For a detailed analysis of this issue, See Aida L. Levin, Relations between the Organization of American States and the United Nations (UNITAR study, 1973), see especially Chapter V.

it would probably be expanding its powers beyond the permissible limits of action by individual members as sovereign states, under the UN Charter, particularly the limits on non-use of force imposed by Article 2(4). However, in so far as the collective measures taken through a regional organization do not involve the threat of use of force against a State and are based on recommendations, rather than on mandatory decisions, they would be within the discretionary powers of the individual States concerned and would, therefore, not be subject to the limitations stipulated in Article 53. The diplomatic and economic measures recommended by the OAU fall clearly under this category.

Regarding the third issue, if material assistance given to national liberation movements upon the recommendation and with the co-ordinative support of the OAU constituted "enforcement action", then the actions of the OAU might have violated Article 53 for having taken them without Security Council authorization. If it did not constitute "enforcement action", would the OAU role violate any other provisions of the UN Charter? In the first place, a distinction should be made between the utilization by the OAU of the military forces of its Member States and the use of force by nationalist movements with financial and other indirect assistance from those States. As long as the OAU did not assume the former role in order to enforce a decision related to the maintenance of international peace and security, it is difficult to see how its indirect role could constitute "enforcement action" and thus require Security Council authorization. As regards the compatibility of this



"facilitative" role of the OAU with the spirit of Article 2 (4), it can be stressed that no armed forces of OAU Member State were being used "against the territorial integrity or political independence of any State."<sup>12</sup>

If the moral and material support given to liberation movements within the OAU cannot be equated to the threat or use of force referred to in Article 2 (4), then, it would hardly be relevant whether the African States were exercising through the OAU their right of collective self-defence under Article 51. This issue would seem to arise only if the armed forces of the OAU Member States were actually used to threaten or attack the territorial integrity or political independence of another State.

As will be evident in the cases examined below, most States considered the facilitative role of OAU in the struggle against recalcitrant colonial and settler regimes as not being inconsistent with the Purposes and Principles of the United Nations. This role has in fact been widely recognized as legitimate and has been actively encouraged by the General Assembly and, in certain situations, by the Security Council.<sup>13</sup>

Despite OAU's endeavours to help the liberation movements

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12 Berhanykun Andemicael, The OAU and the UN: Relations Between the Organization of African Unity and the United Nations (New York: Africana Publishing, 1976), p.105.

13 Ibid., p.106.

to eradicate colonialism from the African continent, it was evident from the very outset that Africa could not win the struggle alone. The OAU policy, therefore, was carefully developed to put certain efforts into motion on the continent to convince friends and allies elsewhere of Africa's will to fight. Then the OAU had to promote and co-ordinate the assistance from those States and carry on a world campaign for decolonization.

The colonial and settler Powers were not daunted by the severance of diplomatic relations. Even the boycott had a limited impact, since independent Africa was only a marginal trading partner. For this reason, measures initiated by the OAU had to be spread abroad. The best way of mobilizing support and obtaining action on the international level was to work through the United Nations. And the OAU neglected no opportunity to do so. By using the platforms provided by the various bodies of the United Nations, the delegates could keep up an almost ceaseless battery of propaganda.

However, the United Nations offered much more. Under Article 11 of its Charter, measures could be introduced "not involving the use of armed force." International isolation or an economic boycott of Rhodesia, South Africa or Portugal would be vastly more telling than any steps taken by the OAU alone. Even enforcement action could be taken under Chapter VII, if the Security Council determined "the existence of any threat to the peace, breach of the peace or act of aggression."

But such decisions could always be blocked by any permanent member using its veto in the Security Council.

Over the years, OAU policy was laid down by its political bodies: the Liberation Committee, the Council of Ministers, and the Assembly of Heads of State and Government. The tactics for imposing this policy on the United Nations were worked out by the African Group; To prove they were very much in earnest about decolonization, the OAU arranged to have certain member States send their Foreign Ministers to represent Africa before a smaller, but more authoritative and increasingly specialized, group to plead Africa's case.<sup>14</sup>

#### MAIN CASES OF DECOLONIZATION

##### Portuguese Colonies

Portugal possessed three colonies in Africa and had consistently refused to grant them independence (until 1974), because it depended mostly on them for its "economic strength, strategic potentiality and political dimension."<sup>15</sup> The colonies were turned, overnight in 1951, through a decree of the Portuguese dictator, Salazar, into "overseas territories". The Portuguese Government had thus maintained that they were part of the metropolitan territory and as such not Non-Self-

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14 Woronoff, n.4, p.207.

15 The Times (London), 4 April 1970, "Portugal's Fear of Colonization by Europe."

Governing Territories under the terms of Chapter XI of the UN Charter. It had thus consistently refused to supply information on the Territories as required by 73(e) of the UN Charter.

During the years preceding the establishment of the OAU, the United Nations was already deeply concerned with the situation in the territories under Portuguese administration, especially Angola. In December 1960, Portugal opposed the General Assembly's classification of the Portuguese-administered Territories as Non-Self-Governing<sup>16</sup> and refused to comply later with resolution 1514 (XV) -- the Declaration on Granting of Independence to Colonial Countries and Peoples.<sup>17</sup>

An uprising by nationalists early in 1961 in Angola against Portuguese oppression induced Portugal to apply such strong repressive measures that, for the first time, the matter was brought by Liberia before the Security Council. Since the Security Council was unable to adopt a resolution when it met in March 1961, it was again convened later in May upon the request of 44 Afro-Asian States. This time, it adopted resolution 163 (1961), without opposition but with France and Britain abstaining -- whereby it described the situation as one

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16 Resolution 1542 (XV) of General Assembly, 15 December 1960.

17 Although the United Nations had been dealing with the problem of the colonies, it had made little progress. See, Patricia Wohlgermuth, "The Portuguese Territories and the United Nations", International Conciliation, November 1963, no.545, p.68.

of the continuation of which was "likely to endanger the maintenance of international peace and security" and called upon Portugal to desist from "the large-scale killings and the severaly repressive measures."

Upon considering detailed reports on the Portuguese-administered Territories, the General Assembly concluded in December 1962 that the colonial war in Angola and Portugal's non-compliance with UN resolutions constituted "a serious threat to international peace and security." It, therefore, recommended that (a) all Member States should deny Portugal any support which may be used by it to supress Angolans and should in particular terminate arms supplies to that country; and that (b) the Security Council should "take appropriate measures, including sanctions, to secure Portugal's compliance" with the UN resolutions.<sup>18</sup>

Armed struggle in Angola to gain independence was followed by both Mozambique and Guinea (Bissau). As a result of the counter-offensive measures taken by Portugal, the Summit Conference of 1963 had to concern itself with the situation. One of the first acts of the OAU following its establishment in May 1963 was to send a delegation of four African Foreign Ministers -- from Liberia, Madagascar, Sierra Leone and Tunisia, the last three of which were members of the United Nations Special Committee on decolonization -- to draw the

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18 Resolution 1819 (XVII) of General Assembly, 18 December 1962.

Security Council's attention to the explosive situation arising from Portugal's colonial policies. At the request of the members of the African Group at the United Nations, the Security Council met in July and December 1963 to consider the situation in the Portuguese-administered territories as a whole and determined in its July meeting that the situation was "seriously disturbing peace and security in Africa."<sup>19</sup> At the end of the Security Council debates a resolution was passed requesting all UN members to <sup>place an</sup> embargo on the sale and supply of arms and military equipment to Portugal.<sup>20</sup>

In Angolan struggle for freedom, there were various groups, the most important being National Front for the Liberation of Angola (FLNA), and Movimento Popular de Libertacao de Angola (MPLA). The formation of the Angolan Revolutionary Government-in-Exile (GRAE) under FLNA brought the rivalry between the MPLA and the FLNA into the open.<sup>21</sup>

The first task of the OAU Liberation Committee was to try to reconcile all the Angolan nationalist movements. After interviewing all the nationalist movements, the Committee came to the conclusion that all the other nationalist movements should cooperate with the FLNA which was the largest and most effective

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19 See, West Africa (London), 27 July 1963, p.849.

20 Resolution 183 (December, 1963) of Security Council.

21 A. Ajala, Pan-Africanism: Evolution, Progress and Prospects (London: Andre Deutsch, 1974), p.213.

of all. Shortly after recognition had been accorded to the FLNA and GRAE, they received the sum of £30,000 from the OAU to enable them to carry on their struggle for Angolan independence.

The OAU continued its efforts to unite the Angolan nationalist movements. These efforts were crowned with success in September 1966 when a merger of the FLNA and the MPLA was achieved. But the merger did not last long.<sup>22</sup> When the split occurred, the MPLA organized several new guerilla fronts in Angola. As a result of its activities, the MPLA was recognized by the OAU as the only effective fighting movement in July 1969. Recognition was finally withdrawn from GRAE during the OAU Summit Conference held at Addis Ababa in June 1971.<sup>23</sup>

In Guinea Bissau also the OAU had to face various rival nationalist movements contending with each other to win its recognition. The African Party for Independence of Portuguese Guinea and Cape Verde (PAIGC), the Liberation Front for the National Independence of Portuguese Guinea (FLING) and the Union of Portuguese Guinea Nationals (URGP) were the three movements. The OAU Liberation Committee got in touch with the nationalist movements in Guinea Bissau in July 1963, to find out which of them should be recognized by the OAU. The Committee was impressed by the organization of the PAIGC, and recommended that it alone should be recognised. But

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22 Ibid., p.215.

23 The Times (London), 17 June 1971.

Senegal which supporting FLING, vetod against this recommendation at Dakar in the OAU Council of Ministers and dispatched a sub-committee of three States to inspect FLING operations which recommended to it that FLING be officially recognized. This recommendation was rejected by the Council after a thorough study and as a result, neither group was officially recognized, but both received aid from the OAU.<sup>24</sup>

In Mozambique also there were rival groups contending for leadership of the liberation movement. However, in October 1961 a Conference of the Nationalist Organizations of the Portuguese Territories was held at Casablanca. The Conference made a strong call for the unity of nationalist movements against Portuguese colonialism. In June 1962 leaders of the Mozambique nationalist movements called on President Nkrumah of Ghana and President Nyerere of Tanzania who exerted influence on the movements to unite. As a result, two groups Mozambique African National Union (MANU) and Uniao Nacional Democratica de Mocambique (UDENAMO) merged and formed the Mozambique Liberation Front (FRELIMO) in June 1962. The OAU gave considerable aid and assistance to the nationalist movement of Mozambique -- FRELIMO.<sup>25</sup>

The OAU, at the same time, continued its efforts to use

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24 For a detailed study, see, Basil Davidson, The Liberation of Guinea (Penguin Books, Harmondsworth, 1969).

25 For a detailed account, see, Eduardo Mondlane, The Struggle for Mozambique (Penguin Books, Harmondsworth, 1969).



the various UN organs for an effective implementation of diplomatic and economic measures, which it suggested, on Portugal. Even though the Security Council had declared Portuguese colonialism in Africa to be a serious threat to the peace and security of African States -- and had thus defined the situation in somewhat similar manner as had the OAU and the General Assembly -- there still remained a wide gap between, on the one hand, the OAU request and the General Assembly recommendation for the application of mandatory diplomatic and economic sanctions against Portugal and, on the other, the Council's vague response about possible future steps. Three permanent members of the Council -- France, the UK and the USA -- whose active cooperation was necessary if any measures recommended by the Council were to be effective, continued to advocate peaceful negotiation with Portugal and seemed to be unwilling to support any measure going beyond a voluntary partial arms embargo. Thus, the gap between the OAU request (as endorsed by the General Assembly) and the courses of action fully acceptable to the three States remained very wide.

#### The Question of Southern Rhodesia (Zimbabwe)

The question of Southern Rhodesia was much more complex than that of the Portuguese colonies, so it is essential to trace here the course which Zimbabwe took since it became a British colony under the name of Southern Rhodesia. In 1923,

it was granted internal self-rule, and in 1953 the three British colonies in Central Africa -- Northern Rhodesia, Southern Rhodesia and Nyasaland -- were forcibly merged, to form the ill-fated Central African Federation. By 1960, it had become abundantly clear that the Federation could not survive. In 1961 the British Government gave Southern Rhodesia a new constitution which can conveniently be described as a "Westminister-mandated magnacarta for White dominance."<sup>27</sup>

As the other members of the Central African Federation, Northern Rhodesia (now Zambia) and Nyasaland (now Malawi), moved towards independence in 1963, there was increasing concern about the future of Southern Rhodesia and demanded for its independence as well. The aim was to become independent with a White minority government in order to forestall any attempt by London to impose African control. Ian Smith, who claimed that black majority rule would not come during his lifetime committed himself to achieve independence unilaterally. A referendum was held in November 1964 on whether the (all White) electorate favoured independence under the 1961 constitution and the response was overwhelmingly "yes".

All the while, the nationalist movement had been growing. The Zimbabwe African People's Union (ZAPU) and the Zimbabwe African National Union (ZANU) were in existence before the OAU was founded. Although both were fighting for majority African

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27 Ajala, n.21, p.219.

rule in an independent state, they were more interested in cutting each other's throats than in jointly attacking their common enemy. Several efforts were made by the OAU to unite them for their common objective, but all these efforts remained unrewarded. To make matters worse, ZAPU had been torn apart as a result of bitter personal feuds and tribal conflicts in the party leadership.<sup>28</sup>

Before the OAU was established, the Southern Rhodesian question had already been considered by the UN General Assembly which determined in 1962 upon the insistence of African and Asian States and on the basis of the recommendation of its Special Committee of Seventeen on decolonization, later Special Committee of Twenty-Four, that Southern Rhodesia was a Non-Self-Governing Territory within the meaning of Articles 73 and 74 of the UN Charter and General Assembly resolution 1514(XV).<sup>29</sup> The majority of the Member States supported this position which the UK rejected arguing that Southern Rhodesia had acquired in 1928, and further in 1961, constitutional rights and privileges which "naturally and inevitably curtailed the powers and functions of the British Government" to such an extent that its status remained outside the conventional sphere of the Non-Self-Governing Territories under the Charter.<sup>30</sup>

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28 The Observer (London), 26 April 1970.

29 Resolution 1747(XVI) of the General Assembly, 28 June 1962.

30 GAOR, 17th Session, Fourth Committee, 1360th Meeting, 25 October 1962, paras.31-53.

It was against this background of British rejection of the competence of the United Nations on the question of Southern Rhodesia that in May 1963 the Addis Ababa Summit Conference adopted a two-pronged policy:

- to hold the United Kingdom fully responsible for the situation in Southern Rhodesia and urge it "not to transfer the powers and attributes of sovereignty to foreign minority governments imposed on African peoples by the use of force and under the cover of racial legislation, and
- to declare solemnly that "if power in Southern Rhodesia were to be usurped by a racial White minority government [the African States] would lend their effective moral and practical support to any legitimate measures which the African nationalist leaders may devise... [to transfer it] to the African Majority..."<sup>31</sup>

In its first year, the OAU concentrated on the first line of policy and sought in vain through the Security Council to discourage the UK from transferring the military force of the defunct Central African Federation to Southern Rhodesia.<sup>32</sup>

It began seriously assisting the African liberation movements

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31 Woronoff, n.4, pp.236-38.

32 SCOR, 18th Year, Supplement for July-September 1963, document 3/5425/Rev.1, 11 September 1963.

in Southern Rhodesia only after the British Labour Party, was returned to power in October 1964, after thirteen years in opposition and gave a hint in April 1965 that the British Government intended to meet a unilateral declaration of independence (UDI) solely by economic sanctions,<sup>33</sup> thus ruling out the use of military force.

The OAU Council of Ministers at its meeting prior to the Summit Conference of 1965 held at Accra, considered the possibilities of a UDI by the White minority regime in Rhodesia, and recommended that an OAU peace-keeping contingent be established. However, the resolution adopted by the Summit Conference on 22 October 1965 was moderate in tone. The resolution placed the responsibility squarely on Britain and urged it to use force to prevent a unilateral declaration of independence. The Summit set up a special committee on Zimbabwe, and also prepared a plan for action in case Britain granted negotiated independence to a minority regime in that colony. The plan agreed:

- to refuse recognition to such a government;
- to recognize a Zimbabwean Government in exile;
- to hold an emergency meeting of the OAU Council of Ministers with a view to involving the United Nations more directly in Zimbabwe;

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33 The Times (London), 3-5 May 1965.

- to reconsider relations with Britain;
- to treat the White minority government in Zimbabwe on the same footing as that in South Africa.<sup>34</sup>

The United Kingdom, however, stated that it would not use force though it would continue its policy of firm assurance, clear warning, and persistent negotiations as regards the minority regime.<sup>35</sup>

On 11 November 1965, the threat of UDI materialized. The Special Committee on Zimbabwe set up in Accra met immediately at Dar es Salaam, in the presence of the OAU Secretary General, and decided to recommend to the Council of Ministers a resolution committing the African States to a diplomatic boycott of Britain.

An extraordinary session of the Council of Ministers was convened in Addis Ababa (3-5 December 1965) to tackle the crisis. It was decided there that if by 15 December the revolt was not crushed, the African states would declare war on Rhodesia; cut all economic exchanges and communication; and finally break off diplomatic relations with Britain. It is significant to note that for the first time, the Security Council called upon the OAU to carry on diplomatic and economic sanctions against a political entity outside the membership of the OAU.<sup>36</sup> One might

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34 See Ajala, n.27, p.222.

35 Ibid., p.224.

36 Paragraph ten of the Security Council Resolution 217 of 20 November 1965, called upon the OAU "to do all in its power to assist in the implementation of the resolution, in conformity with the Chapter VIII of the Charter of the United Nations."

argue that this constituted both an indirect endorsement of the measures that the OAU had already been taking against the minority regime in Southern Rhodesia and an authorization for the continuation of these measures.

However, the limitations of the OAU role became apparent at the outset when Member States began to realize that they had over-committed themselves. The OAU hope of obtaining a change in British policy through the threat of breaking Member States' diplomatic relations with Britain vanished when only nine States<sup>37</sup> actually carried out their threat. Moreover, after a careful examination of the feasibility of mobilizing force against Southern Rhodesia, the Special Committee on Zimbabwe became convinced that it would be unwise for the African States to take direct military action. Therefore, the OAU limited itself to increasing its support in funds, materials, and military training to the rival liberation movements, whose effectiveness was undermined by their failure to comply with OAU's recommendation for the formation of a common front. The African economic boycott of Southern Rhodesia was equally ineffective, since most countries had little or no trade with that country.

Realizing the limitations of its own role, the OAU shifted to a policy of diplomacy and persuasion towards Britain and began

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37 Algeria, Congo (Brazzaville), Ghana, Guinea, Mali, Mauritania, Sudan, Tanzania, and UAR. Somalia had already broken off diplomatic relations over the issue of the North-Eastern province of Kenya.

to concentrate on efforts to induce the Security Council to take more effective action. Resolution 232 (1966) of the Security Council had incorporated some minor amendments proposed by the African States but, the OAU demands for comprehensive sanctions and other far-reaching measures failed to receive sufficient support in the Council.<sup>38</sup>

The climax was reached one and a half years later when the Security Council met upon the request of the African States. Although the OAU demands for military sanctions against the illegal regime were not met, the Council adopted on 29 May 1968, resolution 253 whereby it decided to apply mandatory sanctions with regard to all trade, investment, and travel and called upon Member States to report the measures taken by them to the UN Secretary-General. For the first time, the Council recognized, as did the General Assembly two and a half years earlier, the legitimacy of the struggle of the people of Southern Rhodesia to secure their rights of freedom and independence and urged Member States to render "moral and material assistance" to them in their struggle.

Thus, the long-standing plan of the OAU to the Security Council for mandatory comprehensive sanctions against Southern Rhodesia and for legitimization of the support being given to the liberation movements were finally met. Thanks to such

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38 The proposed measures included action against non-compliance by Portugal and South Africa and use of force by Britain.



pressures, the United Kingdom took over Rhodesia and after protracted negotiations, Rhodesia became independent as Zimbabwe in April 1980. The role of the OAU and the front line States<sup>39</sup> in this achievement cannot be over-emphasized.

A comparison of the handling of the question of Southern Rhodesia with that of the Territories under Portuguese administration shows that the discrepancy between the OAU demands and Security Council response had been much smaller in the former case than in the latter. In response to OAU demands and with the concurrence of the UK, the Security Council had categorized the situation in Southern Rhodesia as a threat to international peace and security and had raised the vigour of the measures against the rebel regime from selective non-mandatory sanctions to comprehensive mandatory sanctions. Because of the legitimacy given to the OAU in its actions against Southern Rhodesia, it was possible for the OAU to intensify its own measures of pressure against the rebel regime without provoking any arguments about the possibility of conflict between the two organizations.

#### NAMIBIA (SOUTH-WEST AFRICA)

The question of Namibia is not merely an OAU predicament, but an international problem of the greatest magnitude. Namibia (known also as South-West Africa), a former German colony, was

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39 Tanzania, Zambia, Mozambique, Angola and Botswana.

mandated as a trust territory, in accordance with Article 22 of the Versailles Treaty of 1919, to South Africa, by a resolution of the Council of the League of Nations on 17 December 1920. Indeed, for many years, South Africa reported regularly on the administration of the territory to the Mandates Commission of the League. Then, in 1945, the United Nations superseded the League of Nations, and all other former trust territories came under the UN trusteeship system -- although the Charter itself did not provide for it. But South Africa, with the support, of Britain, the United States and a few other Western powers, refused to place South-West Africa under the UN trusteeship system. Instead, it attempted to incorporate the trust territory in the Union of South Africa. This met with hostile reaction from the United Nations, and from 1949 onwards South Africa bluntly refused to submit any report to the United Nations on the administration of the territory. This refusal led the UN General Assembly to ask for an Advisory Opinion on the legal status of the territory from the International Court of Justice.<sup>40</sup>

The International Court of Justice (ICJ) in its judgment of 11 June 1950, ruled that South-West Africa was still under the international mandate assumed by the Union of South Africa on 17 December 1920; so rejecting South Africa's contention that the mandate had lapsed with the demise of the League. Despite this ruling, however, South Africa refused to recognize the

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40 Ajala, n.21, p.227.

norms of international law. Several UN resolutions to that effect had been passed; and advisory opinion of the ICJ sought. But still South Africa refused to honour its obligations.

When the Organization of African Unity was created, it sought to draw together the various strands of intentions vis-a-vis South West Africa and gave direction to the struggle. The Addis Ababa Summit Conference of May 1963 insisted that South West Africa was under international mandate and let the Court deal with it, while demanding independence.

Nevertheless, there was a relative lull while the Court debated the case. During this time, there was little activity in the OAU. It condemned South Africa in all meetings, but there were no specific resolutions on South West Africa other than to appeal for financing the case. The Committee on Decolonization was rather quiet.

The UN General Assembly resolution of 27 October 1966<sup>41</sup> was, however, a complete break with the past. After years of effort to prove the continued validity of the mandate, the General Assembly affirmed its right to take action including the "right to revert to itself the administration of the Mandated Territory." The General Assembly "terminated" the mandate as South Africa had failed to fulfil its obligations.

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41 Resolution 2145(XXI) of the General Assembly.

South-West Africa came under the direct responsibility of the United Nations. The onus for implementation, however, was placed on the South African Government which was expected to withdraw and refrain from any action contrary to the resolution; the Security Council was not asked to take enforcement action.

The OAU was carried away by the General Assembly resolution of 27 October 1966. The Council of Ministers looked on this as a victory. The Council declared that the solution of this problem was for the Member States "to spare no efforts in helping the peoples of South West Africa to rid themselves of foreign occupation", and the Liberation Committee was to "give priority to the termination of the occupation of South West Africa."<sup>42</sup>

The OAU had thus made a call for action. Unfortunately, it was unlikely that the Organization could mobilize an adequate fighting force to alter the situation. There was no question of the independent states entering the breach in a war against the greatest military power on the continent. Even guerilla warfare would be severely hampered by the largely desert terrain and the sparseness of population. Any efforts would be further weakened by divisions among the various liberation movements.

As on the other fronts, the struggle was left essentially to the South West Africans themselves. There were several

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42 Woronoff, n.4, p.273.

nationalist movements and South West African People's Organization (SWAPO) had begun preparing freedom fighters. They had the backing of the Liberation Committee and the Organization of African Unity. But they were fighting against greater odds and in view of the difficulty expected on this front, the OAU referred the matter back to the United Nations. The OAU pledged its cooperation to the United Nations in discharging its responsibility towards South West Africa. Thus, the OAU directed its efforts more pointedly through the world body. Namibia was described as a territory under the responsibility of the United Nations and the primary agents were the General Assembly, the Security Council, the Trusteeship Council and, only as a subsidiary, the OAU.<sup>43</sup>

#### EVALUATION

Thus, the efforts of the OAU and the UN in liberating the continent from the yoke of colonialism have yielded substantial results. In Southern Africa, with the independence of Zimbabwe and the impending independence of Namibia, the South African Liberation struggle has entered its most crucial phase today. The following six important roles can be identified which the OAU has been playing in its drive against colonialism: ideological support; providing military bases for training and operations; diplomatic support; material support; negotiating with the administering countries; and finally, fostering unity with the liberation movements.

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43 Ibid., p.274.

The co-ordination committee for the liberation movements in Africa, established by the Summit Conference of OAU in May 1963, was entrusted with two specific objectives:

- The establishment of a liberation budget to finance the struggle for the total eradication of colonialism from Africa; and
- the co-ordination of the struggle on a territorial and international basis, beginning with the elimination of rival parties and the formation of a united front.

A perusal of the history of the Liberation Committee reveals that it has achieved much success in its latter objective. Its failure has been as a result of reluctance of the liberation movements still under colonial appendage to merge politically.<sup>44</sup> The second important problem was non-payment of funds/contributions by Members States. The Committee's records show a declining interest in its work. In 1963-64, contributions were essentially paid in full. The following year twelve states did not pay their quotas. The number of states defaulting on payments was 20 in 1965-66, 19 in 1966-67, 24 in 1967-68 and 28 in 1968-69.<sup>45</sup>

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44 Ibid., p.275.

45 Ibid.

The Liberation Committee suffered from lack of cooperation from the very beginning. This was so because there was no agreement as to the extent and scope within which the OAU should embark on its policy of liberation. Though the OAU Summit did make contribution to the liberation fund mandatory, it was unable to unify all nationalist movements that had split into two or more factions. This was so because the nationalist factions were being supported by rival African States. For example, during the Angolan struggle, the FNLA was supported by the moderate Member-States of the OAU, and the MPLA was backed by the radical group of African States. This split was even evident after Angola's independence on 11 November 1975. Even in the Special Summit on Angola in 1976, Members remained divided on the question of recognition of the MPLA Government.

Much of the malady of the OAU can also be attributed to "foreign meddling".<sup>46</sup> It is believed that most of the responsibility for the OAU failures has its origin in the balkanisation of the continent as well as in Africa's recent political history. The chief factors involved are: Africa's heavy dependence on foreign aid; membership in certain 'Euro-African' organizations; political instability and foreign manipulations; and what may be described as human shortcomings.<sup>47</sup>

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46 For an analysis of this aspect, see, Paul W. Blackstock, The Strategy of Subversion -- Manipulating the Politics of Other Nations (Chicago, 1974).

47 For a detailed consideration of each factor, see, Ajala, n.27, pp.238-52.

Despite several obstacles in the way of the OAU, the Organization had taken up the question of decolonization in Africa in the best possible way permitted by the limitations under which it had to operate. It has many successes to its credit, notwithstanding several failures as well. But, a regional organization like the OAU cannot over-ride the sovereignty of its Member States, on any measures for gaining certain results. The conflicting national interest of the Members of the OAU has cast its shadow on the effective implementation of the various measures adopted by the OAU for putting pressure on the colonial Powers and expedite the process of decolonization. Nevertheless, the OAU exists today to play whatever little diplomatic role it can, to raise the African voice at the United Nations and to provide a forum for the Member States to settle their differences by discussing them out and thus, the hope it keeps alive that a real African unity can be achieved to force the remnants of colonialism to give way to the tides of liberation and independence.

The African member states are also the members of the Non-aligned Movement. The establishment of the OAU preceded the holding of the Second Nonaligned Summit in Cairo in 1964. The First Nonaligned Summit was held in 1961 at a time when the process of decolonization had almost coming to a full circle in Africa.

The OAU Member States have vigorously participated in the Nonaligned Movement (NAM) and the largest single group of NAM come from Africa. Leaders like Kenneth Kaunda, Julius Nyerere



and the late Kwame Nkrumah have been the leading exponents of the NAM. Kwame Nkrumah while speaking at a Second NAM Summit at Cairo said: "We cannot co-exist with imperialism, we cannot co-exist with colonialism, we cannot co-exist with neo-colonialism"<sup>48</sup>.

African states have played a positive role in furthering and consolidating the NAM. While sharing the global concerns like disarmament and New International Economic Order with other nonaligned countries of Asia and Latin America, the African countries have also drawn the attention of these countries towards the problem of apartheid, racism and decolonization in Africa. Such a feeling was reiterated by Njorge Mungai, Kenya's Foreign Minister at the fourth NAM Summit at Algiers when he said:

Decolonization in Africa remains our undischarged burden. There are still over 30 million Africans who are condemned to torture, humiliation and servitude under colonial domination or minority racist regimes. These unrepresentative regimes are maintained by repression and police terror. (49)

There has been an increased and enthusiastic participation by African countries in the nonaligned conferences. African states have always reiterated their full support for the principles of

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48 Conference of the Heads of State and Government of Nonaligned Countries, 5-10 October 1964.  
p.88.

49 Fourth Conference of Heads of State and Government of Nonaligned Countries, Algiers, 5-9 September 1973 (Algiers, 1973), p.112.

nonalignment and in turn have obtained full support of nonaligned nations for the problems faced by Africa, like Namibia issue, OAU's struggle against the apartheid and racist regime of South Africa. In this way, the African states have played a vital role in OAU as well as in the nonaligned movement.

Though OAU primarily caters for the strategic and security interests of Africa, on global issues like abolition of colonialism, disarmament, New International Economic Order, Indian Ocean as a Zone of Peace, its approach transcends the regional barriers and assumes global dimensions. OAU has expressed its opposition to colonialism in any form in any part of the world. Its support for the inalienable rights of the Arab Palestinians and vacation of occupied Arabs territories by Israel is an example of OAU's support against colonialism outside Africa.

The OAU maintains a close liaison with its African group at the United Nations especially on the question of decolonization. To co-ordinate its policies, the OAU has established an office at the UN headquarters in New York. The OAU also maintains a special relationship with the UN Committee on Decolonization with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The OAU sessions are attended by a special representations of this Committee and OAU is represented by African member state on the Committee.

The UN Committee on Decolonization also maintains a close liaison with OAU in the context of the Implementation of the Declaration and other relevant United Nations Resolution by the Specialized agencies and the international institutions associated with the UN, especially on matters relating to the extension of assistance to the people of the colonial territories in Africa and their national liberation movements.<sup>50</sup> The Chairman of the UN Special Committee in a message to the OAU at its thirty-ninth session of its co-ordinating committee for the liberation of Africa, held at Arusha from 7 to 11 June 1983, reiterated the Special Committee's continued support for the contributions being made by the OAU Liberation Committee in the efforts of the international commitments towards the eradication of the remaining bastions of colonialism.

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50 United Nations, Report of the Special Committee on the situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. Document No. A/35/23/Rev.I, 1972.

## Chapter V

### THE OAU AND PEACEFUL SETTLEMENT OF DISPUTE BETWEEN AFRICAN STATES

Many disputes of divergent nature come before the Organization of African Unity (OAU). Among such disputes can be mentioned boundary and territorial disputes, refugee problems, charges of subversion of one state by another, and disputes arising out of non-recognition of governments coming to power by coup d'etat. As the scope of this work would not warrant a discussion of all the above-mentioned disputes, this chapter endeavours to discuss the OAU dispute settlement mechanism with regard to boundary and territorial disputes that are so rampant in the continent of Africa. The Algerian-Moroccan border dispute and the Somalia-Ethiopia-Kenya boundary disputes are taken as case studies. A detailed discussion is also undertaken on the OAU's Commission of Mediation, Arbitration and Conciliation.

Established in 1964, the Commission of Mediation, Conciliation and Arbitration was made one of the four principal institutions (or organs) of the OAU. The importance the framers of the Charter of the OAU gave to the Commission is reflected in the following statement of Emperor Haile Selassie at the first session of the Commission in 1967 at Addis Ababa:

The Commission occupies a special place in the Charter of the OAU as one of its four principal institutions. There is nothing that is closer to our hearts than the work with which it is entrusted in the peaceful settlement of disputes;

it is a task of great significance, for without conditions of security and peace, none of the objectives and aspirations enshrined in the Charter can be realized. (1)

The Commission was thus envisaged as an autonomous body having its own constituent instrument, but forming an integral part of the Charter of the Organization. In this respect, there is a certain degree of parallelism with the International Court of Justice under the UN Charter. The separate Protocol establishing the Commission of Mediation, Conciliation and Arbitration (hitherto referred as the Commission) was approved and signed by the African Heads of State and Government on 21 July 1964, in the course of the first General Assembly of the new organization.<sup>2</sup>

The Commission consisted of twenty-one members elected by the Assembly for a period of five years and eligible for re-election. Membership of the Commission was confined to persons with "recognized professional qualifications", such as law, economics, commerce, experience in politics, administration or diplomacy. In electing members, however, the Assembly is not necessarily bound by the above criteria, and may elect persons otherwise considered suitable in its own judgment.

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1 Cited in Zdenek Cervanka, The Unfinished Quest for Unity: Africa and the OAU (London, 1977), p.201.

2 Article 19 of the OAU Charter had required the Protocol to be approved by the Assembly of Heads of State and Government.

The Heads of State and Government are required to make their selection from a list of candidates nominated by Member States who are entitled to put forward two candidates each to the Administrative Secretary General of the Organization.<sup>3</sup>

The Commission was placed under a Bureau, i.e., a President and two Vice-Presidents, elected by the Assembly from among the members of the Commission. They were its only full-time members; the other eighteen would be called upon when necessary.<sup>4</sup> The Commission has its seat in Addis Ababa. The Commission was not a permanent body, but rather a panel of judges who were activated when disputes were brought to it for settlement (like the International Court of Arbitration). Flexibility was obtained by providing twenty-one members and allowing the parties a rather broad choice in the composition of the body judging their case. It was also possible for several groups to be established at the same time to deal with several disputes.

The Commission's jurisdiction was restricted to disputes between member states.<sup>5</sup> The Commission could not be seized with a conflict between a state and the Organization. Disputes

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3 Article 2 of the Protocol, see, Elias, "The Charter of the Organization of African Unity", American Journal of International Law (Washington, D.C.), vol.51, no.2, 1965, p.340.

4 Articles 6 and 7 of the Protocol.

5 Article 12 of the Protocol.

could be referred to the Commission by one or more parties, by the Council of Ministers, or by the Assembly. If one party refused to submit to the jurisdiction of the Commission, the Bureau could refer the matter to the Council of Ministers. However, the Council could not compel a recalcitrant state to submit a dispute to the Commission.<sup>6</sup> Thus, in the final analysis, the consent of each party was necessary for it to be involved in proceedings before the Commission. In other words, the jurisdiction of the Commission was not compulsory but optional.

Once there was mutual consent to the jurisdiction of the Commission, it was necessary to determine which mode of settlement to use. The working methods and rules of procedure for each dispute were left largely to the parties and Commission. The Protocol provides that the Member States "shall refrain from any act or omission that is likely to aggravate a situation."<sup>7</sup> The members of the Commission engaged in the case were endowed with diplomatic privileges and immunities and they were authorized to conduct investigations or inquiries to elucidate facts or circumstances with the fullest cooperation of the Member States.<sup>8</sup>

Three principal modes of settlement of a dispute referred to the Commission are provided for in Article 19 of the OAU

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6 See, Elias, n.3, p.343.

7 Article 15 of the Protocol.

8 Article 17 of the Protocol.

Charter: Mediation, Conciliation, and Arbitration. It is important to emphasize that these three modes are alternative, and not necessarily successive procedures, and that parties are free to use any one or all three in respect of a dispute. The Charter of the OAU established only one Commission, instead of three separate bodies for all three types of proceedings.<sup>9</sup>

Mediation could be introduced by the President of the Commission, who appointed, with the consent of the parties, one or more mediators chosen from the Commission.<sup>10</sup> In this way, the parties were not bound to accept the proposals of the mediators and in no way sacrificed their sovereignty. The mediators were to try to reconcile the views and claims of the parties and make written proposals which might, or might not, become the basis of a protocol of arrangement between them. If the proposals were not accepted, the mediators could try again and again, until the dispute was resolved, or the parties agreed to settle it between themselves or to abandon it.<sup>11</sup>

A matter could be referred for conciliation by means of a written petition to the President by one or more of the parties to the dispute, giving the grounds of the dispute.<sup>12</sup> In forming the Board of Conciliation of five members, only one was named

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9 See Elias, n.3, p.344.

10 Article 20 of the Protocol.

11 Article 21(3) of the Protocol.

12 Article 22 of the Protocol.



by each party and the other three by the President of the Commission who also appointed the Chairman of the Board from among those three members. Although the procedure was still rather flexible, it was more formal than mediation and the question had to be stated precisely in the petition; the parties were represented by agents, and they could be assisted by counsel and experts. There was also provision for fact-finding and holding of hearings.

Nevertheless, the duty of the Board was only "to clarify the issues in dispute and to endeavour to bring about an agreement between the parties upon mutually accepted terms." These terms, if any could be reached, were included in a final report by the Board along with any recommendations or settlement. If no agreement could be reached, the report merely stated that it was impossible to effect a settlement. Thus, once again the parties had the final say as to what the settlement should be. The Board or a party could not even exert pressure on a state by publishing the report, since this was only possible with the consent of all parties.<sup>13</sup>

The most effective form of settlement was arbitration. The machinery and procedure were much more complete. Each party selected one member of the Tribunal and the two members then chose the third. If they could not agree, the Bureau of the Commission made the choice. If so desired, two further

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13 Article 24 of the Protocol.

members, this time not necessarily drawn from the Commission, could be appointed by the President of the Commission. However, none of the arbitrators could be nationals of the parties, domiciled or in their service. And no two arbitrators could be from the same country.

The particulars of the case were set forth in the basic document calling for arbitration, the compromis, which provided that the parties would accept the Tribunal's decision as legally binding, related the subject matter of controversy and named the seat of the Tribunal. The compromis could also specify the law to be applied. Otherwise, the Tribunal would base its decision on "treaties concluded between the parties, international law, the OAU Charter, the UN Charter, and if parties agree on ex acquo et bono" (as in the case of the ICJ).<sup>14</sup> The hearings were to be formal, records signed by the arbitrators and the Registrar of the Commission, were alone to be authoritative, and the award, or final judgment, had to be in writing and the reason for every one of its point clearly stated.

The juridical and formal nature of arbitration was essential as a guarantee to the states of a just decision, based on law, since this was the only mode of settlement that was directly binding without their approval. "Recourse to arbitration shall be regarded as submission in good faith

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14 Article 28 of the Protocol.

to the award of the Arbitral Tribunal."<sup>15</sup> No provision was made, however, for imposing execution of the award upon a state through action of the Council or Assembly. Although the aggrieved party could bring the matter before the political bodies, there was little the OAU could do to make the other party implement a ruling. The Charter did not even permit them to decide its expulsion from the Organization.

Thus, the importance of the Commission cannot be over-emphasized. Within the framework of the OAU, nothing is more central to the problem of unity and solidarity than the maintenance of good relations and neighbourliness among the Member States. Indeed, it can be said that the Commission in large part supplies the raison d'etra of the Organization itself.

All the other principal institutions and specialized commissions will no doubt play a major role in the promotion of the economic, social and cultural well-being of the community of the Member States, and it is on the extent to which they fulfil these aspirations of the peoples of Africa that the success of the Organization will be judged. But the peaceful resolution of conflicts, both large and small, within the framework of the Organization, probably provides the necessary condition for orderly progress, not only for the individual Member States, but also for the entire continent of Africa.<sup>16</sup>

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15 Article 29 of the Protocol.

16 Elias, n.3, p.348.

## THE OAU PRACTICE

It is widely believed that Africa could only progress and develop if peace was maintained within the continent. But, the causes for friction and conflict were widespread. No state was really immune to territorial or political disputes and scarcely any had a homogeneous racial and religious composition. Therefore, it was in their best interests to make the OAU a place where such difficulties might be discussed and overcome. Member States could turn to the Organization to obtain a settlement, or at least a hearing from the rest of Africa.

When it came to the ways and means of maintaining order in Africa, the Charter was strangely silent. A preliminary question even arose as to the Organization's competence. Given the fundamental principle of sovereignty of member states, could the OAU deal with all disputes on the continent, even those seriously affecting peace and security, if this entailed (in effect) interference in the affairs of a sovereign state?

During its functioning, the OAU would often be faced with delicate and controversial issues. It would repeatedly stumble against its own principle of non-interference. Even with disputes or situations manifestly endangering peace in Africa, the Organization would be uncertain whether it could act without at least the tacit approval of the states directly involved. In addition, its recommendations might or might not be accepted. In a particularly bitter dispute, if the OAU decided on a

solution or a course of action, the difficulty of imposing it on the parties involved was obvious.

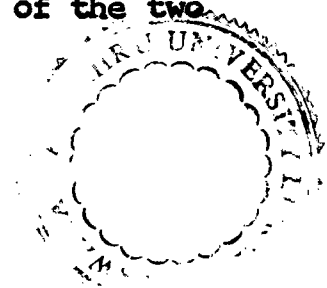
The Charter provided no clear guidelines on such contingencies. In theory, since even the resolutions of the Assembly of Heads of State and Government were not binding, there was no reason to believe that it could give the necessary orders to its members. More significantly, it would be extremely difficult in practice to make any state implement measures it rejected. But it could discuss any of these matters, express an opinion and counsel appropriate means of restoring harmony.

Having to deal with sovereign states, it was obvious that the OAU would have to be very careful in finding solutions that were broadly acceptable. It would have to develop a very flexible policy to take advantage of every opening. This meant following a soft line most of the time and giving preference to the exercise of good offices and conciliation to arbitration. In so doing, the Organization could use any of its legal or political institutions or create temporary bodies for specific purposes.

The Commission of Mediation, Conciliation and Arbitration was designed as the principal organ for dealing with legal disputes. But, there was always a marked reluctance among the African States to submit their disputes to legal settlements. All important matters seemed so politically loaded that states often preferred seeking a solution by more flexible political means.

The OAU had three alternatives in handling a political conflict. It could give it over for settlement at the highest level, i.e., the Assembly of Heads of State and Government. But its time being limited, the Heads of State and Government had little opportunity to look into the details of a problem or follow it up. Their authority is supreme, but they hesitate to associate their names with measures that might ultimately be contested or ignored. The second alternative, the Council of Ministers, is more flexible and could readily deal with conflicts that arise. Its decisions, however, could hardly be imposed upon Member States. Thirdly, there could also be set up ad hoc commissions or committees as needed. They would investigate or help the parties for finding a solution. But they are responsible to the Assembly or Council where the final decision has to be taken.

The United Nations, on the other hand, contains a more elaborate arrangement for peaceful settlement of disputes, but in practice, the means of action provided there also fell prey to the sovereignty of the Member States. The UN Charter and the Charter of the OAU suffer from the same malady. However, a comparative analysis of the present and potential roles and relationships of the two organizations in the field of peaceful settlement of disputes should be made. It would help understanding the respective importance and utility of the two organizations.



The UN and the OAU -- Peaceful Settlement of Disputes

Article 33(1) of the UN Charter requires the parties to any dispute, the continuation of which is likely to endanger the maintenance of internal peace and security, to seek first a solution "by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their choice." Article 52(2) places special emphasis on regional settlement of disputes as it requires Member States of the United Nations which are also members of regional agencies or parties to regional arrangement to "make every effort to achieve pacific settlement of local disputes through such regional arrangement or by such regional agencies before referring them to the Security Council." For its part, the Security Council is required under Article 52(3) "to 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." Should the parties to a dispute fail to settle their differences within a regional framework or by any of the other means indicated in Article 33, they are required under Article 37 to refer the matter to the Security Council, and if the Council is convinced that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it is required either to propose specific procedures or methods of adjustment or to recommend appropriate terms of settlement.

Yet, in contrast to the fore-going provisions which imply that members of regional organizations must first seek regional remedies, Article 52(4) states that the provisions in the first three paragraphs of the same Article, shall in no way impair the application of Articles 34 and 35, namely, the right of the Security Council "to investigate any dispute, or any situation which might lead to international friction or give rise to a dispute" and the right of any Member State of the United Nations "to bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly." In addition, Article 36 empowers the Security Council, at any stage of a dispute or a situation, to recommend appropriate procedures or methods of adjustment. In making recommendations it should take into consideration any procedures for the settlement of disputes (including regional ones) which have already been adopted by the parties. Furthermore, if all the parties to any dispute so request, the Security Council may, under Article 38, make recommendations to them with a view to attaining a settlement of the dispute. In so far as the Security Council is not exercising its functions with regard to a particular dispute or situation, the General Assembly may under Articles 11(2) and 14 make recommendations to the parties concerned.

The two sets of provisions represent the ambiguous compromise reached at San Francisco between the proponents of regionalist and universalist points of view; they provide



alternative courses of action without giving any precise indication of the contemplated division of competence and responsibility between the United Nations and regional organizations.

In the OAU Charter, neither Article XIX nor the Protocol of the Commission refers to the jurisdiction of the United Nations in peaceful settlement of dispute, which seems to imply that the founders of the OAU preferred to seek settlement of inter-member disputes within an 'African framework.'<sup>17</sup> This has, in fact, become a feature of the procedures of the peaceful settlement of Inter-African disputes. Emperor Haile Selassie pronounced this emphatically: "any misunderstanding which arises among brotherly members of their organization must be essentially considered a family affair in which no foreign hand can be allowed to play any role whatsoever."<sup>18</sup>

Any claims to an exclusive jurisdiction of a regional organization in the field of peaceful settlement of disputes would obviously be inconsistent with the provisions of the United Nations Charter. Thus, the central issue in the consideration of the relative competence and responsibility of the OAU

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17 See, Zdenek Cervenka, "The Role of the OAU in the Peaceful Settlement of Disputes", in Yassin El-Ayouty (ed.), Africa and International Organization (The Hague, 1974), p.59.

18 African Research Bulletin (London), December 1963, p.1.

and the United Nations is: whether in practice, the OAU assumes undisputed jurisdiction as a forum for the initial consideration of a dispute, while the Security Council considers the matter only if those initial efforts do not succeed; or, whether the Security Council exercises concurrent or over-riding jurisdiction with authority to terminate OAU jurisdiction in particular cases.

The nature and extent of the roles played by the United Nations and the OAU in disputes between African states and their compatibility would seem to depend upon a number of inter-related factors, namely:

- the nature of the issues between the disputing parties;
- the disputants' notions about the respective constitutional or policy orientations of the United Nations and the OAU and their ideas about the probable outcome of deliberations on a particular issue in one forum or the other;
- the attitudes of the fellow Member-States of the OAU and other Member States of the United Nations concerning the level (global or regional) at which settlement of a specific dispute should be effected;
- the type and effectiveness of the machinery for peaceful settlement available within each organization; and
- the influence of norms concerning UN-OAU relationships -- norms derived from the Charters of the United Nations

and the OAU and evolved through the interaction of the above factors.<sup>19</sup>

Under what circumstances, in what manner, and how effectively has the role of the OAU in dispute settlement, which corresponds to the emphasis given in the UN Charter to the need for prior attempts at regional settlement of local disputes, been exercised? What was the role played, if any, by the United Nations in settling of disputes in Africa and how the OAU has made use of the UN forum with respect to those disputes? Have their respective roles been compatible or complementary to any extent? These questions become important when any attempt is made to analyse settlement of particular disputes by peaceful means in Africa.

#### THE CASES

There have been several disputes and other differences between African States, which had come before the OAU. The earliest of such disputes were boundary disputes of Algeria versus Morocco, and Somalia versus Ethiopia and Kenya. They were serious boundary disputes and the following section is concerned with the efforts of third parties, especially the OAU,

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19 Berhanykun Andemicael, The OAU and the UN: Relations Between the Organization of African Unity and the United Nations (New York: African Publishing House, 1976), pp.47-48.

to settle these disputes. The three cases had the following characteristics in common:

- they were disputes between sovereign states;
- they escalated into armed conflict, and thus became of particular concern to the OAU as well as the United Nations;
- they involved a claim by one party on historical, cultural, ethnic, or religious grounds to a segment of the territory presently under the jurisdiction of the other; a claim which the latter party regarded as a threat to its sovereignty and territorial integrity.<sup>20</sup>

The preference of a party to the dispute for having the question considered by one organization, rather than by the other, seems to depend mainly on its expectation of a more favourable outcome. Its notion of the relative constitutional orientations of the OAU and the United Nations is thus an important factor in its choice of forum. The OAU Charter affirms the principle of "respect for the sovereignty and territorial integrity of each state and for its inalienable right to independent existence."<sup>21</sup> In the absence of any Charter provision in the OAU Charter for the adjustment of

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20 Ibid., p.49.

21 Article III(3) of the OAU Charter.

existing boundaries, the States against whose territory a claim has been made, together with the majority of fellow Members of the OAU, have understood Article III(3) to have established a commitment to maintain the status quo on the question of boundaries. On the other hand, the States with a territorial claim have challenged this interpretation, but without being able in the context of the OAU Charter to make a case for the application of the principle of self-determination within the territory of a Member-State of the OAU. Being aware of the fact that the provisions of the OAU Charter on the total emancipation of dependent territories were conceived exclusively in terms of dependent territories, States with territorial claims tend to hope that certain provisions of the UN Charter would lend themselves to a more flexible interpretation that would accommodate their claims; especially those provisions concerning the development of friendly relations "based on the principle of equal rights and self-determination of peoples."<sup>22</sup>

#### The Algerian-Moroccan Dispute

A few months after the Organization of African Unity was founded in May 1963, war broke out between Algeria and Morocco over a boundary dispute that had been dragging on between the two for some time. Its origins lay in a Franco-

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22 Article 1, para 2 of the UN Charter.

Moroccan judgment, itself descended from the 1845 Treaty of Lalla Maghnia, that there was no need for a border demarcation because "a country which is found without water is uninhabitable and a delimitation thereof would be superfluous."<sup>23</sup> Thus, only the northernmost sector of the boundary between Algeria and Morocco had been demarcated and Morocco claimed a part of Algerian Sahara on the ground that it was within its frontiers in precolonial times. The problem became more complicated when oil and other mineral resources were discovered in the waterless and uninhabitable disputed area. Upon gaining independence in 1956, Morocco refrained from concluding any boundary arrangements with France and preferred to await Algerian independence.<sup>24</sup>

In July 1961, the Moroccan Government concluded a secret agreement with the "Provisional Government of the Algerian Republic"<sup>25</sup> recognizing "the territorial problem created by the delimitation imposed arbitrarily by France" and stating that the problem was to be resolved through negotiation between the Kingdom of Morocco and the government of independent Algeria.<sup>26</sup> Then, when Algeria became independent in 1962, the Moroccan troops

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23 Anthony S. Reuner, "Morocco's International Boundaries: A Factual Background", Journal of Modern African Studies (London), vol.1, no.3, October 1963, p.317.

24 A. Ajala, Pan-Africanism: Evolution, Progress and Prospects (London: Andre Deutsch, 1974), p.148.

25 This designation was used in the relevant resolutions of the General Assembly but was not accepted by France which had sovereignty over Algeria until July 1962.

26 New York Times, 23 October 1963.

moved into the disputed area only to find that Algerian troops were already there.<sup>27</sup>

Thus, after Algerian independence, political differences between the Governments of the two countries not only prevented the envisaged negotiation, but also increased tension between them to such an extent that a full-scale war broke out on 14 October 1963. The peace-making role of third parties became imperative, when the two sides failed in their short-lived bilateral talks to end the armed conflict. A deadlock was reached on 18 October when Morocco insisted on negotiations on its territorial claims and Algeria insisted on the withdrawal of Moroccan forces from the positions they occupied as well as on the recognition of the borders existing at the time of Algerian independence.

The League of Arab States took the initiative on 19 and 20 October 1963 to conciliate the dispute, but failed. Then, both parties explored various other possibilities which led eventually to an agreement to seek a solution through the OAU. While Algeria sought consideration of the situation by the OAU Council of Ministers, Morocco informed the provisional Administrative Secretary-General of the OAU of the situation and explored possibilities for further direct negotiations.

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27 See I. William Zartman, International Relations in the New Africa (Prentice Halls, Englewood Cliffs, 1966), p.110.

In addition, on 26 October, Morocco informed the UN Secretary General of the situation "in case circumstances should make it necessary for Morocco to refer it to the appropriate United Nations organ."<sup>28</sup>

The main relevant factors which might have been considered by the parties in their assessment of the relative appropriateness of the organizations concerned were the following. The fact that there was an armed conflict and that the involvement of non-African Powers, seemed to be aggravating the situation, were factors that might have made consideration by the Security Council appropriate. On the other hand, the not unreasonable expectation that several OAU Member States might favour the preservation of existing boundaries might have made consideration by the OAU appear more suitable for the Algerian position."<sup>29</sup>

The gravity of the situation, occurring at a time when the 'Addis Ababa spirit' was still fresh, led to both parties being implored by other African leaders to stop the fighting and settle their dispute by peaceful means. President Bourguiba of Tunisia sent an urgent message to both President Ben Bella and King Hassan, urging them to end hostilities. President

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28 Berhanykun Andemicael, n.19, p.50.

29 When Morocco ratified the OAU Charter, a month before the crisis with Algeria, it attached to its signature of the Charter a reservation warning that its membership in the OAU should not imply acceptance of existing boundaries or renunciation of its rights. For the text of the reservation See Maghreb (Paris), March-April 1964, vol.1, no.2, p.12.



Nkrumah immediately sent Kojo Botsio, Ghana's Foreign Minister, and Kwesi Armah, to Algiers and Rabat in order to mediate between the conflicting parties. President Sekou Toure of Guinea, Sir Abubakar Tafawa Balewa, Prime Minister of Nigeria, President Modibo Keita of Mali, and President Abdel Gamel Nasser of the United Arab Republic also urged a peaceful settlement upon the contestants.<sup>30</sup> As a result of these moves, President Ben Bella of Algeria sent Mohammad Yazid, the former minister of information, and Major Silmane with a personal message to King Hassan of Morocco. On the very day that these two special envoys were sent to Rabat, King Hassan declared in a speech, relayed in Morocco on both radio and television, that Morocco was prepared to hold discussion with Algeria in order to achieve a peaceful settlement. Yet, despite the Algerian move and the assurance given by the King in his speech, the countries failed to agree on a basis for settlement. Fighting continued and Algeria called on the Organization of African Unity to intervene.<sup>31</sup>

Emperor Haile Selassie of Ethiopia arrived in Marrakesh on a state visit to Morocco on 17 October 1963, and started immediately to mediate in the dispute. He had a long discussion with the King and sent Ato Katame Yifrou, the Ethiopian Foreign Minister, to Algeria with a personal message for President Ben Bella. The Algerian Government

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30 West Africa, 26 October 1964, p.2219.

31 Ajala, n.24, p.145.

also sent Abdelaziz Bouteflika, the Foreign Minister, back to Emperor with a message. The Emperor himself then flew to Algiers on 21 October 1963, to hold discussions with President Ben Bella and suggested a Summit conference at which King Hassan, Ben Bella, and himself would be present. The conference was to find ways and means of settling the dispute peacefully. Algeria accepted the suggestion on condition that the proposed conference took place in the capital of an African state or a neutral state such as Switzerland or one of the Scandinavian countries. At the same time, the Algerian Government requested the provisional Secretary General of the OAU to call an emergency session of the Council of Ministers at which the Algerian-Moroccan conflict would be discussed. The Emperor was kept informed of this and agreed that the Council of Ministers of the OAU should meet at once.<sup>32</sup>

Emperor Haile Selassie of Ethiopia and President Modibo Keita of Mali, thus, tried and succeeded in persuading the King of Morocco and the President of Algeria to meet on 29 October 1963 at Bamako, Mali, to conclude an agreement. It should be mentioned that as the Provisional Secretariat of the OAU was entrusted to the Government of Ethiopia, the

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32 Patricia Berko Wild, "The Organization of African Unity and the Algerian Moroccan Border Conflict: A Study of New Machinery for Peace keeping and for the Peaceful Settlement of Disputes Among African States", India Quarterly (New Delhi), vol.20, no.1, Winter 1966, p.26.

Emperor of Ethiopia was able to offer his good offices, not only in his personal capacity but also, in effect, on behalf of the OAU. The terms of the Bamako Agreement of 30 October were:<sup>33</sup>

- to effect a cease-fire from midnight on 1 November 1963;
- to establish a commission of Algerian, Moroccan, Ethiopian and Malian officers to determine a demilitarized zone;
- to invite Ethiopian and Malian observers to supervise the cease-fire and watch over security and military neutrality in the demilitarized zone;
- to request an extraordinary meeting of the OAU Council of Ministers in order to set up a commission that would determine responsibility for the outbreak of hostilities, study the frontier question, and make proposals for a settlement of the dispute;
- to request Algeria and Morocco to cease all public and press attacks on each other as from 1 November and to observe strictly the principles of non-interference in each other's affairs and of settlement of all disputes between African States by means of negotiation.

But as the fighting continued past the agreed cease-fire time, Morocco, brought the seriousness of the situation to the

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33 Keesing's Contemporary Archives (Bristol: Keesing's Publications, 1963-64), vol.xiv, p.19942.

attention of the United Nations Secretary General, the Provisional Administrative Secretary General of the OAU, and certain African Heads of State.<sup>34</sup> However, upon the achievement of a stable cease-fire on 4 November, with the help of the Bamako Commission, both sides began to concentrate on finding a solution through the OAU along the lines agreed at Bamako.

In mid-November, the OAU Council of Ministers met in an extraordinary session to consider the situation. It welcomed the Bamako Agreement and, after hearing the Moroccan claim of historical territorial rights and Algeria's insistence on the need to observe the OAU Charter principle concerning territorial integrity, it declared that all OAU Member States should "scrupulously respect all the principles" enshrined in the OAU Charter and that they should settle all their differences" by peaceful means and within a strictly African framework."<sup>35</sup> In addition, in accordance with point four of the Bamako Agreement, the Council of Ministers created an Ad Hoc Commission of seven states to mediate the dispute.<sup>36</sup> The Bamako Commission, though not an OAU body, was encouraged to establish contact with the OAU ad hoc Commission. Its work was thus brought within the overall diplomatic effort of the OAU.<sup>37</sup>

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34 New York Times, 4 November 1963.

35 OAU Council of Ministers Resolution ECM/Res.1(I), 15-18 November 1963 (Addis Ababa).

36 The seven states were: Ethiopia, Ivory Coast, Mali, Nigeria, Senegal, Sudan, and Tanganyika (later Tanzania).

37 OAU Council of Ministers Resolution CM/Res.18(II), 24-29 February 1964.

The efforts of the OAU and those made within its framework were largely successful, even though the results were slow in coming. With some difficulty, the Bamako Commission succeeded on 20 February 1964 in facilitating an agreement between the Foreign Ministers of Algeria and Morocco to withdraw their troops to the positions they occupied before the outbreak of hostilities, thus creating a demilitarized zone along the border and the strategic highlands of the Figuig area.<sup>38</sup> With encouragement from the Council of Ministers, relations between Algeria and Morocco improved considerably during the next three months; in May 1964, the ambassadors of the two countries formed a joint committee and were able to reach agreement on a number of measures for normalizing relations, ranging from exchange of prisoners and of property seized during the hostilities, to rehabilitation of the persons displaced as a result of the conflict. The Ad Hoc Commission was less successful in carrying out its difficult mandate; though it provided invaluable help in clarifying issues and narrowing down some areas of disagreement, it was not able to bring about a settlement of the dispute. However, the modest contribution that it had made before it adjourned indefinitely in 1967 appears to have facilitated progress in the subsequent bilateral negotiations on the border dispute which led to the conclusion in January 1969 of a general treaty of solidarity and cooperation between Algeria and Morocco. In May 1970, the

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38 New York Times, 21 February and 10 March 1964.

two states concluded an agreement on the boundary question.<sup>39</sup> This agreement marked a significant achievement for OAU, encouraged bilateral negotiations between OAU Members and provided a possible model for the settlement of other boundary disputes.

#### Somalia's Disputes with Ethiopia and Kenya

In the Algerian-Moroccan dispute, a precedent had already been established to "try the OAU first" in settling disputes between African States when the border disputes in the Horn of Africa flared up into an armed conflict. When Kenya became independent in December 1963, hostilities broke out between Kenyan troops and Somali-speaking groups in Kenya and led to border incidents with Somalia. In January 1964, similar clashes between Ethiopian troops and Somali-speaking groups in Ethiopia, which began in 1960, led to intensive conflict between the armed forces of Ethiopia and Somalia.

The boundary disputes between Somalia and its two neighbours stemmed from a claim by Somalia to large areas within the boundaries of those states on grounds of historical, ethnic, and religious affinity.<sup>40</sup> These territories comprised the Ogaden and Hand

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39 Keesing's Contemporary Archives, vol.xvii, 1969-70 (8-15 August 1970), p.24125.

40 The Somali People's Quest for Unity (Mogadishu: Ministry of Foreign Affairs, 1965), pp.10-11.

regions of Ethiopia and the Northern Frontier District (NFD) of Kenya. Somalia contended that the right of any people to seek self-determination was enshrined in the UN Charter and, in particular, the resolutions of the General Assembly; and that, accordingly, the people in the disputed areas in Ethiopia and Kenya should be given an opportunity to exercise this right.<sup>41</sup> On the other hand, Ethiopia and Kenya rejected Somali's claims, stressing that the principle of self-determination did not apply to territories within independent states and that to press such claims would pose a threat to their sovereignty and territorial integrity contrary to the principles of the UN Charter and those of the OAU Charter.

Somalia requested an urgent meeting of the Security Council on 9 February 1964, to consider the "complaint by Somalia against Ethiopia concerning acts of aggression infringing upon the sovereignty and security of Somalia."<sup>42</sup> But before any action could be taken on this request, the UN Secretary General appealed to both parties to settle their dispute peacefully and within an African framework. The Soviet Government also dispatched messages

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41 Ibid., p.14. In December 1962, before Kenya became independent, a British fact-finding commission visited the Northern Frontier District of Kenya and concluded that 87 per cent of the population in the area were Somalis and that a majority of them would prefer to avoid assimilation into an independent Kenya. But the British Government decided that the area should remain an integral part of Kenya.

42 Security Council Official Records (SCOR), 19th year, Supplement for January-March 1964, Doc. S/5536, 9 February 1964, p.60.

to both parties supporting the message of the Secretary-General.<sup>43</sup> Meanwhile, Ethiopia and, later, also Somalia requested the OAU Council of Ministers to consider the matter at its second extraordinary session scheduled to meet in February 1964 for a different purpose. The border dispute between Somalia and Kenya was also placed on the agenda of that session upon the request of both countries. Although Somalia had agreed to present the two cases for consideration by the OAU, it did not do so as its original intention was to have its disputes with Ethiopia put before the Security Council. Thus, even though it had notified the UN Secretary-General that it was "the desire of the Somali Government not to raise the matter with the Security Council, while the problem was in the hands of the OUA"<sup>44</sup> Somalia still continued to send messages on developments to the President of the Security Council.<sup>45</sup>

When the OAU Council of Ministers considered the dispute between Somalia and its neighbours at Dar es Salaam it made it a point to express its conviction that "the solution to all disputes between Member States [should] be sought within the OAU."<sup>46</sup>

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43 Ibid., Docs.S/5538 and S/5539, both of 13 February 1964, pp.61-63.

44 Ibid., Doc.S/5542, 14 February 1964, pp.65-66.

45 Ibid., Docs S/5557 and S/5558, both of 18 February 1964, pp.77-83.

46 OAU Council of Ministers Resolution ECM/Res.3(II), 15 February 1964.



The Council of Ministers' role in handling these two disputes was more modest than its role in regard to the Algerian-Moroccan case; no machinery was set up to mediate the two disputes. In the case of Somali-Ethiopian dispute, the Council solemnly urged the two countries "to order an immediate cease-fire and to refrain from all hostile actions" and called upon all African States having official representation in the two countries "to assist in the implementation of the cease-fire."<sup>47</sup> In regard to this dispute as well as that between Somalia and Kenya, the Council urged Somalia and its two neighbours to refrain from further provocative actions and propaganda and to enter into direct negotiations to resolve their disputes peacefully.<sup>48</sup>

Since these resolutions had little effect in ending hostilities or reducing tension, the Council of Ministers at its second ordinary session later that month appealed for full implementation of its previous resolution and requested the parties concerned to report on their negotiations to the OAU Assembly of Heads of State and Government.

The role of the OAU Council of Ministers in the two border disputes had three aspects, including the one described above, namely, the application of pressure on the disputants to end hostilities and to start direct negotiations. The other two

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47 Ibid.

48 Ibid., and resolution ECM/Res.4(II), 15 February 1964.

were: first, the discouragement at OAU meetings, debate on the merits of the disputes and the avoidance of direct OAU involvement in the restoration of peace and the settlement of disputes; and, secondly, the setting up of a norm applicable to the problem of border disputes.

The tendency to avoid direct OAU involvement can be illustrated by the attitude expressed by the majority of the African States at the second ordinary session of the OAU Council of Ministers -- a reluctance to support either Ethiopia's request for OAU pressure on Somalia to renounce its claims and accept existing boundaries, or Somalia's request for direct OAU peace-keeping efforts such as the sending of observers to supervise the cease-fire.<sup>49</sup> In its third session, the Council of Ministers even went so far as to drop from the agenda that it was preparing for the OAU Assembly the question of the situation in the Horn of Africa, it did so when Somalia's strong protest against signing a defence pact between Ethiopia and Kenya led to a heated and somewhat divisive debate.<sup>50</sup> It seems clear that the OAU was reluctant to be further drawn into substantive issues of any particular dispute.

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49 See, Saadia Touval, "The Organization of African Unity and African Borders", International Organization, Winter 1967, vol.21, no.1, pp.102-27.

50 The Somali Republic and the Organization of African Unity (Mogadishu: Ministry of Foreign Affairs, 1964), pp.39-40.

The role of the OAU in setting up a norm to govern border disputes between the African States began to emerge during the second ordinary session of the OAU Council of Ministers when reference was made for the first time to Article III(3) of the OAU Charter -- "respect for sovereignty and territorial integrity" of Member States -- as a principle which Somalia and Kenya should take into account in their negotiations.<sup>51</sup> It was, however, at the first ordinary session of the OAU Assembly, held in July 1964, that this norm was unequivocally stated and made to apply to all border disputes. In a resolution<sup>52</sup> approved by acclamation, the OAU Assembly expressed in the preamble the view that borders of the African States on the day of their independence "constituted a tangible reality", and also that border problems constituted a grave and permanent factor for dissension. In the operative part of the resolution, the OAU Assembly "reaffirmed the strict observance of Article III(3) of the OAU Charter and solemnly declared that all Member States pledge themselves to respect the borders existing on the achievement of national independence."

Somalia, joined by Morocco, the other African state which sought a major change of boundaries in its favour, expressed reservation on the resolution and even indicated that it would not be bound by its terms. As it became quite clear for Somalia

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51 OAU Council of Ministers resolution CM/Res.17(II), 24-29 February 1964.

52 OAU Assembly of Heads of State and Government resolution AHG/Res.16(1), 17-21 July 1964.

that it would receive little or no support for its claims within the OAU, its focus of diplomatic activity concerning its border disputes began to move decidedly towards bilateral negotiations. The OAU was thus left with the option of playing an indirect role -- that of providing a suitable environment for contacts between the States in dispute and for mediating initiatives by African statesmen.

This indirect role of the OAU was not a new one. As early as February 1964, the President of the Sudan offered Ethiopia and Somalia his good offices in the spirit of the OAU resolutions and was able subsequently to help bring about an agreement for a cease-fire and for the demilitarization of the conflict area. Later, in December 1965, the same approach was followed by the President of Tanzania in helping to initiate negotiations between Kenya and Somalia at Arusha, Tanzania. Those mediatory measures were, however, not taken up during the actual session of the OAU organs, and thus the role played by the OAU was very marginal.<sup>53</sup>

While contact between Somalia and its neighbours was maintained during OAU meetings, it was at the fourth session of the OAU Assembly in September 1967, that the conference environment had its full impact on the leaders of Somalia and

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53 Andemicael, n.19, p.55.

its two neighbours. This was made possible in large measure by the installation in Somalia of a Government led by President Shermanke and Prime Minister Egal which had a new stance on the "Greater Somalia" issue -- one that placed emphasis on the need to attain "by peaceful means" self-determination of the population in the disputed areas and on the need to normalize relations with the neighbouring countries. When the Emperor of Ethiopia and the Prime Minister of Somalia met at the OAU Conference, they were able to agree that they should initiate joint ministerial discussions with a view to finding a solution to the substantive aspects of the dispute. At the same time, the Vice-President of Kenya and the Somali Prime Minister were able to agree on a joint declaration endorsed by the OAU Assembly, which stated that the two leaders "mutually and amicably expressed their desire to respect -- the sovereignty and territorial integrity, to resolve any outstanding differences between them -- and to refrain from conducting hostile propaganda against each other."<sup>54</sup>

These decisions by the leaders of the three countries resulted in a series of successful joint ministerial meetings between Ethiopia and Somalia<sup>55</sup> and of meetings between the

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54 "Declaration on Kenya-Somali Relations", OAU document AHG/ST.2(N), 11-14 September 1967.

55 Discussions held later in 1967 and 1968 at Addis Ababa and Mogadiscio. See "News in Brief: Somali Republic", Africa Report, November 1967, p.31.

leaders of Kenya and Somalia under the chairmanship of Zambia.<sup>56</sup> Relations between Somalia and its two neighbours were thus normalized and even began to move in the direction of close cultural and economic cooperation, thus creating an atmosphere conducive to serious negotiation on the substantive issues of the border disputes.

But in October 1969, when a military Government came to power in Somalia, the prevailing basic differences on the border dispute, accentuated by the reported discovery of oil on the Ethiopian side in the Ogaden, posed a formidable obstacle to further progress. Once again a military confrontation took place during 1973, and the OAU remained seized with the border disputes. The OAU has not been able to do much in this dispute as Somalia still entertains her claims. However, OAU's efforts to discourage her raising the issue at its forums has somewhat discouraged Somalia from relentlessly sticking to its claims. Fighting, however, occasionally broke up between Somalia and Ethiopia and the OAU has been endeavouring to settle the dispute once and for all.

Thus, in the early years of the OAU, when the most critical stages of the three boundary disputes were reached, the foundation was laid for the application in Africa of two norms. The first concerned the need for settling by peaceful means and within a strictly African framework all disputes between African States.

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56 OAU Document AHG/ST.1, p.2.

This need was recognized by the Member States of the United Nations as well as the UN Secretary General who, without in any way suggesting exclusive jurisdiction for the OAU, encouraged the application of the "try OAU first" approach. The second norm, concerned the observance of the status quo as regards boundaries existing at the time of independence.

Since the adoption of these norms, which were recommended by the first year's sessions of the OAU Council of Ministers and adopted in July 1964 by an overwhelming majority at the first ordinary session of the OAU Assembly (Somalia and Morocco expressed reservations about the second norm), no major new crisis over territorial questions has occurred and the existing disputes have been contained within the bounds of peaceful negotiation.

The second important conclusion that can be derived from the preceding analysis, except in the case of the Algerian-Moroccan dispute, is that the involvement of the OAU in the border disputes remained basically deliberative, rather than one of direct mediation.

Thirdly, the OAU's Commission of Mediation, Conciliation and Arbitration does not play much of a role, if any at all, in dispute settlement. Perhaps, African States need to develop interest in the use of this standing machinery. Finally, it is evident that the 'try OAU first' principle in dispute settlement is an encouraging manifestation, that, as a regional organization, it attempts to settle local disputes within its own framework.

## Chapter VI

### CONCLUSIONS

Maintenance of world peace and security has been the major objective of nations in the post-Second World War period. This common objective led to the formation of the United Nations and regional organizations like the League of Arab States and the Organization of American States (OAS). The rationale for establishing such regional organizations, concomitantly along with the United Nations was, perhaps, the apprehension nursed by the post-war countries about the probable success of the United Nations among other reasons. The Charter of the United Nations incorporated provisions, as contained in Articles 52-54, allowing the existence of regional organizations/arrangements with the stipulation that such organizations would be instrumental in achieving the aims and objectives of the United Nations Charter as well.

The end of the Second World War had been instrumental in inaugurating the process of decolonization, as a result of which most of the countries of Asia and Africa attained independence. The process of decolonization started in Africa in the late 1950s, and by early 1960s, the wave of independence had swept across the African continent. The newly independent countries of Africa were eager to form an organization for co-ordinating all matters of mutual interest. Such a move had been in the offing in the years preceding and immediately following the Second World War, but it ripened into fruition on 25 May 1963 with the establishment of the Organization of African Unity (OAU). Since 1963, the OAU



has played a significant role in conjunction with the United Nations in the process of decolonization. It is committed to ending all forms of colonialism in Africa, and hence, it has consistently and vigorously espoused the cause of eliminating the remaining vestiges of colonialism both in Africa and elsewhere. The OAU has also played a commendable role in rallying support of African countries and mobilising international public opinion against apartheid and the racist regime of South Africa. It was instrumental in obtaining independence for Zimbabwe. Its continued struggle for the independence of Namibia is exemplary, although it is not yet accomplished.

Besides its role in decolonization, the OAU has come a long way as a reckonable regional organization, which has played some role in maintaining peace and unity among the African States. Its main objectives being the promotion of unity, defence of the territorial integrity, sovereignty and independence of its Member States, the OAU is also committed to the promotion of international cooperation in accordance with the United Nations Charter and the Universal Declaration of Human Rights.

There have been over thirty conflicts between the OAU member states since the establishment of the Organization. The majority of the disputes related to territorial revisionism and secessionist movements, and the OAU has been doing its best in settling such disputes. The Organization has, however, not been able to seek final settlements to most of the dispute problems that have come before it. In some cases, however, it has achieved commendable success. For example, the final settlement

of the dispute between Algeria and Morocco can be cited as a proof of the positive role the OAU can play in settling disputes between its Member States. In many other disputes, such as the Somali-Ethiopian-Kenyan disputes, although the OAU has been doing its best to contain the situation, however, no final solution has yet been found. In other words, whereas the OAU has often been successful in bringing about reduction or lessening of tensions between those of its Member States engaged in hostilities, it has seldom been able to resolve the underlying causes leading to the disputes. In the context of the above, it would seem to be desirable for the OAU to strengthen its peace-making machinery so as to be able to tackle effectively the fundamental causes of disputes between its Member States. In spite of the OAU's weakness to seek final settlement to many of the disputes that have come before it, the OAU nevertheless provides a forum in which differences that have led or might have led to violence have been reduced through negotiations.

With a view to carrying out its objectives, there exists a rapport between the OAU and its Member States of the United Nations. There is, thus, an identity of views and objectives in OAU's recommendations and pronouncements of African States in the United Nations and its Specialized Agencies on issues of common concern. Besides, the OAU maintains close cooperation with the various organs of the United Nations. Thus, the OAU believes in the solution of regional problems in accordance with the aims and objectives of the United Nations Charter.

The nonaligned movement, which has emerged as a notable factor in international affairs has all African States as its largest single group of members. The member states of the OAU have pledged to remain nonaligned in international affairs. The active participation of the OAU member states in the nonaligned movement has been instrumental in eliciting the latter's support for African problems as well as Africa's support for global problems. This is discernible from the nonaligned movement's support for African States' struggle against apartheid and the racist regime of South Africa. In turn, African States have reiterated their support for the self-determination of the people of Palestine and global issues like disarmament, New International Economic Order, the Indian Ocean as a Zone of Peace etc.

The continued existence and success, though limited, of the OAU as a regional organization has proved the fact that regional organizations are useful agents for maintaining peace and security in their respective regions. The OAU's attempts in settling disputes peacefully between its member states prove the fact that it is a complementary organization to the United Nations.

A study of the various conflicts between OAU Member States indicates that some disputes and other differences have been kept away from the OAU and other inter-governmental organizations and no bilateral or other forms of negotiations are in progress.

The OAU might be able to provide invaluable service if it were to encourage diplomatic initiatives before the situation deteriorates into a crisis. If a party to a dispute is reluctant to engage in bilateral negotiations or to seek a solution with the help of a third party, including the OAU, then it might be desirable for a representative of the OAU to try to persuade it to change its attitude. In this regard, the task of the OAU Secretariat would be to collect adequate information on the evolution of potentially dangerous African disputes and other differences as well on political developments affecting the prospects for negotiation. With the help of such information, the OAU would be able to engage in exploratory diplomatic contacts with the parties to a dispute in order to initiate a dialogue about the need for negotiation, either bilaterally or with the help of a third party, including the OAU Commission of Mediation, Conciliation and Arbitration.

Uptill now neither the President of the OAU Commission of Mediation, Conciliation and Arbitration nor the OAU Administrative Secretary-General has been officially encouraged by the OAU to play such a role; and both seem to have been inhibited from taking independent diplomatic initiatives in this regard because of constitutional constraints. Perhaps, the time is long over-due for these officials to play meaningful role in the settlement of disputes between Member States of the OAU. For the Administrative Secretary-General, for example, the limitation of his diplomatic role stems from the fact that the OAU Charter does

not confer upon him any prerogative for taking an independent political initiative. Perhaps, the time has come for the OAU Assembly to recognize the need for building up diplomatic role in order to enhance the effectiveness of the entire peaceful settlement machinery of the OAU. For the envisaged diplomatic task, it might not be necessary to amend the OAU Charter so long as he is encouraged to operate under the authority of the OAU Assembly of Heads of State and Government.

With regard to post-crisis phase of a dispute between some member states of the OAU, the main weakness of the OAU role has been its lack of continuity beyond the point at which relations are normalized. Unless the substantive issues in a dispute are settled, tension may arise again to culminate in another crisis. Once the crisis is before the OAU, efforts should be made to persuade the parties to accept mediatory services under the protocol, in addition to any measures designed to remove the immediate crisis. Thus, when an extraordinary session of the OAU Assembly or of the Council of Ministers has brought the crisis under control by appeals alone or with the help of an ad hoc committee created for the emergency, the arduous task of finding a solution to the underlying problem should begin with the help of mediators or conciliators selected both from the members of the Commission of Mediation, Conciliation and Arbitration and, whenever necessary, from among African statesmen of higher stature.

Drawing upon past experience, either deliberative organ might sometimes find it useful to designate a Head of State or another influential statesman to act as a mediator or as the chairman of a mediating body. If the latter course is followed, it might be advisable for the deliberative organ concerned to request the President of the Commission of Mediation, Conciliation and Arbitration to appoint the other members of the body from among his colleagues, in accordance with the chairman of the mediating body.

Thus, the sovereign Member States of the OAU should respond to the new experiences and in the light of them, they should embark upon a pragmatic introspection of the efficacy of the Organization. If need be, few changes could be brought in the OAU Charter to give more strength to the Organization in order to make it tackle the problems it has to face more effectively.

In sum, what has been lacking with the functioning of the OAU, particularly in the sphere of peaceful settlement of disputes, is not to be found as much in its organizational set-up as in the lack of political will among the Member States who alone can strengthen it by virtue of their jealously guided sovereignty.

## Appendix I

### RELEVANT PROVISIONS OF THE UN CHARTER RELATING TO REGIONAL ARRANGEMENTS

#### CHAPTER VII

#### ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

##### Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

#### CHAPTER VIII

#### REGIONAL ARRANGEMENTS

##### Article 52

- 1 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 arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve 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.
3. 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.
4. This Article in no way impairs the application of Articles 34 and 35.

#### Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.



2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

#### Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

### CHAPTER VI

#### PACIFIC SETTLEMENT OF DISPUTES

#### Article 33

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

## CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE  
PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSIONArticle 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.
2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

## CHAPTER XVI

## MISCELLANEOUS PROVISIONS

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

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\* Emphasis added.

## CHAPTER XVII

## TRANSITIONAL SECURITY ARRANGEMENTS

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

Appendix II

THE CHARTER OF THE ORGANIZATION  
OF AFRICAN UNITY

WE, the Heads of African States and Governments assembled  
in the city of Addis Ababa, Ethiopia;

CONVINCED that it is the inalienable right of all people  
to control their own destiny;

CONSCIOUS of the fact that freedom, equality, justice and  
dignity are essential objectives for the achievement of the  
legitimate aspirations of the African peoples;

CONSCIOUS of our responsibility to harness the natural and  
human resources of our continent for the total advancement of  
our peoples in spheres of human endeavour;

INSPIRED by a common determination to promote understanding  
among our peoples and cooperation among our States in response to  
the aspirations of our peoples for brotherhood and solidarity,  
in a larger unity transcending ethnic and national differences;

CONVINCED that, in order to translate this determination  
into a dynamic force in the cause of human progress, conditions  
for peace and security must be established and maintained;

DETERMINED to safeguard and consolidate the hard-won  
independence as well as the sovereignty and territorial integrity  
of our States, and to fight against neo-colonialism in all  
its forms;

DEDICATED to the general progress of Africa;

PERSUADED that the Charter of the United Nations and the Universal Declaration of Human Rights, to the principles of which we reaffirm our adherence, provide a solid foundation for peaceful and positive cooperation among states;

DESIROUS that all African States henceforth unite so that the welfare and well-being of their peoples can be assured;

RESOLVED to reinforce the links between our states by establishing and strengthening common institutions;

HAVE agreed to the present Charter.

#### ESTABLISHMENT

##### Article 1

1. The High Contracting Parties do by the present Charter establish an Organization to be known as the ORGANIZATION OF AFRICAN UNITY.
2. The Organization shall include the Continental African States, Madagascar and other Islands surrounding Africa.

#### PURPOSES

##### Article II

1. The Organization shall have the following purposes:

- to promote the unity and solidarity of the African States;
- to co-ordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa;
- to defend their sovereignty, their territorial integrity and independence;
- to eradicate all forms of colonialism from Africa; and
- to promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.

2. To these ends, the Member States shall co-ordinate and harmonize their general policies, especially in the following fields:

- political and diplomatic cooperation;
- economic cooperation, including transport and communications;
- educational and cultural cooperation;
- health, sanitation, and nutritional cooperation;
- scientific and technical cooperation; and
- cooperation for defence and security.

## PRINCIPLES

Article III

The Member States, in pursuit of the purposes stated in Article II, solemnly affirm and declare their adherence to the following principles:

1. - the sovereign equality of all Member States;
- non-interference in the internal affairs of States;
- respect for the sovereignty and territorial integrity of each State and for its inalienable right to independent existence;
- peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration;
- unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring States or any other State;
- absolute dedication to the total emancipation of the African territories which are still dependent;
- affirmation of a policy of nonalignment with regard to all blocs.

## MEMBERSHIP

Article IV

Each independent sovereign African State shall be entitled to become a Member of the Organization.

## RIGHTS AND DUTIES OF MEMBER STATES

Article V

All Member States shall enjoy equal rights and have equal duties.

Article VI

The Member States pledge themselves to observe scrupulously the principles enumerated in Article III of the present Charter.

## INSTITUTIONS

Article VII

The Organization shall accomplish its purposes through the following principal institutions:

- the Assembly of Heads of State and Government;
- the Council of Ministers;
- the General Secretariat;
- the Commission of Mediation, Conciliation and Arbitration.

## THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT

Article VIII

The Assembly of Heads of State and Government shall be the supreme organ of the Organization. It shall, subject to the provisions of this Charter, discuss matters of common concern to Africa with a view to co-ordinating and harmonizing the general



policy of the Organization. It may in addition review the structure, functions and acts of all the organs and any specialized agencies which may be created in accordance with the present Charter.

#### Article IX

The Assembly shall be composed of the Heads of State and Government or their duly accredited representatives and it shall meet at least once a year. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.

#### Article X

1. Each Member State shall have one vote.
2. All resolutions shall be determined by a two-thirds majority of the Members of the Organization.
3. Questions of procedure shall require a simple majority. Whether or not a question is one of procedure shall be determined by a simple majority of all Member States of the Organization.
4. Two-thirds of the total membership of the Organization shall form a quorum at any meeting of the Assembly.

#### Article XI

The Assembly shall have the power to determine its own rules of procedure.

## THE COUNCIL OF MINISTERS

Article XII

1. The Council of Ministers shall consist of Foreign Ministers or such other Ministers as are designated by the Governments of Member States.
2. The Council of Ministers shall meet at least twice a year. When requested by any Member State and approved by two-thirds of all Member States, it shall meet in extraordinary session.

Article XIII

1. The Council of Ministers shall be responsible to the Assembly of Heads of State and Government. It shall be entrusted with the responsibility of preparing conferences of the Assembly.
2. It shall take cognizance of any matter referred to it by the Assembly. It shall be entrusted with the implementation of the decision of the Assembly of Heads of State and Government. It shall co-ordinate inter-African cooperation in accordance with the instructions of the Assembly, and in conformity with Article II(2) of the present Charter.

Article XIV

1. Each Member State shall have one vote.

2. All resolutions shall be determined by a simple majority of the members of the Council of Ministers.
3. Two-thirds of the total membership of the Council of Ministers shall form a quorum for any meeting of the Council.

#### Article XV

The Council shall have the power to determine its own rules of procedure.

#### GENERAL SECRETARIAT

#### Article XVI

There shall be an Administrative Secretary-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government. The Administrative Secretary-General shall direct the affairs of the Secretariat..

#### Article XVII

There shall be one or more Assistant Secretaries-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government.

#### Article XVIII

The functions and conditions of services of the Secretary-General, of the Assistant Secretaries-General and other employees of the Secretariat shall be governed by the provisions of this

Charter and the regulations approved by the Assembly of Heads of State and Government.

1. In the performance of their duties the Administrative Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization.
2. Each member of the Organization undertakes to respect the exclusive character of the responsibilities of the Administrative Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

#### COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

##### Article XIX

Member States pledge to settle all disputes among themselves by peaceful means and, to this end, to decide to establish a Commission of Mediation, Conciliation and Arbitration, the composition of which and conditions of service shall be defined by a separate Protocol to be approved by the Assembly of Heads of State and Government. Said Protocol shall be regarded as forming an integral part of the present Charter.

#### SPECIALIZED COMMISSIONS

##### Article XX

The Assembly shall establish such Specialized Commissions as it may deem necessary, including the following:

1. Economic and Social Commission;
2. Educational and Cultural Commission;
3. Health, Sanitation and Nutrition Commission;
4. Defence Commission;
5. Scientific, Technical and Research Commission.

#### Article XXI

Each Specialized Commission referred to in Article XX shall be composed of the Ministers concerned or other Ministers or Plenipotentiaries designated by the Governments of the Member States.

#### Article XXII

The functions of the Specialized Commissions shall be carried out in accordance with the provisions of the present Charter and of the regulations approved by the Council of Ministers.

### THE BUDGET

#### Article XXIII

The budget of the Organization prepared by the Administrative Secretary-General shall be approved by the Council of Ministers. The budget shall be provided by contributions from Member States in accordance with the scale of assessment of the United Nations; provided, however, that no Member State shall be assessed an

amount exceeding twenty per cent of the yearly regular budget of the Organization. The Member States agree to pay their respective contributions regularly.

#### SIGNATURE AND RATIFICATION OF CHARTER

##### Article XXIV

1. This Charter shall be open for signature to all independent sovereign African States and shall be ratified by the signatory States in accordance with their respective constitutional processes.
2. The original instrument, done if possible in African languages, in English and French, all texts being equally authentic, shall be deposited with the Government of Ethiopia which shall transmit certified copies thereof to all independent sovereign African States.
3. Instruments of ratification shall be deposited with the Government of Ethiopia, which shall notify all signatories of each such deposit.

#### ENTRY INTO FORCE

##### Article XXV

This Charter shall enter into force immediately upon receipt by the Government of Ethiopia of the instruments of ratification from two-thirds of the signatory States.

## REGISTRATION OF THE CHARTER

Article XXVI

This Charter shall, after due ratification, be registered with the Secretariat of the United Nations through the Government of Ethiopia in conformity with Article 102 of the Charter of the United Nations.

## INTERPRETATION OF THE CHARTER

Article XXVII

Any question which may arise concerning the interpretation of this Charter shall be decided by a vote of two-thirds of the Assembly of Heads of State and Government of the Organization.

## ADHESION AND ACCESSION

Article XXVIII

1. Any independent sovereign African State may at any time notify the Administrative Secretary-General of its intention to adhere or accede to this Charter.
2. The Administrative Secretary-General shall, on receipt of such notification, communicate a copy of it to all the Member States. Admission shall be decided by a simple majority of the Member States. The decision of each Member State shall be transmitted to the Administrative Secretary-General, who

shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

#### MISCELLANEOUS

##### Article XXIX

The working languages of the Organization and all its institutions shall be, if possible, African languages [ot, if not, then] English and French.

##### Article XXX

The Administrative Secretary-General may accept on behalf of the Organization gifts, bequests and other donations made to the Organization, provided that this is approved by the Council of Ministers.

##### Article XXXI

The Council of Ministers shall decide on the privileges and immunities to be accorded to the personnel of the Secretariat in the respective territories of the Member States.

#### CESSATION OF MEMBERSHIP

##### Article XXXII

Any State which desires to renounce its membership shall forward a written notification to the Administrative Secretary-General. At the end of one year from the date of such notification,



if not withdrawn, the Charter shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Organization.

#### AMENDMENT OF THE CHARTER

#### Article XXXIII

This Charter may be amended or revised if any Member State makes a written request to the Administrative Secretary-General to this effect; provided, however, that the proposed amendment is not submitted to the Assembly for consideration until all the Member States have been duly notified of it and a period of one year has elapsed.

Such an amendment shall not be effective unless approved by at least two-thirds of all the Member States.

IN FAITH WHEREOF, WE, the Heads of African State and Government, have signed this Charter.

Done in the City of Addis Ababa, Ethiopia, this 25th day of May 1963.

Algeria	President Ben Bella
Burundi	King Mwambutsa
Cameroon	President Ahmadou Ahidjo
Central African Republic	President David Dacko
Chad	President Francois Tombalbaye

Congo (Brazzaville)	President Fulbert Youlou
Congo (Kinshasa)	President Joseph Kasavubu
Dahomey	President Hubert Maga
Ethiopia	Emperor Haile Selassie
Gabon	President Leon M'ba
Ghana	President Kwame Nkrumah
Guinea	President Se'kou Toure
Ivory Coast	President Fe'lix Houphovet-Boigny
Liberia	President William V.S. Tubman
Libya	King Idris I
Malagasy Republic	President Philibert Tsiranana
Mali	President Modiba Keita
Mauritania	President Makhtar Ould Daddah
Niger	President Hamani Diori
Nigeria	Prime Minister Alhaji Sir Abubakar Tafawa Balewa
Rwanda	Foreign Minister Callixte Habamenshi
Senegal	President Le'opold Sedar Senghor
Sierra Leone	Prime Minister Sir Milton Margai
Somalia	President Abdullah Osman
Sudan	President Ibrahim Abbend
Tanganyika	President Julius Nyerere
Tunisia	President Habib Bourguiba
Uganda	Prime Minister Milton Obote
United Arab Republic	President Gamal Abdul Nasser
Upper Volta	President Maurice Yameogo

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