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The Emerging Role of NATO in UN Peace Enforcement Operations

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THE RAPID GROWTH OF PEACE ENFORCEMENT REQUIREMENTS has obliged the United Nations to seek new avenues of cooperation with groups of member States already organized for joint military action, such as NATO.¹ This fact, coupled with Congressional concern that American forces serve under responsible leadership and that strict standards are adhered to in determining whether U.S. forces should participate in any peace enforcement operation, suggests that U.S. participation in such operations will be significantly restructured in the future.

This restructured participation in international peacekeeping will likely drive similar rethinking among our major allies and other regular contributors to these operations. From the U.S. perspective, participation in these operations must now comply with the tenets of Presidential Decision Directive (PDD) 25.² This directive, which requires clear accountability in deciding when to participate, when to assign forces, and under what conditions, will likely preclude U.S. participation in Somalia-style operations in which UN leadership proved inadequate.³

The renewed U.S. interest in extending the NATO Charter to encompass threats beyond present NATO borders,⁴ as evidenced in the current NATO-led

Bosnia peace operation, suggests regional organizations such as NATO may become the leadership element of choice for future UN-sponsored peacekeeping and peace enforcement operations.

U.S. Concerns with UN-Led Peace Operations

Recent U.S. experience with the United Nations suggests that there are a limited number of States with the experience required to lead peace enforcement operations effectively. This creates difficulties in two ways. While the UN must rely upon those states with experienced leadership and highly trained forces for its more difficult operations to succeed, it must also provide some opportunity for participation to each of its 188 member States. This suggests that the UN must be encouraged to increase its capability to conduct Chapter VI peacekeeping operations⁵ where a cease-fire exists and enforcement issues are minimal, and that Chapter VII enforcement operations⁶ might be better left to regional organizations such as NATO under Chapter VIII of the UN Charter.

In the nearly seven years since our participation and leadership role in Operation Desert Shield/Desert Storm in support of the government of Kuwait, the United States has contributed significant forces, at great financial cost, to three complex military initiatives conducted under the authority and direction of the UN, and one currently being undertaken under NATO leadership. The military commitments undertaken under UN leadership in Somalia, Haiti, and Bosnia,⁷ as well as the current NATO-led operation in Bosnia,⁸ responded to multilateral requests for assistance voted upon in Security Council Resolutions. In another, the humanitarian effort in Rwanda, our participation was significant, although combat troops were not directly engaged. In each instance of our participation under UN leadership, the resulting opposition by Congressional leaders has been forcefully expressed on the floor of the House and Senate. In the case of Somalia, the Byrd and Kempthorne Amendments forced the U.S. withdrawal from that theater by 31 March 1994.⁹

The carefully developed response of the Clinton administration to these legislative pressures is found in PDD 25. The U.S. has strongly encouraged the UN and its Department of Peacekeeping Operations (DPKO) to institutionalize a similar policy analysis in its review of those troubled areas where the use of military force may be the only available international option. We have recently witnessed greater discrimination in DPKO decision-making

with respect to proposed operations in Burundi, Liberia, and Angola, suggesting the UN's own recognition of the benefit of this rigorous analysis.

What may be more significant for the UN is its apparent recognition of its own limitations in addressing peace enforcement operations under Chapter VII of the UN Charter where "all necessary means" are required. In supporting the current NATO leadership role in Bosnia, the UN leadership appears to have faced up to its lack of credibility in the areas of logistics support, intelligence gathering, operational leadership, and necessary airlift. For U.S. leaders, it is apparent the PDD 25 analysis simply will not authorize continued U.S. support for a UN leadership role in these operations—especially if regional organizations such as NATO can successfully exercise an expanded charter.

PDD 25 Principles Support Leadership by Regional Organizations

Presidential Decision Directive 25, signed in May 1994, is based upon the same principles that underlie the Weinberger Doctrine¹⁰ of 1984. The Directive provides for careful analysis of those factors most relevant to determining whether, when, how, and to what degree the U.S. should participate militarily in international peacekeeping and peace enforcement operations. The PDD 25 policy also requires a thorough assessment and continuing reassessment of our role to ensure that the operation to which we have committed forces is effective, well led, and operating within appropriate rules of engagement. The integrated leadership structure within NATO allows for this required assessment process, while UN-led force structures, such as those cobbled together in recent years for peace enforcement, may not.

The impetus for the PDD, like the Weinberger Doctrine before it, came from a tragic loss of U.S. lives while U.S. forces were serving at the behest of the international community. Just as the purpose of the 1984 doctrine was to prevent the reoccurrence of another Beirut bombing incident in which 241 servicemen lost their lives to Shiite extremists, the immediate purpose of the PDD was to prevent another disaster such as we experienced in Mogadishu, Somalia, where eighteen Americans were killed by General Mohammed Farah Aidid's forces in October 1993.¹¹

The bombing in Beirut can be traced in part to an unwitting shift in the U.S. operational posture from that of a non-partisan U.S. force patrolling various areas of the city and providing security at the Beirut International Airport to that of a partisan force with U.S. naval forces executing fire missions on behalf of the Lebanese Armed Forces. The tragedy in Mogadishu was similar in that our operational awareness of the intentions of Aidid was lacking and the force

committed did not reflect the actual requirements. Both PDD 25 and the Weinberger principles are designed to preclude the same lack of situational awareness that arose in Beirut and Somalia.

When Secretary Caspar W. Weinberger outlined specific requirements for U.S. military involvement, he was not concerned with peace operations *per se*.¹² Nevertheless, those principles, stated below, remain cogent, rational beacons in any reasoned analysis of the conditions underlying a decision to commit forces in every military operation, to include peacekeeping and peace enforcement under a NATO aegis.

- Any use of force must be predicated upon a matter deemed vital to our national interest.
- The commitment must be undertaken with the clear intention of winning.
- We must have clearly defined political and military objectives.
- The forces committed must be sufficient to meet the objectives.
- There must be reasonable assurance that we have the support of the American people.
- The commitment of U.S. forces to combat must be a last resort.

Similarly, the principles within PDD 25 are presented as factors to be considered in a decision to commit U.S. forces, and equally important, as criteria required for the successful deployment of those forces. Of necessity, the conditions and requirements for a Chapter VII peace enforcement action are greater than for a Chapter VI peacekeeping initiative. As a necessary first step, the PDD requires that before voting for and supporting a peacekeeping or peace enforcement operation in the UN Security Council, the U.S. must ask whether the situation represents a threat to international peace and security. Second, does the proposed operation, as outlined by the Secretary General or the leadership of a regional organization, have a defined scope with clear objectives? Third, is there an international community of interest for dealing with the problem on a multilateral basis? Fourth, if a Chapter VI peacekeeping operation is contemplated, is there a working cease-fire in place? Fifth, are there financial and human resources available? Finally, is there an identifiable end-point?

These are the same factors the U.S. considered in supporting the current NATO-sponsored peace operation in Bosnia. The PDD similarly requires that these factors be considered in determining when to extend an existing operation, such as recently occurred when the Congress approved the Administration's decision to extend the Bosnia operation. In addition, when significant U.S. troop involvement is contemplated in peace enforcement

operations where all necessary means are authorized, U.S. decision makers must now ask whether we have:

- The ability to commit sufficient forces to achieve our clearly defined political and military objectives;
- A clear intention to decisively achieve these objectives; and
- The commitment on the part of the UN or a regional organization to continually reassess and adjust the objectives, rules of engagement, and composition of the force to meet changing operational demands.

In committing to participate in the current peace enforcement initiative in Bosnia, President William Clinton determined that the PDD 25 requirements could only be met through a NATO-led operation. While U.S. leaders recognized that a cohesive force led by NATO leaders offered a more effective means of “executing” the UN mission in Bosnia, there is recognition on the part of all NATO members that the UN must remain the primary international “authority” under whose aegis these operations are conducted.

NATO’s Role in International Peacekeeping Under the UN Charter

Chapter VIII of the UN Charter¹³ refers to regional organizations, such as NATO, in the context of appropriate regional action in the maintenance of international peace and security.¹⁴ It is in this area that a relationship exists between the two organizations, with ultimate authority centered in the United Nations. Excepting the area of international peace and security, however, the relationship between the UN and NATO is not hierarchical.

When the NATO Charter was established in 1949 by the Treaty of Washington,¹⁵ it made no mention of any relationship to the Security Council as a “regional arrangement,” nor did it contain any provision providing for action only upon the authorization of the Security Council, or for reporting activities “in contemplation.” Instead, the Treaty of Washington expressed the obligation of NATO’s member states to be that of “collective self-defense” under Article 51 of the UN Charter and, correspondingly, embodied only the obligation to report “measures taken” to the Security Council.¹⁶ This formulation was adopted by the United States and its NATO allies because subordination of NATO actions as a regional arrangement to Security Council review in advance during the Cold War would have subjected all actions to Soviet veto. By characterizing NATO’s military actions as “collective self-defense” under Article 51, there would be no action of a “regional arrangement” under Chapter VIII of the UN Charter and no prior Security Council review.

The concerns described above and similar concerns with regard to a possible Chinese veto have, at least for now, dissolved. With the internal disintegration of the Soviet Union in 1990–1991 and the events in Tiananmen Square in the People's Republic of China, those two permanent members of the Security Council have become more willing to support UN-directed involvement in peacekeeping and peace enforcement operations.

During his campaign for President of Russia in 1991, moreover, Boris Yeltsin committed to voting for Security Council initiatives which would support democratic principles. His current entreaties for continued U.S. financial assistance should ensure that Russia will not act unreasonably in that forum. Similarly, the fallout from the 1989 events in Beijing's Tiananmen Square has caused the People's Republic of China to be extremely careful in their actions in the United Nations and elsewhere lest they risk their "most favored nation" treatment by the United States.¹⁷

The issues for the United States today in determining whether to support a response by a regional organization under Chapter VIII or that of the UN as a whole are more pragmatic than political. Our recent experience in Somalia with UNOSOM II and Bosnia with UNPROFOR suggest that UN-led operations may not be capable of undertaking Chapter VII (all necessary means) missions.¹⁸ These peace enforcement missions require careful planning, experienced leadership, and highly integrated command and control arrangements. This combination is required to execute sophisticated air-ground coordination and air-artillery deconfliction as well as to implement robust rules of engagement that will protect the force and the civilian population. Most importantly, this cohesion is absolutely essential if forces with different experience levels and capabilities are to be successfully integrated to create force multiplication rather than force division. UN-led peace enforcement operations, unless directed by one of a handful of states, will continue to have difficulty achieving this integration. It is this understanding that underlies the U.S. support for the current NATO-led peace enforcement operation in Bosnia.

NATO As a Regional Organization: Chapter VIII in Operation

The adaptation of NATO to a role as a Regional Organization under Chapter VIII with a peace enforcement charter must be viewed as part of a broad, long-term U.S. and Allied strategy that supports the evolution of a peaceful and democratic Europe. This strategy benefits U.S. security and builds on the bipartisan premise that the security of Europe is a vital U.S. interest.

Certainly, American sacrifices in two world wars and the Cold War have proven our commitment to the region as a community of shared values, and those U.S. sacrifices have more than established our interest in recognizing and encouraging the rapid settlement of disputes in the area.

The U.S. and its NATO Allies have pursued a number of initiatives since the end of the Cold War to advance this strategy. These include negotiation and implementation of the 1990 Conventional Armed Forces in Europe Treaty (CFE),¹⁹ support for the unification of Germany, bilateral assistance to support reforms in former Soviet states, negotiation and ratification of the START II strategic arms control treaty, programs to dismantle nuclear stockpiles in Russia, the elimination of intermediate nuclear forces (INF), including a 90 percent overall reduction in NATO's nuclear weapons in Europe, and most importantly, active U.S. diplomacy and the deployment of American troops as part of a NATO-led force to help stop the war and secure the peace in the former Yugoslavia.

NATO plays an important role in this broader strategy for many of the same reasons that it played an essential role in maintaining peace and security in Europe during the past fifty years. NATO's success during this period went far beyond its accomplishments as an effective military mechanism for collective defense and deterrence. It also proved invaluable as a political institution in fostering continuing involvement of the United States and Canada in European security.

Adaptation of NATO's interest in broader European security to activity under the UN Charter's Chapter VIII began in 1990, soon after the fall of the Berlin Wall. In July 1990, under the active leadership of the Bush administration, NATO's London Summit Declaration set out new goals for the Alliance, called for changes in its strategy and military structure, and declared that the Alliance no longer considered Russia an adversary. These efforts were reaffirmed by the Alliance's declaration in Copenhagen in June 1991, which stated that NATO's objective was "to help create a Europe whole and free." At NATO's Rome Summit in November 1991, the Alliance adopted a new strategic concept, which reaffirmed the continuing importance of collective defense, while orienting NATO toward new security challenges, such as out-of-area missions, crisis management, and peacekeeping operations.

Since then, NATO has taken further steps to advance adaptation to a Chapter VIII role. At its January 1994 Summit in Brussels, the Alliance made two important decisions related to its status as a Regional Organization. First, it launched the Partnership for Peace (PFP) to enable intensive political and military-to-military cooperation with Europe's new democracies as well as

States which had considered themselves neutrals during the Cold War. PFP has proven to be an important and effective program for these States and for the Alliance: twenty-seven have joined PFP; a PFP Coordination Office has been established in Mons, Belgium; and thirty major PFP exercises have been held through June 1997, plus numerous exercises with Partners "in the spirit" of PFP. The program is proving its merit in Bosnia-Herzegovina, where thirteen PFP partner States are making substantial contributions to the NATO-led peace enforcement operation in the Balkans.

The second major initiative related to adaptation to Chapter VIII by NATO in Brussels in 1994 was the decision to embrace the concept of Combined Joint Task Forces (CJTF). This concept will enable both NATO forces and military assets to be employed in a more flexible manner to deal with peace enforcement obligations.²⁰

The benefits of a NATO doctrine that emphasizes flexible response as a Regional Organization are both immediate and long-term, and they accrue not only to existing and prospective NATO allies but to States who are outside the Alliance. Europe is a more secure and stable region because of NATO's commitment to work within Chapter VIII of the UN Charter. Even now, Central and East European States are reconstructing their foreign and defense policies to bring them in line with Alliance values and norms.

While there are many reasons for pursuing the values represented by NATO—i.e., democratic government, free markets, and security cooperation—a close analysis of recent events in Europe reveals that the NATO commitment to flexible response on the continent as a Regional Organization is also exerting a positive influence on States toward more peaceful relations. As an example, several recent agreements to ensure stable borders, promote inter-state cooperation, and address mutual concerns on the treatment of ethnic minorities have been signed. These include the Polish-Lithuanian Treaty of 1994, the Hungarian-Slovakian Treaty of 1996, a series of agreements in 1996 between Poland and Ukraine, the 1996 treaty between Hungary and Rumania, and the 1996 agreement between the Czech Republic and Germany concerning Sudetenland.

The NATO acceptance of Chapter VIII responsibilities has been most significant in Bosnia. NATO countries made a profound contribution to European security through their participation in the NATO-led Implementation Force (IFOR) and are still doing so under its successor Stabilization Force (SFOR), which is continuing to implement the military aspects of the Dayton Peace Accords. It is clear from these Bosnian missions that NATO members are already restructuring their forces so they can

participate in the full spectrum of current and new Alliance demands, including both Article V missions and peace enforcement missions.

One caution arises from our NATO experience in Bosnia, however. This relates to mission creep and the concern that military forces are being asked to perform tasks that are neither military in nature nor related to the agreed mission statement. During the first year of the IFOR mission, NATO commanders managed to restrict their responsibilities to separating the opposing factions, collecting heavy weapons, and supervising the exchange of territory. By early 1997, broader additional taskings were imposed which would have been better handled by international civilian agencies or Bosnian authorities. These included requests to help resettle refugees, set up elections, monitor local police, and sort out control of local broadcast stations. Pressure has likewise grown on the SFOR to assist in, if not spearhead, the arrest of dozens of war criminals.²¹

The U.S. understands that non-Article V NATO missions will only succeed if military personnel are limited to military tasks for which they have been trained. It is critical that NATO leaders carefully define force size, force structure, and mission as the SFOR proceeds. Allowing assignment of routine police functions to a military force will jeopardize many of the other obligations that the SFOR has assumed in Bosnia.

Observations and Conclusions

NATO acceptance of non-Article V missions is both necessary and contemplated by its Charter. With the end of the Cold War, there is a unique opportunity to build an improved security structure to provide increased stability in the Euro-Atlantic area without creating divisions among NATO members. The NATO alignment, with its history of military integration and cooperation brought about by years of successful planning and training for mutual defense responsibilities, is in the ideal position to participate effectively in peace enforcement activities requiring the exercise of "all necessary means" under Chapter VII of the UN Charter.

As noted earlier, peace enforcement operations, to be effective, require careful planning, experienced leadership, and highly integrated command and control arrangements. The current Bosnia operation reflects that NATO-led forces can meet these requirements as well as comply with the principles of force commitment embodied in PDD 25. The carefully developed response of leaders of the North Atlantic Alliance to the military requirements of the Dayton Peace Accords reflect the immense potential resident in NATO for

peace enforcement. The UN has recognized the need for regional leadership, and NATO has proven that it can successfully execute missions under UN authority, following rational requirements for troop deployment.

Notes

1. The North Atlantic Treaty Organization, comprised of sixteen member States and three new invitees (Poland, Hungary, and the Czech Republic, who are to be accorded membership in 1999), provides for collective defense in Article V of its Charter. Non-Article V missions authorized for consideration include peacekeeping and peace enforcement, now properly considered under Chapter VIII of the UN Charter.

2. Presidential Decision Directive (PDD) 25, May 4, 1994, "Reforming Multilateral Peace Operations," is a classified directive. An unclassified version has been published as Bureau of International Organizational Affairs, U.S. Department of State, Pub. No. 10161, The Clinton Administration Policy on Reforming Multilateral Peace Operations (1994).

3. See James P. Terry, *U.N. Peacekeeping and Military Reality*, 3 BROWN J. OF WORLD AFFAIRS 135, 136 (1996), for a review of UN inadequacies in peacekeeping and peace enforcement operations.

4. During NATO's Rome Summit in November 1991, at the urging of the Bush administration, the Alliance adopted a new strategic concept which reaffirmed the continuing importance of collective defense, while orienting NATO toward new security challenges, such as out-of-area missions, crisis management, and peacekeeping operations.

5. Chapter VI of the UN Charter includes Articles 32-38 and addresses "peaceful settlement of disputes." Although peacekeeping is nowhere mentioned in Chapter VI or elsewhere in the Charter, these articles (32-38) are interpreted to authorize the presence of an international interpositional force only after a peace agreement has been signed and the consent of the parties to the force presence and its mandate has been obtained.

6. Chapter VII of the UN Charter includes Articles 39-51 and addresses "breaches of the peace." Because sovereignty claims under Article 2 of the Charter are subordinate to the international interest in redressing aggression, Chapter VII authorizes "enforcement" actions to restore the peace and maintain the international "status quo," without the requirement to obtain the approval of the disputing parties.

7. Operations in Somalia included Operation RESTORE HOPE, authorized by the UN in S.C. Res. 794, U.N. SCOR, 47th Sess., 3145th mtg., U.N. Doc. S/RES/794 (1992), and UNOSOM II, authorized in S.C. Res. 814, U.N. SCOR, 48th Sess., 3185th mtg., U.N. Doc. S/RES/814 (1993). Operations in the former Yugoslavia included Operation DENY FLIGHT, authorized in S.C. Res. 816, U.N. SCOR, 48th Sess., 3919th mtg., U.N. Doc. S/RES/816 (1993), Operation PROVIDE PROMISE, authorized in S.C. Res. 770, U.N. SCOR, 47th Sess., 3106th mtg., U.N. Doc. S/RES/770 (1992), and Operation SHARP GUARD, authorized in S.C. Res. 781, U.N. SCOR, 47th Sess., 3122nd mtg., U.N. Doc. S/RES/781 (1992). Operations in Haiti included Operation UPHOLD DEMOCRACY, authorized in S.C. Res. 940, UN SCOR, 49th Sess., 3413th mtg., U.N. Doc. S/RES/940 (1994), and UNMIH, authorized in S.C. Res. 964, U.N. SCOR, 49th Sess., 3470th mtg., U.N. Doc. S/RES/964 (1994).

8. The NATO-led Implementation Force (IFOR) implemented the military aspects of the 1995 Dayton Peace Accords in Bosnia and Herzegovina. It has now been succeeded by the NATO-led Stabilization Force (SFOR). While President Clinton earlier set June 1998 as the end-date for U.S. participation, in December 1997 he agreed to extend that date.

9. The Byrd Amendment, Sect. 8156 of the FY 94 Defense Appropriations Act, provided that any funds appropriated for DoD may be obligated for expenses incurred only through March 31, 1994, for "operations of United States Armed Forces in Somalia." Department of Defense Appropriations Act of 1994, Pub. L. No. 103-139, § 8156, 107 Stat. 1418 (1993) (enacting the Byrd Amendment). The Kempthorne Amendment, Sect. 1002 to the FY 95 National Defense Authorization Act, although less onerous than the Byrd Amendment, restricted funding for U.S. military personnel on a "continuous" basis after September 30, 1994. National Defense Authorization Act of 1995, Pub. L. No. 103-337, § 1002, 108 Stat. 2663 (1994) (enacting the Kempthorne Amendment). See James P. Terry, *A Legal Review of US Military Involvement in Peacekeeping and Peace Enforcement Operations*, 42 NAVAL L. REV. 79 (1995), for a discussion of other legislation which would limit the President's Article II authority to engage in peacekeeping. These include the Nunn-Mitchell Amendment to the FY 95 Defense Authorization Act, the Peace Powers Act, and the National Security Revitalization Act.

10. Secretary of Defense Caspar W. Weinberger articulated criteria for U.S. intervention before the National Press Club on October 28, 1984. Secretary Weinberger's speech was printed verbatim in THE NEW YORK TIMES, Oct. 29, 1984, at A1, A4.

11. See discussion in James P. Terry, *The Evolving US Policy for Peace Operations*, 19 S. ILL. L. J. 119 (1994). Our formal efforts to improve UN peacekeeping were begun, even before the 1993 disaster, by former President George Bush. In a September 1992 speech to the UN, the then-President responded to the positive steps reflected in the Secretary General's 1992 "Agenda for Peace" by committing the U.S. to work with the then-Undersecretary for Peacekeeping, Kofi Annan, to improve UN peacekeeping capabilities.

12. The Weinberger Criteria evolved from "lessons learned" from the Long Commission Report, largely written by Professor Grunawalt while serving as Commission Counsel, which documented the flawed U.S. actions leading to the 1983 Beirut bombing.

13. Chapter VIII, in Articles 52-54 of the UN Charter, specifically provides for "regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action. Article 53 provides, in pertinent part:

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 agencies without the authorization of the Security Council.

14. See *An Agenda for Peace*, Report of the Secretary General, Jan. 31, 1992, U.N. Doc. A/47/277-S/24111. In paragraphs 60-65, Boutros-Boutros Ghali called upon regional organizations to do more. In his 1995 Supplement to *An Agenda for Peace*, Report of the Secretary General, Jan. 3, 1995, U.N. Doc. A/50/60-5/1995/1, the Secretary General specifically endorsed, in paragraph 79, the present NATO-led operation in Bosnia-Herzegovina.

15. Treaty of Washington (North Atlantic Treaty), 63 Stat. 2241, T.I.A.S. 1964 (entered into force August 24, 1949).

16. Article 5 of the Treaty of Washington provides, in pertinent part:

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

17. See Terry, *supra* note 9, at 84.

18. See discussion in BOWETT, *THE LAW OF INTERNATIONAL INSTITUTIONS* 164–66 (4th ed. 1982).

19. This agreement alone has resulted in the elimination of more than 50,000 pieces of military equipment in Europe.

20. A third major initiative involves the invitation of additional European States to join NATO. While this NATO Enlargement Initiative is not directly related to Chapter VIII involvement by NATO in peace enforcement activities, the training and increased military-to-military relations that will accompany enlargement will complement NATO's increased capacity to perform as a regional organization.

21. In addition, several alleged Croat war criminals agreed to turn themselves in to SFOR officials in November 1997 in exchange for speedy trials. The U.S. has agreed to furnish investigators and military prosecutors to ensure compliance with the speedy trial guarantee. While not a part of the U.S. SFOR commitment directly, it reflects the type of military requirements we must be prepared to meet in peace enforcement operations.