法學博士 學位論文

集團安全保障體制 平和維持活動 國際法的 考察

A Legal Study on the U.N Collective Security System and the Peace Keeping Operation

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A Study on the U.N Collective Security System and the Peace Keeping Operation

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Two ideological camps of the free and the communist world have retrained the 20th century, but the revolution - the unification of East and West German and the Collapse of USSR - which occurred in the end of 80's came out the watershed of the post-cold war era.

The political system in the name of cold war came down. Owing to a new composition times coming, the desire of world peace was the important interest with concrete plans which human begins want.

In the ravages of World War , people experienced many mottos of war, and these mottos was based on the birth of the United Nations as all-out security. But the complete control about the disputes surrounding nation, religion, territory, political power among nation was beyond it's capacity.

The United Nations was founded, in the words of its Charter, "to save succeeding generations from the scourge of war." Meeting this challenge is the most important function of the Organization, and, to a very significant degree, it is the yardstick by which it is judged by the peoples it exists to serve. Over the last decade, the United Nations has repeatedly failed to meet the challenge; and it can do no better today. Without significant institutional change, increased financial support, and renewed commitment on the part of Member States, the United Nations will not be capable of executing the critical peacekeeping and peace-building tasks that the Member States assign it in coming months and years. There are many tasks which the United Nations peacekeeping forces should not be asked to undertake, and many places they should not go. But when the United Nations does send its forces

to uphold the peace, they must be prepared to confront the lingering forces of war and violence with the ability and determination to defeat them.

For preventive initiatives to succeed in reducing tension and averting conflict, the Secretary-General needs clear, Strong and sustained political support from Member States. Furthermore, as the UN has bitterly and repeatly discovered over the last decade, no amount of good intentions can substitute for the fundamental ability to project credible force if complex peacekeeping, in particular, is to succeed. But force alone cannot create peace.; it can only create the space in which peace may be built. Moreover, the changes that this paper recommends will have no lasting impact unless Member States summon the political will to support the United Nations politically, financially and operationally to enable the United Nations to be truly credible as a force for peace.

In other words, the key conditions for the success of future complex operations are political support, rapid deployment with a robust force posture and a sound peace-building strategy. Every recommendation in the present report is meant, in one way or another, to help ensure that these three conditions are met. The need for change has been rendered even more urgent by recent events in Sierra Leone and by the daunting prospect of expanded United Nations operations in the Democratic Republic of the Congo.

These changes - while essential - will have no lasting impact unless the Member States of the Organization take seriously their responsibility to train and equip their own forces and to mandate and enable their collective instrument, so that together they may succeed in meeting threats to peace. They must summon the political will to support the United Nations politically, financially and operationally - once they have decided to act as the United Nations - if the Organization is to be credible as a force for peace.

In the paper, the author has addressed itself to many compelling needs for change within the United Nations system. The author's views its recommendations as the minimum threshold of change needed to give the United Nations system the opportunity to be an effective, operational,

twenty-first century institution.

The Department of Peacekeeping Operations would be substantially reinforced and restructured, while other departments supporting peace operations would also be strengthened. In addition, Establishment of the Executive Committee on Peace and Security Information and Strategic Analysis Secretariat, Strengthening of the Electoral Assistance Division of the Department of Political Affairs and of the Office of the United Nations High Commissioner for Human Rights to strengthen the ability of the Office to implement tasks.

The Object of this work shall be to make analysis the United Nations, a device in order to solve world peace problems and peace-keeping operations, and this report shall investigate the actual condition of peace-keeping operations with powerful countries as the central figure and consider the Korean counterplans about the participation problem in international peace-keeping operations.

That is, I shall examine into the peace-keeping operations of UN. but in order to construct of new world order, the post-cold war era and composition, the peace-keeping operations of UN must be opened to various fields at the hands of military action in past, and take into account the formation of new world order which we will seek.

I believe that this recommendations fall well within the bounds of what can be reasonably demanded of the Organization's Member States.

Implementing some of them will require additional resources for the Organization, but I do not mean to suggest that the best way to solve the problems of the United Nations is merely to throw additional resources at them. Indeed, no amount of money or resources can substitute for the significant changes that are urgently needed in the culture of the Organization.

While building consensus for the recommendations in the present report, we have also come to a shared vision of a United Nations, extending a strong helping hand to a community, country or region to avert conflict or to end violence.

第 1 章 序 論

第1節 研究目的

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第2節 研究範圍 方法

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國際紛爭 가

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平和維持活動 蓄積

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第 2 章 集團安全保障 體制

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                                                         , p. 870.
35)
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38)	.(1949) 調整委員會		紛爭	紛爭
	1 . ,	,	, p.524. :	가 ,
	, p.870.			
	Fox, "Conciliation" in C. M PUTES: The Legal Aspects, Lo			TERNA TIONA L
37)	, , p. 871.			
38)	. 2			
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 $(Permanent\ Commission\ of\ Inquiry) \cite{Commission}$

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                , p. 872.
39)
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40)
                , P. 873.
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41) Alab	am a						_		

- 19 -

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.44) , ICJ 가 ICJ UN 36 1 . ICJ 36 2 가 紛爭 가 가 . (ICJ 36 3) 가 紛爭 .45) 紛爭 紛爭 ICJ (Connally Amendment)⁴⁶⁾ 가 , ICJ 가 가 44) ICJ ICJ 36 6 ICJ가 36 5 ICJ 2 7 UN ICJ 가 가 . , p. 892. 45) , p.551.

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46) 自動的 留保條項

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47)	, ^r , (:	, 1983) p.146.	

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48) Rosalyn Higgins
     . Rosalyn Higgins, : United Nations, Peacekeeping, 1945
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 Documents and commentary", vol. 2, (London: Oxford University Press, 1970),
 p. 175.
49)
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(2) **"**58) 1950 11 3 5 UN 가 UN 10 UN 集團的 安全保障體制 2 UN 2/3 勸告 가 UN 勸告 58) (1950. 8. 1) 가 가 가 (1958. 11. 3) , 5, 52, 2() A, B, C A 가 가 (1) 가 9 (2) 가 (3) (4) "

pp. 169 171.

	勸告的 性格				
,		(persuasive	authority)		

第3節 集團的 安全保障 失敗原因

集團的 安全保障體制

2가

平和維持

活動(PKO)

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1. 特別協定 交涉失敗

UN 集團的 安全保障體制가

冷戰

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가(Military Staff Committee)가

가

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尖銳化

⁵⁹⁾ Leland M. Goodrich., *The Charter of The United Nations*, (New York : Columbia University Press, 1969), p. 323.

2. 安全保障理事會 平和維持 機能 痲痺

(1) 拒否權 制度 27 2 (Procedural matters) 9 (Substantial matters) . (27 3) .60) 가 (Corps) , 가 가 가 .61) (2) 60) , p. 136. 가 61) 44 43 4 230 1954 60 1989

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⁶³⁾ Hans J. Morgenthau., op. cit., p. 408.

⁶⁴⁾ Inis L. Claude Jr., op. cit., p. 254.

⁶⁵⁾ , p. 158.

.66)

經濟制裁가

. 軍事制裁 가

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.67)

第 3章 平和維持活動

脱冷戦 戦争勃發 가

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國際紛爭

가 UN 局地紛爭

平和維持活動 .

脫冷戰 平和維持活動

ア 東西冷戰 ア

. , 脫冷戰

平和維持活動 平和

維持活動停戰監視,PKO

66) 野林健, "政治的武器 と して の 經濟制裁,"「國際法 外交雜誌」第89卷 3・4號 (1990. 10), pp. 113 139.

67) , " ", ^r , (1), (: ,

1993), pp. 8 9.

가 , 가 가 .68) 平和維持 活動 第1節 平和維持活動 意義 平和維持活動(PKO) 紛爭 紛爭 平和維持活動 脫冷戰 紛爭 介入 平和維持活動 誕生 背景 1. 6 (33 38) 紛爭 51) 7 (39

가 紛爭

⁶⁸⁾ S.うトナー, "國連 の平和努力--その概念的 支柱 と 法的 支柱 ",「國連 PKOと日 米安保」,(東京 : 亞紀書房,1994), PP. 17 20. : , p. 35.

介入 (27) 介入 紛爭 地域 7 가 가 介入 가 가 紛爭 6 7 紛 爭解決 .69) 平和維持活動 가 7 70) .71) 가 平和維持活動 72) 1956 (UNEF) 1960 (UNFICYP) (ONUL), 1964 2. 平和維持活動 定義 機能 定義 (1) UN , p. 25 : ," 69) (PKO) (PKO) 」, 5 , 1996, p. 26. , p. 965. 71) United Nations Department of Public Information, "The Blue Helmets", (UN:1990), p. 5. 72) 1962 UN 가 UN 가 "UN PKO . 1962 (ONUC) UN (UNEF-I) (PKO) UN PKO

, p. 26.

,紛爭 紛爭 武力紛爭 平和維持活動 73) 紛爭解決 74) UN 가 .75) "UN "(The International Peace Academy), "The Blue ", " Helmets", " **PKO** 가 (가) UN 1985 PKO 紛爭地域 **PKO** () (The International Peace Academy) " 3 가 (Internationally) 가 73) 가 UN 74) Untied Nations, The Blue Helments: A Review of United Nations Peace-keeping (New York: UN Publication, 1990), 2nd ed., p. 5.: , p. 11.

, p. 37.

75)

() The Blue Helmets PKO 平和維持活動 가 가 The Blue Helmets "UN 紛爭地域 () PKO 가 PKO "UN 武力紛爭 武力紛爭 武力紛爭 紛爭 武力紛爭 가 紛爭 가 UN 가 가 紛爭 UN 가 PKO PKO 紛爭 UN 紛爭解決 76) (2) 平和維持活動 機能 平和維持活動

(PKO) J, (: , 1994), p. 37.

- 36 -

76) , ^r

平和維持活動

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3. 一般的 特性78)

⁷⁷⁾ Mats R. Berdal, "Whither UN Peace keeping?", Adelphi paper, No. 281(October 1993), p. 6.

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平和維持活動

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平和維持活動

Paul F., International Peace Keeping, (London: The Johns Hopkins University Press, 1993), pp. 5 9.
79)

가 平和維持活動 紛爭 紛爭 平和維持活動 가 紛爭 平和維持活動 紛爭 가 紛爭 平和維持活動 가 가 . 1967 5 1 UN 紛爭 가 紛爭 가 紛爭 (3) 紛爭 紛爭 . 平和維持活動 . 平和維持活動 紛爭 가 紛爭 平和維持活動 紛爭

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平和維持活動 가 . . .

第2節 PKO 變遷過程

2 冷戰時代 世界紛爭

1980 脱冷戰時期 ,

, **紛爭**

民族紛爭

國際紛爭 冷戰時代

PKO平和維持活動

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1. PKO 設置 現況

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 平和維持活動 1948 6
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 UN
 停戰監視團(UNTS)

1949 紛爭地域 停戰監視

- (UNMOGIP)

紛爭 . 1956 . 1967

10 8 平和維持活動 4

4 1968 1978

10 平和維持活動 3

1979 1987 平和維持

活動 .

1988 가

PKO 가 가가 , 1997 PKO

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- 停戰監視, ,

(PKF) 1988 (UNTAG), 1992 1993 8 (UNTAC), (UNPROFOR) (UNMIK) (UNTAET) 2000 17 **PKO** 1 2. 平和維持活動 變化 平和維持活動 (1) 1 1 平和維持活動80) 1980 2 平和維持活 動 紛爭解決 가 81) 平和維持活動 平和維持活動 가 가 82) 83) 平和維持活動 80) Peck, Connie, "Summary of Colloquoum of New Dimension of Peacekeeping", New Dimensions of Peacekeeping, ed. Daniel Warner, (Dordrecht, Boston, and London: martinus Nijhoff Publichers, 1995) pp. 181 204.: : 1993), p. 7.), ر " 81) 1956 "가 가 1960 (UNEFI) (UNUC) 82) 가 , p. 35. 가 83) 尖銳化 1961

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		.84)			
	平和維持活動		19	956	
(UNEFI), 1960	平和維持流	舌動(ONUC),	1966	1972	平和維
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St. Mayton's Press,		e of Peace II	i ine miaaie	Easi,	(New Fork :
85) 1973 10 24	•		(Sinai)		
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86)	(UND	OF) 3			
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87) , , p	34.	17/4			•

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(2) 2 平和維持活動
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p. 29.

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(UNIMOG)<sup>91)</sup>,
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         . Karen A. Mingst and Margaret. Kams, The United Nations in the
  Post-Cold War Era, (Boulder, Colorado: Westview Press, 1995), pp. 68 76.
         , p. 30. :
95)
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37 , 1996, pp. 114 115.

脫冷戰	紛爭		平和]維持活動
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96) , 97)	, p. 7	'. NIKOM)		
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平和維持活動

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			(An Agenda for Peace)				
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^{98) , ,} p. 41. : , , p. 8. 99) Paul Classon and Trevor Findlay, "UNPROFOR in Macadonia : Case Studies an Peace Keeping, SIPRI Yearbook 1994, p. 74.

武力紛爭 .100)

> UN 內戰終熄

平和維持活動 UNPROFOR UN 平和維持活動 가 平和 維持活動 UN () 紛爭 冷戰 散在 UN 1995 10 64 가 1 1,000 1,400 가 가 .101) UN 가 .102) 가 가 平和維持 活動 ,平和維持活動 가 平和維持活動 脫冷戰 , p. 12. : , , p. 42. 101) Sandrine Teyssonneyre, How to do Business with the United Nations (New

102) , p. 43.

York: UN 1995), p. 56.

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                 介入
                 104)
                  介入
       平和維持活動
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動
                         가
                              紛爭
                                                 內戰
(Civil War)
  가
                                          介入
 平和維持活動
                                                 紛爭
103) Gareth Evans, Cooperating For Peace, (Marybrough, Victoria: Australian
 PKO
                                    J , ( :
  , 1998), P. 99.
104) 500
                           (UNOSOM I)
                              (United Task Force)
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平和維持活動

UNTAC 1991 (Khmer Rouge) PKO 가 脫冷戰 冷戰期 UNIKOM 5 가 34 停戰監視員 300 680 가 5 105) 平和維持活動 PKO PKO 106) 平和維持活動 ,脫冷戰 NATO (NAGOS), 가 調整問題가 事例 分析 第 4 章 第1節.成功 事例 1. 1 (UNEF: UN Emergency Force) UN UN 1956 10 1956 997 가 (Gamal Abdel Nasser)

105) , p. 20.

РКО ", г 106) 」, 33 2 , 1993, pp. 20 5 222. , p. 63.

(Aswan High 가 Dam) NAT O가 NATO .107) 가 가 가 가 1956 10 介入 6000 UNEF 가 10 108) UNEF 가 1967 5 平和維持活動 가 가가 .109) NATO 107) 著, 譯,「 ,1997), p. 64. 108)

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                                  , 1991), p. 289.
109)
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110)
                                     , 1997), p. 12.
111) "
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平和維持活動 紛爭 紛爭 가 平和維持活動 가 .112) 3. (UN TAG UN Transition Assistance Group In Namibia) 1884 1915 7) (1920 12 (Permanent Mandates Commission) C 113) A, B, C 1919 1946 . 1933 2 1946 (The Trusteeship Council)가 UN 가 114) UN (Direct Representation) 1948 (Special Committee On South West Africa) 加盟國 .115) 1966 112) DiehI, Paul F., op. cit., PP. 53~56. 113) C) 가 114) . United Nations, OP.Cit., P.343. 가 115)

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117)
           19 , 1992, p. 208.
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127) , 가 , ,
128) Diehl, Paul F. Op. Cit., pp. 56~57.
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129)

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가 平和維持活動 3. (UNPROFOR: UN Protection Force) - 가 1867~1918 14~19 .130) 1914 (Gavrilo Princip) 1 .131) 1 가 1918 . 2 勃發 가 132) 가 2 가 (Marshal Josip Broz Tito) 가 130) . p.31. 131) 」, 181 , 1999. 4. 29, p. 56. 가 132) 2 가

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(Siad Barre)가 1969 21 1991 1 가 (Ali Mahdi)" (Mohamed Favah Aideed)" (Somaliland)가 紛爭 介入 UN (OAU: Organization Of African Unity) OAU 가 가 가 가 가 UN 紛爭 733 (1992 23) 751 (1992 4 4) UN 3 가 UN 50 UN UNOSOM .137) UN 紛爭 UN .138) UNOSOM 著, 137) 譯, , pp.98 99. 138)

(UNOSOM: UN Operation in Somalia)

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5. (United Nations Mission in Sierra Leone :UNAMSIL) 1961 (SLPP) 가 (Margai)가 SLPP (APC) SLPP가 . 1967 (Stevens) 1971 1978 (Momoh)1985 가 (RUF) , RUF 가 1992 , 5 RUF 1994 RUF 4 1996 1 16 (Strasser) (Bio) . 1995 가 RUF 2 26 가 . RUF (Kabbah) 가 1996 11 27 RUF (Sankoh)

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299 , 1994, 3, 30, p. 24.

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142) , " , 2 ", 「 」, (1999.5), p. 229

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145)

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               329 (1999.5) pp. 120 - 121.
158) , , p. 60.
159) S/RES/1203(1998)
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第4節 事態

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- 93 -

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가 가 (Nelson Mandela) 1997 가 가 (4) 紛爭 가 1975 12 1976 4 1976 1981 . 1982 1975 가

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- 96 -

1989

가 1989 , 10 12 가 1991 東 住民投票 受容 (5) 1998 가 . IMF 가 가 가 1999 1 30 가) 가 가

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4,500

45

(98.6%)

1,793

- 97 -

7

가

, (78.5%, 34 4,580) . - - , 1999 10 フト .

第 5 章

第1節 平和維持活動 問題點

脫冷戰 紛爭 , PKO

РКО

가 .207) 冷戰時代

紛爭

PKO 紛爭

低强度 紛爭解決

PKO 가 . PKO

PKO 紛爭

가 PKO

가 .

207) Dag 7

Peacekeeping Operation

. , p. 43.

1. PKO 基本原則 再檢討 ,平和維持活動 UN UN ,平和維 持活動 UN UN 平和維持活動 가 平和維持活動 가 가 .208) 가 가 ,平和維持活動 紛爭 가 平和維持活動 (PKF) (MO) 紛爭 紛爭 가 平和維持活動 平和維持活動 紛爭 介入 . 紛爭 가 紛爭 紛 爭 紛爭地域 紛爭 殺傷紛爭 平和維持活動 가 平和維持活動 43 UN

. , p. 44.

208)

가 . 脫冷戰期 UN UN UN 가 가 PKO PKO 가 紛爭解決 (Dilemma) 平和維持活動(Peacekeeping operation) 가 PKO 가 .209) 가 가 211) 210) UN 209) (PKO) ", p. 49.: , p. 45. 210) UN 가 UN . 가 UN , p. 46. 211) PKO 가 UN PKO UN, p.

46.

가 . UN PKO 冷戰時代 平和維持活動 脫冷戰時代 平和維持活動 가 가 平和維持活動 法的 根據 問題 2. 가 平和維持活動 가 紛爭解決 . 國際平和維持活動 PKF 武 力紛爭 PKO . PKO UN "PKO 6.5 6 紛爭 7 가 가 尖銳 212) 가 PKO PKO 가 PKO PKO 3. 人權侵害 問題 212) PKO(UNOSOM) (Peace Enforcement) 가 PKO PKO

1949 4 가 15 16 紛爭 紛爭 17 平和維持活動 가 UNSOM 가 1993 12 (Abdi Abdid) 54 213) **ECOMOG ECOMOG** (United Liberation Movement for Democracy In Liberia) **ECOMOG** 1991 10 (Haper) 戰艦 . 1991 가 **ECOMOG** 11 .214) 42 117 1949 4

213) Omaar, "Somalia: Human Rights Abuses by the United Nations Force", (London: African Rights, July 1993), pp. 5 7 214) , , pp. 225 226.

4. PKO 運用制度 節次上 問題點

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                               UN UN
 平和維持活動
(FOD)
                               .215)平和維持活動
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              分擔金
UN
                      가 216)
          1988 UN PKO
                                       가
  冷戰
              冷戰時代
                                가
        가 .
   가
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217)
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 放漫
                                   96 1
                         <sup>218)</sup>(PPD, 94. 5. 6)
PKO 分擔金 31.7% 25%
UN
                       p. 96.: , , p. 53.
215)
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216)
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217)
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218)
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UN PKO 가

(2) PKO

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	가		
A	5		25% 7 .077% 7 .875%
В	20		12.5% 8.9%
С	90	20%	0.32% 0.19% 0.16%
D	50	10%	0.001%

: , " " (: , 1996) p. 54. 1996 PKO 550

(3)

(1995 10)

가	(:)
	8.8
	4 . 98
	1.97
	1.85
	1.01
	4.29

: Charless S. Lee, "United Nations: The UN for Beginners", Newsweeks (Oct 30. 1995), P. 24.

平和維持活動 UN 平和維持活動 平和維持活動 1 가 6 가 UN 平和維持活動 .219) UN 平和維持活動 UN (GACABQ: General Assembly's Advisory Committee on Administrative and Budgetary Question) 가 UN (Annual Limit on the secreatry-General's Unforeseen Extraordinary Spending 300 Authority) 가 5() (The General Assembly's Fifth Committee-Budget) 220) 1000 平和維持活動軍 平和維持活動 가 平和維持活動 UN 가 平和維持活動 (2) , UN 平和維持活動 , UN UN 平和維持活動 UN 平和維持活 動 平和維持活動 221) 219) , p. 56. 220) , p. 56. 221) UN UN (常用)

- 105 -

, p. 57.

平和維持活動 UN 平和維持活動 가 가 , UN PKO PKO PKO 2 3 .222) UN 가 3 가 가가 UN 가 2 3 平和維持活動 가 가 . (3) 平和維持活動 UN 가 . 平和維持活動 가 가 母國 .223) 가 5 5 .224) UN 安保理 KFOR , p. 48. : , , p. 57. , p. 46. : , , p. 50. 222) 223) 224) , p. 33

- 106 -

3600 KLA 가 가 가 平 UN 和維持活動 가 平和維持活動 平和維持活 UN 動 UN 가 UN 가 UN UN 가 UN 가

- 107 -

第2節 平和維持活動 向後 展望

1. 機	能强化					
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1	100		2	2,000	(Crisis	
Management)	가		紛爭解決	冷戰	·	
紛爭觬	解決 _226)				가	
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(Preventive Olipiomacy)						
,紛爭		(Peace M	_			
,紛爭	T-1-10-14-1-1-1	紛爭				
平和維持活動						
	Civil War)			(D. D. 111)	戰爭勃發	
가가	,	紛爭		(Peace Buildin	ng)	
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	平和維持活動	紛爭		平和維持活動		
225) Boutros, B 226) ,	Boutros Ghali, o	op. cit., pp. (PKO)	1 10. , pp. 58	59		

介入 紛爭發生 가 平和維持活動 가 가 가 가 가 .227) 2. 人權尊重 國內問題 干涉 UN 平和維持活動 紛爭解決 UN 가 平和維持活動 介入 .228) 가 가 19 UN 18 8 2 7 가 가가 가 脫冷 戰 冷戰時代 紛爭 紛爭 UN .229) 가 227) , p. 25. 228) 1988 1996 2 (UNIMOG, UNIKOM)

- 109 -

가

가

229)

가

가

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CNN(Cable News Network) 冷戰
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       領土紛爭
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230)
                   , p. 222.
                     S/PV 3988(24 March 1999), 3989 (26 March in 1999)
231)
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ICJ

가 .232)

3. 常備體制 (Standby Arrangement)推進233)

平和維持活動 가 가 平和維持活

動

.234)

平和維持活動

가 235) 가 가

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Boutros Chali 1993

UNPKO常備體制²³⁶⁾

232) Legalty of Use of Force (Yugoslavia v. Belgium), Provisional Mesures, Order of 2 June 1999, I.C.J. Reports 1999

(http://www.icj-cij.org/icjwww/idocket/iybe/iybeframe .htm)

233) UN http://www.un.org/Depts/dpko/rapid/sys.htm.

234) UN

PKO PKO 7 PKO PKO

, PKO PKO

3 4 . Boutros, Boutros-Ghali, , p. 92.:

, p. 67.

235) - UN

Edward C. Luck, "Making Peace", F.P.,1992 1993(), p. 148. :

, p. 67.

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236)

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43
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Arrangements)
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237) Chail
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Bandow, "A uoiding War", F.P., No. 89, 1992
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238)
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239)
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240)
                   , p. 68.
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紛爭 .241) 1994 5 6 (PDD: President Decision Directive) UNPKO ,PKO分擔金 ,PKO 가, UN (Stand-by force) .242) PKO 243) UN 244) 가 가 平和維持活動 平和維持 活動 平和維持活動任務가 가 가 가 PKO 21

第 6 章 平和維持活動 强化

第1節 」,(:, 1993. 241) 12), p. 2. 가, PKO 242) PKO , PKO , PKO PKO , p. 69. 243) PKF 가 (Deter) 244) , 261 . p. 22.

가 1 가 .

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勸告

國際聯盟規約 國際紛爭 經濟的,軍事的 制裁

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. 1945

가 脱冷戦 가

がたマギズ フリ 245),

가 가

フト .246)

. 가 가 가 가 가

247)

紛爭 介入 .

245) , , p. 97. 246) , p. 65. : , ^r , (: ,

1995), p. 64.

247) , " " 「 」 6 (:

, 1973), p. 123 : , , p. 97.

- 114 -

가가 紛爭 介入 紛爭 가 가 .248) 가 가 .249) 1993 12 (Working Group) 1. (가) 가 20% 8% 가? 가 15 , 20% 37 가 () 248) , p. 124. : , p. 97. 249) 50 50 : 1995), p.38-50

가 15 15 가 가 () 가 가 가 가 가 . 1979 10 14 가 (United Nations Conference on International Organization: UNCIO) 가 15) Dumbarton Oaks San Francisco 11 6 2

- 116 -

10 가 1963 15 가 가? 가 稀釋 가? 가 . (30) 가 가 2, 3 가 가 (日本 獨逸) 가 가 "가 가 2. 가 가 가 가 M. S. Gorbachev 1992 Winston Churchill Westminster , , , 가 . Clinton

- 117 -

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.(Liby a Gaddhafi) 가

3. 가

- 118 -

가 50 1945 1995 가 가] (U.N. Transitional Authority in Cambodia) 가 (International Committee the Reconstruction of Cambodia) David Caron 許與 .(29) (Atomic Energy Commission) (Disarmament Commission)가 軍事參謀委員會(Military Staff Committee) (47) 가 가 許與 가 가 가 가 」(Security Consultation Committee)

- 119 -

Γ 意思疏通, 諮問 場 가 . 4. (1) 1945 Dumbarton Oaks 5 5 가 4/5 i) 3/5 ii) 2 3 iii) iv) 5 가 17 가

- 120 -

Yalta 4 가 가 Yalta 濫用 (2) San Fransico 가 가 가 5 가 가 "二重的 拒否權 "(double veto) 27 "가 가, 가 가가 가 改革 (3) 가 []

- 121 -

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가 . Ernst Haas가 , 가 - Berlin , -

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가 - 理想的 加重表決制 (an idealistic weighted voting

 system) 寄與度

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5. 改革

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(1) 逆拒否權 問題 , 가

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拒否權(reverse veto) .

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- 124 -

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- 125 -

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- 126 -

1 (1999.6), p. 163

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                                        , 1998), pp. 792.
251)
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252)
253)
                  794(1992)
                  794(1992)
254)
                  687 (1991)
255)
256) Reisman W. Michael, "The Constitutional Crisis in the United Nations" 87
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- 127 -

A JIL (1993), pp. 83.

가 가 ICJ 36 6 가 ICJ 가 가 (2) 가 .257) (3) ICJ ICJ 가 , ICJ가 1) Certain Expenses ICJ Certain Expenses 1960 - 1961 257) 44 1 (1999.6), p. 171 258) Certain Expenses of the United Nations (1961-1962), ICJ http://www.icj-cij.org/icjwww/idecisions.htm

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(ONUC)<sup>259)</sup>
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259)
                   483(1960);
                                                3, pp. 788
                      3, pp. 798
260)
261) ICJ
 http://www.icj-cij.org/icjwww/idecisions/isummaries/iceunsummary 620720.htm
262) http://www.icj-cij.org/icjwww/idecisions/isummaries/iceunsummary620720.htm
263) Legal Consequences for States of the Continued Presence of South Africa in
  Namibia (South West Africa) notwithstanding Security Council Resolution 276
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- 129 -

http://www.icj-cij.org/icjwww/idecisions.htm

(1970) (1970-1971) , ICJ

ICJ ICJ . ICJ 264) .265) 3) Lockerbie 266) **ICJ** 22 Lockerbie 7 가 가 ICJ가 Pan Am 가 1988 12 21 11 270 1991 11 2 264) ICJ http://www.icj-cij.org/icjwww/idecisions/isummaries/inamsummary710621.htm 265) Petren 가 Dnyeama . de Castro 266) Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. UK; Libya v. U.S) (1992-) http://www.icj-cij.org/icjwww/idocket/iluk/ilukjudgment/iluk_ijudgment_frame.htm (1988-1998)", 「

2 (1998.12), pp. 97

43

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7 748 (1992) .

731(1992) , 가 1992 4 15

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- 132 -

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- 133 -

, 1980), p. 320.

.268)

調整

269) , フト .270)

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271) **7**

268) Trygve Lie(1946 1953) " 가

가 "2 (1953 1961) "

" . 3 U. Thant (1961

1971) 가

. Brian Urquhart "The UN's crucial choice," Foregin Policy, NO. 84(Fall 19991), p.159.

269) -

U.Thant UN . Catherine

LT. Teng, Synopses of UN Cases in the field of Peace and Security (New York: Carneige Endowment for International Peace,1968), p. 19.
270) 기

270)

" " UN . 50 プト .

71 UN 71 · UN

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(Conference Diplomacy)

. (Quit Diplomacy)

(Preventive Diplomacy)

UN

. , pp. 311 313.

271) 5

가 가 가 . .

가 가 調整 가 273) 가 Trygve Lie(1946 1953) 가 NATO 가 (1953 1961) U. Thant (1961 1971) , pp. wald heim (1971 1981) 318 319. 272) , p. 178. 273) (SRSG : Special 가 Representative To The Secretary General)가 (, , () . MINURSO

- 135 -

(PKO) , pp. 152 153.

725 (91. 12. 3)

.272)

.274)

第3節 地域機構間 協力 傘下機關 1. 平和維持活動 平和維持活動 가 平和維持活動 平和維持活動 가 .275) 62 勸告 勸告 65 .276) (UNEF), (UNHCR), (WFP), (UNDD) 紛爭 (DHA: Department Of Humaniturian Assictance) 平和維持活動 가 가 가 平和維持活動 3

274) http://www.un.org/Depts/dpko/rapid/mps.htm 275) , p. 65.

276) , p. 62.

- 136 -

가 가 2. 가 가 平和維持活動 .277) (homogeneous) .278) 가 3 8 279) .280) 가 平和 가 維持活動 가 가 가 紛爭 安定手段

277) Diehl, Paul F., op. cit., pp. 122 126. : , , p. 72. 278) ONUC

278) ONUC

가

279) 52 , 53

280) Mats R. Berdal, op. cit., p. 61.

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平和維持活動 가 가 NATO OSCE, 紛爭地域 平和 UN OAU, 維持活動 ASEAN 冷戰期間 가 가 脫冷戰 3. (OSCE)(OSCE) .281) 가 가 OSCE (1994 CSCE 55 가 가 () OSCE (SC),(MC), (PC), (FSC), OSCE (PA)가 (SG),(ODIHR), (HCNM),(FOM),(CPC) (CCA) CPC . OSCE 1992 ر 1992 가 OSCE 가 (regional agreements) 가 (regional agencies) OSCE OSCE 281) (OSCE)

- 138 -

http://www.kida.re.kr/woww/special/osce.htm

ر 1992 SCOSCE SC. 1992 HCNM OSCE CPC 가 (CSBM) 가 "(Fact-finding and Rapporteur) 가 가가 OSCE . OSCE 가 가 OSCE OSCE 가 가 가 1992 」 3 13 SCCPC . 가 SCCPC 가 OSCE 가 4 , OSCE2 PC 1 6

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- 141 -

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) 權限 12 2) Michael Reisman 諮問 委員會] (The Chapter 7 21 Consultation Committee) 21 [7 7 가 22 12 2 21 가 가 가 地域利益 代表 特別關係利益 代表가 5 가

- 143 -

21 , 21 , 15 , 33 21 가 Reisman 7 "(Security Consultation Committee) 7 가 "(primary responsibility) "(international frictions) 가, "(internatinal disputes) 深化 武力衝突 가 7 7 仲裁 調停 가 起草者 6 가

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