

BRIEFING NOTE No. 103

Can the 0.2% levy fund peace and security in Africa?

A STRONGER AU-UN PARTNERSHIP IN ACCORDANCE WITH WTO RULES

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SUMMARY

In this Briefing Note we explore a possible legal route for the African Union to finance its peace and security programmes - including its peace and security operations - through a 0.2% import levy. The brief's focus on peace and security activities is not limited to peace operations but incorporates conflict prevention and governance, mediation, and preventive diplomacy.

The United Nations (UN) and the African Union (AU) both aim at securing sustainable financing for peace and security activities. Until recently though, peace support operations in Africa have mainly been funded through the EU's African Peace Facility, with AU member states providing limited funding. To minimise its financial dependency on external partners, the AU launched an initiative to increase member states' assessed contributions and to seek alternative ways to finance itself. In 2015, the AU Assembly adopted a decision on the assessed contribution of member states. Over a period of five years, starting in 2016, 100% of the AU's operations budget, 75% of its programme budget, and 25% of the AU-led peace support operations would be funded by the African Union's member states.

To meet this goal, in 2016 the AU Assembly of Heads of State and Government decided to institute and implement a 0.2% levy on all eligible imported goods into the continent to finance the AU operational, programme and peace support operations budgets, starting in 2017. The Assembly also decided that the Peace Fund will be endowed from the funds received from the 0.2% levy. However, some members of the World Trade Organization (WTO) wondered whether the levy might be in contravention of trade principles under the WTO.

This Briefing Note argues that Article XXI(c) of the General Agreement on Tariffs and Trade (GATT) may offer a possible justification for the use of the 0.2% levy in pursuance of obligations under the UN Charter to maintain international peace and security. The article can be subject to broad literal interpretation, and refers to any action a country may take in pursuance of its obligations under the UN Charter for the maintenance of international peace and security, hence also the AU's obligation to fund peace support operations and the Peace Fund to guarantee peace on the continent.

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Introduction

Securing sustainable financing for peace and security activities is important for both the United Nations (UN) and the African Union (AU). Under the UN Charter,¹ the primary responsibility of the UN Security Council (UNSC) is to maintain international peace and security. At the regional level, the AU is an important partner of the UN in maintaining peace and security as “consolidating peace remains the foundation of the continent’s continued progress and socio-economic transformation”.² This partnership is highlighted in Article 17(1) of the AU’s Protocol Relating to the Establishment of the Peace and Security Council which directs the Peace and Security Council (PSC) to cooperate with the UNSC. Currently eight out of 15 UN peacekeeping operations are taking place on the African continent namely in: Abyei, Central African Republic (CAR), Darfur, Democratic Republic of Congo (DRC), Liberia, Mali, South Sudan and Western Sahara.³

This Briefing Note discusses the efforts by the AU to secure sustainable and predictable financing for the union and in particular the financing of peace and security activities. In 2015, the AU passed a pivotal decision to fund 25% of its peace support operations. Subsequently in 2016, they passed a decision on financing the AU through an import levy of 0.2% for eligible goods. Although the decision was lauded as paramount in securing predictable and sustainable funding for the AU in its move towards financial autonomy, some concerns were raised about the 0.2% import levy’s compatibility with WTO rules as the levy is only applies to non-African imports.

This Briefing Note argues that the use of the security exception under Article XXI(c) of the General Agreement on Tariffs and Trade⁴ (GATT) may be a possible justification for the use of the 0.2% import levy in pursuance of obligations under the UN Charter to maintain international peace and security. The wording of Article XXI(c) of the GATT may be subject to broad literal interpretation to include any action a country may take in pursuance of its obligations under the UN Charter for the maintenance of international peace and security. This could be interpreted to mean the obligation by the AU to finance peace support operations and the Peace Fund.

The Briefing Note will first address the funding challenges for peace and security activities, then it will discuss the AU’s 0.2% import levy to finance the AU’s budget including peace and security activities. Next, the Note will link the UN obligations to the financing of the AU Peace Fund through the 0.2% import levy. Further, the Note will discuss the security exception under GATT arguing for the possible use of Article XXI(c). Finally, the paper will attempt to reconcile WTO obligations and UN obligations in support of the AU 0.2% import levy.

Funding challenges for peace and security activities

Conflicts have become more complex, asymmetrical and challenging with civilian populations, aid workers and increasingly, peacekeepers being targeted.⁵ Effectively managing such conflicts requires robust peace operation capabilities, including peace enforcement, to contain and manage crises and provide the required space for humanitarian and political work to seek sustainable solutions.⁶

¹ [United Nations Charter](#) signed on 26 June 1945, came into force on 24 October 1945.

² African Union (2016), ‘[Securing Predictable and Sustainable Financing for Peace in Africa](#)’, AU Peace Fund Silencing the Guns, August 2016.

³ See United Nations Peacekeeping, <https://peacekeeping.un.org/en/where-we-operate>

⁴ World Trade Organisation, [General Agreement on Tariffs and Trade](#), 1947.

⁵ Cedric de Coning, [The Significance of a Resilient AU-UN Strategic Partnership for Peace Operations in Africa](#), 15 February 2015.

⁶ Ibid.

The transition from the Organisation of African Unity (OAU) to the AU, saw a normative shift in the AU's policy from one of non-interference to one of non-indifference. One of the objectives of the AU enshrined in its Constitutive Act⁷ is to "promote peace and security on the continent".⁸ In May 2013, the AU, Heads of State and Government in the 50th Anniversary Solemn Declaration⁹ pledged to not bequeath the burden of conflicts to the next generation and undertook to end all wars by 2020.¹⁰ Subsequently the AU initiated the 'Silencing of the Guns by 2020' as one of the flagship projects of the AU's development Agenda 2063. Aspiration 4 of Agenda 2063 aims for a peaceful and secure Africa.¹¹ The AU established the African Peace and Security Architecture (APSA) as a mechanism for the prevention, management and resolution of crises and conflicts. However, underfunding of the AU's programmes has led to challenges in sustaining peace and security activities through APSA. Challenges include: limited funding for mediation and preventive diplomacy; ad hoc and unpredictable funding for peace support operations; and limited readiness to address rapid onset crises.¹² Emerging security threats linked to terrorism also contribute to new instability challenges on the continent. Although the AU has the political will to deploy counter-terrorism and stabilisation operations, it is unable to financially sustain such operations in the medium to long term.

African peace support operations have mainly been funded through the African Peace Facility (APF) established by the European Union (EU) at the request of the AU and by voluntary bilateral support.¹³ In some cases, UN assessed contributions have been used to finance some peace operations, such as, funding logistical support for the AU Mission in Somalia (AMISOM).¹⁴ On the other hand, AU member states have provided limited funding. Currently, financial contributions of major peace keeping operations in Africa are being reduced by international partners, highlighting the urgency of the AU to secure sustainable and predictable funding for such peace keeping operations. For example, in 2016, the EU announced it will be reducing the funding for the allowances of the troops in AMISOM by imposing a cap on the coverage of allowances to 80% of the total costs.¹⁵ The remaining 20% of the allowances is expected to be funded by troop contributing countries either through own resources or from alternative partner contributions.¹⁶ Since 2007, the EU has contributed more than 1.5 billion euros towards AMISOM through the APF.¹⁷ This EU announcement raised questions about the financial sustainability of the mission and amongst other factors led to the AU to renew its efforts to seek alternative sources of funding both internally and externally. The AU in coordination with the UN appointed Special Envoys on the Funding Consultations for AMISOM: Mr. Ramtane Lamamra and Jean-Marie Guehenno for the AU and UN respectively. The appointments follow from Resolution 2372 (2017) in which the UNSC requested the UN Secretary-General, the AU and partners to explore, in earnest, funding arrangements for AMISOM, bearing in mind the full range of options available to the UN, the AU, the European Union (EU), and other partners.

⁷ Organisation of African Unity, [Constitutive Act of the African Union](#), 2000, Lome, Togo. Came into force on May 26, 2001.

⁸ Ibid, Article 3(f).

⁹ African Union, [50th Anniversary Solemn Declaration](#), adopted by the 21st Ordinary Session of the Assembly of Heads of State and Government, Addis Ababa, 26 May 2013.

¹⁰ Ibid.

¹¹ African Union, [Agenda 2063: The African We Want, Popular version](#), September 2015.

¹² African Union (2016), [Securing Predictable and Sustainable Financing for Peace in Africa](#), AU Peace Fund Silencing the Guns, August 2016, paras 23-30.

¹³ See James Mackie et al., [Evaluation of the implementation of the African Peace Facility as an instrument supporting African efforts to manage conflict on the continent](#), April- December 2017, ECDPM, Cardno and Particip GmbH.

¹⁴ United Nations Peacekeeping, How we are funded, available at <https://peacekeeping.un.org/en/how-we-are-funded>

¹⁵ See James Mackie et al., [Evaluation of the implementation of the African Peace Facility as an instrument supporting African efforts to manage conflict on the continent](#), April- December 2017, ECDPM, Cardno and Particip GmbH.

¹⁶ Ibid.

¹⁷ Ibid.

Subsequently, on 1 April 2018, the AU and UN Special Envoys travelled to Somalia for an assessment visit and met with the President and the Prime Minister of the Federal Republic of Somalia, the AU and UN Special Representatives for Somalia, ambassadors from the troop contributing countries to AMISOM, who are accredited to Somalia, and EU officials.¹⁸ Discussions included inter alia securing sustainable funding to peace operations and achieving the smooth transition of the security responsibility for AMISOM to the Somali security forces.¹⁹ The Special Envoys assessment visit was part of the ongoing AU-UN led consultations on peace-support operations for AMISOM. Upon completion of their assessment, the Special Envoys are expected to submit a report which will inform the decisions of the AU Commission and the UN on the level of funding and logical support to be provided to AMISOM.²⁰ The current AMISOM mandate is scheduled to end in May 2018²¹ although the funding under the APF is secured until 2018.²²

The AU has shown internal commitment towards securing sustainable funding as evidenced in its Common African Position (CAP) on UN Review of Peace Operations adopted in 2015.²³ The AU in the CAP noted that peace and security should be viewed as a strategic partnership with the UN based on consultative decision-making, division of labour and burden sharing. The CAP acknowledges the role of the UN in maintaining global peace and security but also highlights that African peace operations represent local responses to global problems and effective African peace operations thus represent a significant contribution to the global common good.²⁴ Given the changing nature of conflicts which are linked to governance deficiencies, the AU is strategically placed to intervene in such conflicts, including through structural preventative measures, such as, early warning analysis and mediation. Concerning external support, a suggestion has been for a substantive UNSC Resolution on the use of UN assessed contributions to support AU mandated or authorised peace support operations, also authorised by the UNSC, with decisions on the financing of specific missions to be taken on a case-by-case basis. However, this funding option has not yet been resolved.²⁵

The UN has supported AU operations through:

- undertaking hybrid missions where the AU retains a political role in the management of the mission, but where the financial costs are fully funded by the UN through the normal process of assessed contributions;
- deploying a UN support mission to indirectly support key elements, including logistics, of an AU mission; and
- the UNSC authorising a UN Trust Fund that is dependent on voluntary contributions but that has the political backing of the UNSC.²⁶

However, the AU notes that Trust Funds are “neither reliable, predictable nor easily accessible, especially for high-tempo operations where troops on the ground are faced with well-resourced, determined and highly networked armed groups, the very types of operations that the AU has tended to deploy into, and which are not suited to UN peacekeeping doctrine”.²⁷ The AU has also been instrumental in deploying missions where the UN was unable to deploy a peace support operation in a timely manner due to lack of

¹⁸ African Union Mission in Somalia, [AU and UN Special Envoys on funding consultations for AMISOM make an assessment visit to Somalia](#), 1 April 2018.

¹⁹ Ibid.

²⁰ Ibid.

²¹ United Nations, [Unanimously adopting Resolution 2372\(2017\), Security Council extends mandate of African Union mission in Somalia, authorizes troop reduction](#), 30 August 2017.

²² Council of European Union, 2017-2018 [Action programme for the African Peace Facility](#), 6891/17, 2 March 2017.

²³ Peace and Security Council, [Common African Position on UN Review of Peace Operations](#), PSC/PR/2(DII), 502nd Meeting, 29 April 2015. Addis Ababa, Ethiopia.

²⁴ Ibid.

²⁵ African Union Peace and Security Council. [689th PSC meeting on the AU Peace Fund and AU-UN partnership for predictable funding of AU peace and security activities](#). 30 May 2017.

²⁶ Ibid.

²⁷ Ibid.

global political consensus, for example, the African Mission in Burundi (AMIB), the African Mission in Darfur (AMIS), the African Mission in Somalia (AMISOM), the AU Electoral and Security Assistance Mission to the Comoros (MAES) and the African-led International Support Mission to Central African Republic (MISCA). The AU together with the Economic Community of West African States was instrumental in deploying the African-led International Support Mission to Mali (AFISMA).

In order to minimise dependency on external partners and increase ownership of peace and security activities, the AU launched an initiative to increase member states' assessed contributions and also to seek alternative ways to finance the AU, including its peace support operations.²⁸ In the next section we will examine these proposals and discuss how the AU's 0.2% import levy is fundamental to securing sustainable and predictable funding for peace and security activities.

0.2% import levy to finance AU's budget including peace and security activities

In June 2015, the AU Assembly adopted a decision²⁹ on assessed contribution of member states, which targets funding the AU at 100% of the operations budget; 75% of the programme budget; and 25% of the peace support operations budget to be phased over five years from 2016. The new formula showed commitment by the AU to finance 25% of AU-led peace operations out of its own budget. The AU also established revived the Peace Fund as the main mechanism for the management and oversight of the financial aspects of AU peace support operations. The Peace Fund is one of the pillars of the APSA and covers operational three activities namely: mediation and preventative diplomacy; institutional capacity; and peace and support operations. These activities go beyond peace keeping to also include preventative and meditative efforts. In September 2015, the meeting of the PSC level of Heads of State and Government requested the Chairperson of the Commission to appoint a High Representative for the Peace Fund. In January 2016, Dr. Donald Kaberuka³⁰ was appointed this role and tasked with finding sustained, predictable and flexible funding mechanisms to support AU-led peace operations.

In July 2016 Dr. Kaberuka submitted a Progress Report to the AU Assembly of Heads of State and Government Retreat on the Financing of the Union on the margins of the 27th Ordinary Session of the AU Summit that was held in Kigali. The Report had proposals on how to finance the African Union as a whole and reinvigorate the Peace Fund and proposed the use of a 0.2% import levy to finance the AU to be imposed on imports. At the 27th AU Summit, the AU Assembly considered the report of the High Representative's new proposal and Assembly decided to "institute and implement a 0.2% import levy on all eligible imported goods into the continent to finance the African Union Operational, Program and Peace Support Operations Budgets starting from the year 2017."³¹ The AU Assembly also decided that The Peace Fund is to be endowed with \$325 million in 2017, rising to a total of \$400 million by 2020 from the 0.2% import levy.³² The endowment represents a maximum amount that will be replenished annually. Any unutilised balances of the Peace Fund will be held in the Crisis Reserve Facility to enable rapid response for unseen crisis.³³

²⁸ See Cedric de Coning, [Can the AU finance its own peace operations, and if so, what would the impact be?](#) 28 March 2017.

²⁹ African Union Assembly, [Decision on the Scale of Assessments and Financing of the African Union Assembly/AU/Dec.578\(XXV\)](#), Twenty-fifth Ordinary Session, 14-15 June 2015, Johannesburg, South Africa.

³⁰ African Union, Donald Kaberuka, outgoing President of the African Development Bank appointed as High Representative for the AU Peace Fund, 29 January 2016, <http://www.peaceau.org/en/article/dr-donald-kaberuka-outgoing-president-of-the-african-development-bank-appointed-as-high-representative-for-the-au-peace-fund>

³¹ African Union Assembly, [Decision on the Outcome of the Retreat of the Assembly of the African Union Assembly/AU/Dec.605 \(XXVII\)](#), Twenty-seventh Ordinary Session, 17- 18 July 2016, Kigali, Rwanda.

³² Ibid.

³³ African Union (2016), [Securing Predictable and Sustainable Financing for Peace in Africa](#), AU Peace Fund Silencing the Guns, August 2016.

THE AFRICA UNION'S PEACE FUND

ecdpm

WHAT IS IT?



The African Union's Peace Fund was legally established in **1993**



It is one of the 5 pillars of the African Peace and Security Architecture and it finances the AU's **Peace and Security activities**



It is funded through a **0.2% levy** on imported goods from outside the continent



Donald Kaberuka is the AU High-Representative for the Peace Fund



Funds to be paid into the AU accounts held in **national central banks**



The **Peace Fund Secretariat** will be established within the Commission to manage the Fund's day-to-day operations

ACTIVITIES

1



Mediation and preventive diplomacy

2



Peace Support Operations

3



Institutional Capacity

MAIN AIMS



Promote greater African ownership in continental activities



Ensure a reliable source of funding



Provide an equitable and predictable source of financing



Reduce dependence on development partner funds



Relieve the pressure on national treasuries

FOUR WINDOWS OF INTERVENTION

1

Mediation and Preventive Diplomacy

2

Institutional Capacity

3

Peace Support Operations

4

Crisis Reserve Facility

FIVE MAJOR STAKEHOLDERS



Member states



Finance Ministers (F15)



Peace Fund Secretariat



AU-UN Partnership (UNSC resolution 2320)



AU Peace and Security Department

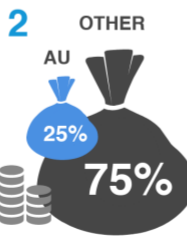
OPTIONS FOR FINANCING

1



Funded **solely** by the African Union with no contribution from external partners

2



Funded **partly** by the African Union and for the greatest part by the UN and other contributors

3



...any other possible option to be thought of?

The synopsis of the 2018 AU budget reveals that 34.8% of the AU's overall budget is allocated to peace support operations with the budget for AMISOM accounting for 93.4% of the total peace operations budget.³⁴ The need to secure sustainable and reliable funding is pertinent to maintain such operations. Previous attempts to fund the AU resulted in member states defaulting on their payments which had implications for the successful operation of peace and security missions. On average, 67% of assessed contribution is collected annually from member states with about 30 countries defaulting either partially or completely on their contributions.³⁵ This creates a significant funding gap, which hinders effective delivery on AU programmes, as well as sustainable funding for peace support operations. Through the 0.2% import levy the AU has a formula to secure a predictable and sustainable source of financing the AU, including for peace operations. The financing of the AU budget through the 0.2% import levy is part of the overall reform of the AU linking its successful implementation within the framework of AU's financial autonomy as elucidated in the AU Reforms report led by Rwanda President Paul Kagame³⁶ (Kagame Report).

The 0.2% import levy was implemented in 2017 and as of December 2017, Kenya, Rwanda, Ethiopia, Chad, Djibouti, Guinea, Sudan, Morocco, Congo Brazzaville, Gambia, Gabon, Cameroon, Sierra Leone and Cote d'Ivoire have started collecting the levy and depositing the funds within the AU accounts in their respective Central Banks.³⁷ Ghana, Benin, Malawi, and Senegal have initiated legal and administrative processes to allow for the implementation of the 0.2% import levy.³⁸ Mauritius and Seychelles have also indicated full commitment to the principles of financing the union.³⁹

However, following the AU's decision to implement the 0.2% import levy, some concerns were raised that the levy may be in contravention of trade principles under the World Trade Organization (WTO). In December 2016, the United States of America (USA) raised concerns – although no formal complaint was launched – with regards to the compatibility of the 0.2% import levy with the GATT before the WTO's General Council and, subsequently, in a formal letter to the African Union Commission (AUC) and some African countries.⁴⁰ Japan expressed a similar view on the compatibility of the levy with WTO rules.⁴¹

In our earlier paper on the [Analysis of the implementation of the African Union's 0.2% levy: Progress and Challenges](#)⁴² we discussed some of the WTO-related legal challenges including the violation of the most favoured nation principle (MFN). The MFN principle in GATT Article I:1 provides that countries cannot normally discriminate between their trading partners. For example, if a country lowers customs duties for the products of one trading partner, it must extend the MFN to the like products of other trading partners and similarly lower customs duties.⁴³ Proposed policy options included: a) the Continental Free Trade Area (AfCFTA) as a possible option to the violation of the MFN principle, b) the use of waiver by African states to WTO obligations including the MFN principle and c) the use of the Kenyan model which derives the 0.2% import levy from an already existing charge to avoid excess duties and charges. On 21 March 2018, 44 AU member states signed the agreement establishing the African Continental Free Trade Area (AfCFTA). The next step will be for the ratification process by member states and 22 ratifications are

³⁴ African Union, Assembly of the Union, [Decision of the African Union for the 2018 Financial Year](#), Assembly/AU/Dec.642(XXIX), Twenty-ninth Ordinary Session, 3-4 July 2017, Addis Ababa, Ethiopia.

³⁵ African Union, [Background paper on Implementing the Kigali Decision on Financing the Union](#), September 2016.

³⁶ H.E Paul Kagame, [The Imperative to Strengthen our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union](#), 29 January 2017.

³⁷ Rwanda Ministry of Finance and Economic Planning, [Finance Ministers meet to discuss African Union financing progress](#), Kigali, Rwanda, 11 January 2018.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ World Trade Organization (2017) General Council Minutes from Meeting held on 7 December 2016. 21 February 2017. WT/GC/M/165.

⁴¹ Ibid.

⁴² Philomena Apiko & Faten Aggad, [Analysis of the implementation of the African Union's 0.2% levy: Progress and Challenges](#) February 2018, ECDPM.

⁴³ See World Trade Organization, [Principles of the trading system](#)

required to give effect to the AfCFTA. Pending the ratification and implementation of the AfCFTA, legal questions still remain concerning the implementation of the 0.2% import levy vis-a-vis the WTO obligations.

In this Briefing Note, we explore another legal route, which could provide an opportunity to introduce the 0.2% import levy specifically to finance the peace and security programmes of the AU; that is including but not limited to peace operations. Indeed, peace and security will remain one of the four core pillars of the work of the AU as articulated in the Kagame Report on AU institutional reforms. The focus on peace and security will not be limited to peace operations but will incorporate conflict prevention and governance, mediation and preventive diplomacy.

Linking UN obligations and the financing of the AU Peace Fund through the 0.2% import levy

Financing peace and security in Africa on a sustainable basis is not only a continental priority but a global strategic imperative, given the complex and interconnected nature of threats to international peace and security. In 2015, the AU Assembly committed to finance 25% of the cost of African Union-led peace support operations from the assessed contribution of its member States.⁴⁴ The AU's 0.2% import levy will go towards funding both this percentage of peace support operations as well as endowing the Peace Fund. Given the interlinkages between peace and security and governance the funding could also be extended to programmes focused on the synergy between APSA and the African Governance Architecture (AGA). In addition, the African Peer Review Mechanism (APRM) was given an expanded mandate to monitor the implementation of Agenda 2063 and Agenda 2030's Sustainable Development Goals. As such, potential synergies exist amongst the APRM, AGA and APSA in early conflict prevention mechanisms an area comprising one of the window of activities of the Peace Fund. Most of the international funding towards peace and security activities has been spent on peace-keeping rather than preventative measures. This makes the financing of the 25% of peace support operations and the Peace Fund imperative as it will also finance key governance programmes of the AU related to peace and security.

While Article 24 of the UN Charter⁴⁵ entrusts the UNSC with the primary responsibility for the maintenance of international peace and security, the AU has been an indispensable partner in responding to crises on the African continent. Chapter VIII of the UN Charter provides for regional arrangements to maintain peace and security. Article 52(1) explicitly states that:

Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.⁴⁶

The AU's efforts to secure sustainable and predictable funding, including through the use of the 0.2% import levy falls under the regional action provided for under Article 52(1) and the UN has been supportive of the AU's decision to fund 25% of peace support operations. In 2016, the UNSC unanimously passed Resolution 2320 (2016)⁴⁷ which recognised that "cooperation with regional and subregional organisations in matters relating to the maintenance of peace and security, and consistent with Chapter VIII of the Charter of the United Nations, can improve collective security". Resolution 2320 welcomed the AU Assembly's decision to fund 25% of AU peace support operations, to be phased incrementally over five

⁴⁴ African Union Assembly, [Decision on the Scale of Assessments and Financing of the African Union Assembly/AU/Dec.578\(XXV\)](#), Twenty-fifth Ordinary Session, 14-15 June 2015, Johannesburg, South Africa.

⁴⁵ United Nations Charter (1945). Signed on 26 June 1945, came into force on 24 October 1945.

⁴⁶ Ibid, Article 52(1).

⁴⁷ United Nations Security Council, [Resolution 2320 \(2016\)](#), S/RES/2320 (2016), 18 November 2016.

years.⁴⁸ This shows the UNSC's support for a predictable cost-sharing structure to fund peace support operations.

In addition, as per Article 17 of the UN Charter, every UN member state is legally obligated to pay their respective share towards peacekeeping as part of collective security.⁴⁹ Global peace operations are financed out of the assessed contributions and voluntary contributions of UN member states. The AU's commitment to fund 25% of AU-led peace support operations therefore provides an alternative funding for peace support operations missions on the continent, outside the UN budget and moves the AU in a more complimentary relationship with the UN.

Prior to Resolution 2320, the UN had continuously discussed strengthening of the partnership with the AU on issues of peace and security including advocating for the "sustained, predictable and flexible funding mechanisms to support African Union peace support operations authorised by the Security Council."⁵⁰ The June 2015 Report of the High-Level Independent Panel on United Nations Peace Keeping Operations⁵¹ (HIPPO report) was a key document highlighting the key role of important regional organisations such as, the AU in peace support operations. Concerning the funding of peace support operations, the HIPPO Report encouraged that a more strategic and results-oriented focus in budget preparation and oversight, and innovations such as regional support and new approaches to delivering mandates through programmatic funding should be pursued.⁵² This call for cooperation was reiterated in the report of the Advisory Group of Experts on the 2015 Review of the UN Peacebuilding Architecture who noted that closer strategic and operational partnerships among the UN, international financial institutions and regional and sub-regional organisations was important to secure more predictable peacebuilding financing.⁵³

Specifically, the HIPPO report recognised the AU's commitment and the steps it has taken to increase its members' assessed contributions towards peace support operations and to seek alternative financing sources for that purpose.⁵⁴ The 0.2% import levy fits within this description of an alternative regional approach to financing peace support operations. The adoption of UNSC Resolution 2320 shows commitment by the UN to support the AU in its efforts to raise predictable and sustainable funding. African countries can therefore argue that given the prevalent conflicts present on the continent, and the effects to neighbouring countries and regionally, it is pertinent for the AU member states to raise sustainable and predictable funds to finance peace support operations.

More so, the need to secure sustainable funding for peace support operations is essential to more successful prevention and mediation efforts by the UN, as well as for more effective political missions on the ground. The lack of sustained, predictable and flexible funding mechanisms to support AU peace support operations undermine their sustainability and effectiveness which in turn impacts the effectiveness of UN peace operations when they take over.⁵⁵ Past experiences with funding challenges within the AU, for example, in the African-led Support Mission in Mali (AFISMA), from 2012 to 2013, and in African-led

⁴⁸ Ibid.

⁴⁹ <http://www.un.org/en/peacekeeping/operations/financing.shtml>

⁵⁰ United Nations Security Council (2016). Report of the Secretary-General on strengthening the partnership between the United Nations and the African Union on issues of peace and security in Africa, including the work of the United Nations Office to the African Union. S/2016/780. 13 September 2016. Para. 46.

⁵¹ United Nations (2015). [Uniting our Strengths for Peace- Politics, Partnerships and People: Report of the High-Level Independent Panel on United Nations Peace Keeping Operations](#). 16 June 2015.

⁵² Ibid, p. xiii.

⁵³ United Nations Advisory Group of Experts, [The Challenge of Sustaining Peace, Report of the Advisory group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture](#), 29 June 2015.

⁵⁴ Ibid, para 231, p.64.

⁵⁵ Ibid, para 230, p. 64.

Support Mission in the CAR (MISCA), from 2013 to 2014, led to premature transitions from the AU to UN resulting in negative consequences for subsequent UN peacekeeping operations.⁵⁶

On 2 September 2015, former UN Secretary-General's Ban Ki Moon in his report on the implementation of the HIPPO Report,⁵⁷ commended the AU's commitment to self-reliance, including to financing 25% of future AU peace operations.⁵⁸ The report urged UN member states to give urgent consideration to how the UN can respond to that initiative and requested the Secretariat to carry out, jointly with the AU and in consultation with other partners, a review and assessment of various mechanisms currently available to finance and support AU peace operations authorised by the UNSC.⁵⁹

At the AU level, on 29 April 2015, member states adopted the CAP on UN Review of Peace Operations, which inter alia stressed the need for a flexible, predictable and sustainable funding based the UN assessed contributions to support AU peace support operations undertaken with the consent of the UNSC.⁶⁰ Following from this, on 26 September 2015, during the PSC's 547th meeting, the Chairperson of the Commission presented a report on the follow up steps to the common African position on the review of UN peace operations.⁶¹ Apart from acknowledging the AU's commitment to fund 25%, the follow up report proposed using "UN assessed contribution support for UN authorised AU-led peace support operations for up to 75% of the cost of the mission". Discussions for the UN to finance this 75% cost of missions have not yet been resolved.

In April 2017, the AU and current UN Secretary-General António Guterres signed a peace and security framework in which the UN reiterated its support towards the AU in peace and security as part of 2017 AU-UN peace and security framework.⁶² This continuous debate between the AU and UN on financing shows that the need for predictable funding is a key area of focus for the AU as well as the UN to ensure collective security.

The AU PSC in May 2017, in its 689th meeting⁶³ on the AU Peace Fund and AU-UN partnership for predictable funding of AU peace and security activities highlighted that African ownership is the key factor to the success of peace efforts on the continent. The PSC outlined scope of operations in which it would request UN support through assessed contributions on a case-by-case basis. They include: observer missions; preventative deployment and peace enforcement missions; stabilisation missions following peace enforcement missions; and missions or security initiatives in response to complex national/ transnational security threats implemented by the AU or its regional economic communities (RECs), regional mechanisms or collation of member states.⁶⁴ The scope of operations encompasses both preventative measures and peace keeping operations making securing sustainable and predictable funding crucial.

⁵⁶ Peace and Security Council, [Report of the Chairperson of the Commission on Follow-up steps on the Common African Position on the Review of United Nations Peace Operations](#), PSC/AHG/3.(DXLVII), 547th Meeting, 26 September 2016, New York.

⁵⁷ United Nations, General Assembly and Security Council (2015). The future of United Nations Peace Operations: Implementation of the Recommendations of the High-level Independent Panel on Peace Operations. A/70/357-S/2015/682. General Assembly Seventieth Session, Security Council Seventieth Year. 2 September 2015.

⁵⁸ Ibid, para 48.

⁵⁹ Ibid.

⁶⁰ Peace and Security Council, [Common African Position on UN Review of Peace Operations](#), PSC/PR/2(DII), 502nd Meeting, 29 April 2015. Addis Ababa, Ethiopia.

⁶¹ Peace and Security Council, [Report of the Chairperson of the Commission on Follow-up steps on the Common African Position on the Review of United Nations Peace Operations](#), PSC/AHG/3.(DXLVII), 547th Meeting, 26 September 2016, New York.

⁶² Joint United Nations-African Framework for Enhanced Partnership in Peace and Security, 19 April 2017, New York, https://unoau.unmissions.org/sites/default/files/signed_joint_framework.pdf

⁶³ African Union Peace and Security Council. [689th PSC meeting on the AU Peace Fund and AU-UN partnership for predictable funding of AU peace and security activities](#). 30 May 2017.

⁶⁴ Ibid, para 11.

As discussed, the AU's proven ability to act as first responder is a critical element of the evolving international peace and security architecture. The AU and its RECs have a clear comparative advantage where operations are promptly needed and the UN is unable to deploy in a timely manner or unable to mobilise political consensus. This is where the AU's self-financing of 25% of the peace support operations as well as the Peace Fund can contribute to meeting these funding gaps. Such financing through the 0.2% import levy therefore moves the AU towards achieving financial autonomy and implementing the overall structure of the APSA.

The next section will discuss the use of the security exception in Article XXI(c) of the GATT as a possible justification African states also members of the WTO can use to justify the 0.2% import levy as pertains to financing peace support operations and the Peace Fund in pursuance of obligations under the UN Charter to maintain peace and security.

Security exception under GATT

Article XXI of the GATT provides flexibilities for states in the international trading system by permitting ordinarily trade-restrictive measures for significant state policies such as national security. Article XXI allows WTO member states in certain instances to use economic measures for political means which would ordinarily be contradictory to the regular regime of the GATT. Although this article has been invoked explicitly on a very limited scale, "the use of economic measures for political purposes has been and will continue to be an important option of self-enforcement of what the acting State will consider its right under international law".⁶⁵



Article XXI of the General Agreement on Tariffs and Trade (GATT) provides that:

Nothing in this Agreement shall be construed:

- (a) To require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) To prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
 - (i) Relating to fissionable materials or the materials from which they are derived;
 - (ii) Relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - (iii) Taken in time of war or any other emergency in international relations; or
- (c) To prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the *maintenance of international peace and security**[67]

**[emphasis of the author]*

The wording of Article XXI denotes an all-embracing exception against GATT obligations.⁶⁶ An earlier 1949 case brought by Czechoslovakia against the USA indicated that Article XXI "embodied exceptions to the general rule contained in Article I",⁶⁷ relating to MFN. Article XXI differs from other textually defined exceptions to the GATT, because it appears to permit the WTO member itself to define the scope of the exception. The self-defining nature of the national security exception suggests a subjective standard for assessing the necessity of a measure under Article XXI.⁶⁸ In contrast, other GATT exceptions (for example, Article XX) suggest an objective standard under which WTO judicial bodies may define the meaning of

⁶⁵ Michael J. Hahn. 1991. 'Vital Interests and the Law of GATT: An Analysis of GATT's Security Exception', *Michigan Journal of International Law* 12, 558 at 560.

⁶⁶ See discussion of GATT XXI in See Raj Bhala, '[National Security and International Trade Law: What the GATT says and What US does](#)', *University of Pennsylvania Journal of international Economic Law*, 1998, Volume 19:2.

⁶⁷ World Trade Organisation, [GATT Analytical Index, Article XXI Security Exceptions](#), p.606.

⁶⁸ Lindsay, P. (2003). The Ambiguity of GATT Article XXI: Subtle Success or Rampant Failure? *Duke Law Journal*. Vol 57 1277- 1313.

“necessary” and examine measures against this definition.⁶⁹ Under Article XXI a country may take measures *it considers* necessary to protect its essential security interests.

Currently, the debate on the use of Article XXI is more academic as there exist scholars who argue that no WTO scrutiny is necessary when using Article XXI. Early cases show the reluctance of member states to have their actions under Article XXI fall under WTO jurisdiction as “every country must be the judge in the last resort on questions relating to its own security”.⁷⁰ Some scholars have questioned whether the use of Article XXI is subject to review by dispute settlement panels and the Appellate Body. On the other hand, some scholars argue that there is an objective element in Article XXI and that invocation of the security exception should be subject to WTO review.⁷¹

Nevertheless, the abovementioned interpretation of the Article XXI creates a potential for sovereign states to abuse it, which cannot be ignored. To address this concern WTO parties adopted the 1982 Decision Concerning Article XXI of the General Agreement,⁷² which provides that “contracting parties should be informed *to the fullest extent possible* of trade measures taken under GATT Article XXI”. The wording of this decision leaves considerable discretion to the state taking measures under GATT Article XXI as to the manner, timing, and mode by which it chooses to inform other WTO member states of the trade-restrictive measure.⁷³

Among the exceptions outlined under the security exception, GATT Article XXI (b) affords the most latitude to the state implementing measures necessary for its essential security interests.⁷⁴ Recent attempts by countries to invoke national security exceptions have raised concerns about the clash with WTO obligations. For example, in the USA, the Department of Commerce issued two separate reports on the effect of the importation of steel⁷⁵ and aluminium⁷⁶ respectively, on national security. The reports conclude that present quantities and circumstance of steel and aluminium imports are weakening the USA’s internal economy and threaten to impair the national security as defined in Section 232 of the Trade Expansion Act of 1962. The reports make recommendations including the imposition of tariffs on steel and aluminum. Subsequently, President Donald Trump announced that his administration would impose a 25% tariff on steel imports and 10% tariff on inbound aluminum shipments.⁷⁷ Although the report was conducted using domestic legislation, the implications affect WTO trade partners who export steel to the USA.⁷⁸ The USA subsequently announced temporary exemptions for Argentina, Australia, Brazil, Canada, EU, Mexico and South Korea.⁷⁹ However, key exporters like China and Japan are excluded from the temporary exemptions. China has requested for WTO dispute consultations with the USA, claiming that the duties of 25% and 10%

⁶⁹ Ibid.

⁷⁰ World Trade Organisation, [GATT Analytical Index, Article XXI Security Exceptions](#), p.600 (quoting EPCT/APV/33, p. 20–21 and Corr.3). This statement arose in the context of a dispute between the United States and Czechoslovakia in which the United States invoked Article XXI.

⁷¹ See Michael J. Hahn, [‘Vital Interests and the Law of GATT: An Analysis of GATT’s Security Exception’](#), 1991, Michigan Journal of International Law, 12:3

⁷² World Trade Organization, [Decision Concerning Article XXI of the General Agreement](#), Decision of 30 November 1982, L/5426, 2 December 1982.

⁷³ See Diane Desierto, [‘The EU/US v. Russia Trade Wars: Revisiting GATT Article XXI and the International Law on Unilateral Economic Sanctions’](#), *EJIL Talk*, September 22, 2014.

⁷⁴ Ibid.

⁷⁵ U.S. Department of Commerce Bureau of Industry and Security Office of Technology Evaluation, [‘The Effect of Imports of Steel on the National Security: An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, as amended’](#), 11 January 2018.

⁷⁶ U.S. Department of Commerce Bureau of Industry and Security Office of Technology Evaluation, [‘The Effect of Imports of Aluminum on the National Security: An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, as amended’](#), 17 January 2018.

⁷⁷ Jeremy Diamond, [‘Trump says US will impose steel and aluminium tariffs’](#), CNN, 1 March 2018.

⁷⁸ Julia Horowitz & Patrick Gillespie, [‘Germany and other allies are really, really angry about Trump’s tariffs’](#), CNN, 2 March 2018.

⁷⁹ *Financial Times*, ‘Japan plays it cool on response to US steel tariffs’, 4 April 2018.

on steel and aluminium respectively are inconsistent with the GATT and the Agreement on Safeguards.⁸⁰ Several authors opine that this would be an opportune time for the WTO dispute settlement panels and Appellate Body to address the interpretation and application of Article XXI.

Concerning Article XXI(c), there is as yet, no jurisprudence from the dispute settlement panels and Appellate Body interpreting this Article. The few instances of state practice where Article XXI(c) has been invoked all involved the implementation of UN authorised sanctions. For example, India's 1994 background document for simplified balance-of-payments consultations noted that while almost all of India's trading partners received most-favoured-nation treatment in the issue of import licences, import licences were not issued for imports from countries facing UN mandated sanctions, at that time namely: Iraq, Fiji, Serbia and Montenegro.⁸¹ Similarly, Brazil's 1994 notification on import licensing noted that the import licensing system of Brazil applies for goods entering from or exported to any country except for those covered by UN embargoes.⁸² The import licensing notification of Cyprus likewise noted that imports from certain countries are prohibited in accordance with United Nations resolutions.⁸³ In addition, the 1993 licensing notification of Norway notes that all imports from Iraq and Serbia/Montenegro are prohibited.⁸⁴

The wording of Article XXI(c) does not explicitly provide for UNSC authorised action, which points to the fact that it may be used in pursuance of 'any action' taken within the broader definition of 'maintenance of international peace and security'. This Briefing Note therefore argues that a WTO member state may apply Article XXI(c) as an exception in pursuance of its obligations under the UN Charter as long as the action taken is for the maintenance of international peace and security. This could include the obligation to finance peace support operations and related peace and security measures. The question is then whether African countries, which are WTO members, can use Article XXI(c) as a justification for the implementation of the AU's 0.2% import levy to support the Peace Fund and funding of 25% of peace support operations under the maintenance of international peace and security. This paper will discuss how this may be a possible option for African countries also party to the WTO.

Reconciling WTO obligations and UN obligations in support of the AU's 0.2% import levy

Some scholars posit that Article XXI(c) ensures proper prioritisation between the WTO and the UN, particularly the UNSC.⁸⁵ Arguably maintaining international peace and security by performing obligations under the UN Charter is more important than adhering to GATT rules.⁸⁶ Similarly, some scholars have questioned whether the WTO would be the correct forum to address issues where a dispute concerns political and national security concerns rather than only trade concerns. This argument is especially persuasive when the WTO claims are "inextricably linked" to "other rules of international law," so that the WTO claims could not be decided independently of these other rules.⁸⁷ For example, implementation of the AU's 0.2% import levy is political and concerns funding aimed at peace support operations in line with UNSC Resolution 2320.

⁸⁰ World Trade Organization, [China initiates WTO dispute complaint against US tariffs on steel, aluminium products](#), 9 April 2018. For details see the World Trade Organization, United States- Certain Measures on Steel and Aluminium Products, Request for Consultation by China, WT/DS544/1, 9 April 2018.

⁸¹ World Trade Organisation, [GATT Analytical Index](#) (2012), p. 605.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ See Raj Bhala, ['National Security and International Trade Law: What the GATT says and What US does'](#), *University of Pennsylvania Journal of International Economic Law*, 1998, Volume 19:2.

⁸⁶ Ibid.

⁸⁷ Pauwelyn, J. (2003) *Conflict of norms in public international law: How WTO Law Relates to Other Rules of International Law*. Cambridge: Cambridge University Press.

Article 25 of the UN Charter provides that member states “agree to accept and carry out decisions” taken by the UNSC. In addition, Article 103 of the UN Charter provides that in the event of a conflict between the obligations of member states under the UN Charter and their obligations under any other international agreement, their obligations under the UN Charter shall prevail. This article reinforces the importance of UN member states (which may also be WTO members) meeting their obligations under the UN Charter. Article 103 of the UN Charter could therefore be invoked as a valid provision to override WTO obligations.

The interpretation of UNSC Resolution 2320 is vital in analysing whether it sets out a legally binding decision or merely makes recommendations. The UN Charter does not set rules on the interpretation of UNSC resolutions. Interpretation of UNSC resolutions is different from that of treaties under the Vienna Convention. The International Court of Justice (ICJ) in the *Kosovo Advisory Opinion*⁸⁸ stated that the interpretation of UNSC resolutions may require the Court to analyse statements by representatives of members of the UNSC made at the time of their adoption, other resolutions of the UNSC on the same issue, as well as the subsequent practice of relevant UN organs and of states affected by those given resolutions.⁸⁹

The practice has been for UNSC decisions dealing with threats to peace, breach of peace and acts of aggression to be taken under Chapter VII. However, the ICJ in the *Namibia Advisory Opinion*⁹⁰ held that Article 25 is not limited to only Chapter VII and may also apply in relation to Article 24, which empowers the UNSC with the primary responsibility to maintain international peace and security. UNSC Resolution 2320 recalls the UNSC’s primary responsibility under the UN Charter for the maintenance of international peace and security and also Chapter VIII of the UN Charter. Financing of the peace support operations falls within the ambit of maintaining international peace and security.

Since there is no interpretation of Article XXI(c) by the WTO dispute settlement panels and Appellate Body, a balancing of the WTO obligations vis-a-vis UN obligations is necessary. On one hand, there is the GATT obligation towards MFN principle which is violated by the 0.2% import levy and may arguably be justified by Article XXI(c). State practice has been for countries to argue that Article XXI is not reviewable by the WTO as long as the measure is in a country’s security interests. On the other hand, there is the obligation to maintain collective international peace and security which as argued above primarily falls to the UN with strategic support from regional actors such as, the AU. The UNSC Resolution 2320 supports the AU funding of 25% of peace support operations as part of the global cost sharing with the UN towards funding collective security.

As per aforementioned *Kosovo Advisory Opinion*, the context around the adoption of Resolution 2320 is important to understand the urgency behind securing predictable funding for peace support operations. The unanimous adoption of Resolution 2320 reinforces its importance. Discussion prior and post Resolution 2320 focus on the need to secure sustainable and predictable funding for peace support operations. The AU has taken a firm stance towards financing 25% of its peace support operations shows commitment to cost-sharing, even when a commitment to fund the remaining 75% has not yet been taken at the UN level. Securing sustainable and predictable funding is therefore in the security interest of AU member states to not only fulfil the AU’s project of Silence the Guns by 2020 but also to meet Aspiration 4 of Agenda 2063 aiming for a peaceful and secure Africa.

Conflict situations in Africa have adverse effects not only on human lives but also on the socio-economic development of countries under conflict. Such countries divert resources from productive activities towards addressing the conflict, for example, resources that could have been used to generate growth are instead

⁸⁸ International Court of Justice, [Accordance with International Law of the Unilateral Declaration of the Independence in respect of Kosovo](#), Advisory Opinion of 22 July 2010.

⁸⁹ Ibid, para 94.

⁹⁰ International Court of Justice, Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 [1971] ICJ Rep 16, para. 110.

used to hire more soldiers and buy ammunition. More so, the costs of conflicts continue during the post-conflict reconstruction stage. In Africa, conflicts not only affect an individual state but also have effects on neighbouring countries as well. For example, the ongoing conflict in the DRC and South Sudan has led to displacement of people, resulting in influx of refugees into neighbouring countries which has security implications as resources in refugee receiving countries are stretched. With the increased threats of terrorism, conflict areas serve as conduits for such transnational crises.

It is undeniable that the success of the AU is largely dependent on its ability to self-fund the implementation of its programmes. Apart from peacekeeping operations, through the Peace Fund the AU aims to address the root causes of conflict which requires long-term commitment and long-term access to regular, predictable and adequate financing. More so, securing predictable and sustainable funding will strengthen the AU's comparative advantage in responding rapidly to crises on the continent thereby enhancing the overall credibility and effectiveness of the international peace and security architecture.⁹¹

Given the global debate on securing sustainable financing for peace and security activities, and the recent reduction in funding by the AU's international partners, the AU's 0.2% import levy is a timely and innovative way to secure financing for 25% of AU peace support activities as well as the Peace Fund. While some WTO members have addressed concerns on whether the 0.2% import levy is WTO compliant as it may violate the MFN principle, there has also been support for the 0.2% import levy from WTO members, such as, the EU. The EU has openly expressed its support to the implementation of the 0.2% import levy following consultations of the different relevant departments of the commission. For example, during the 7816th meeting of the UNSC,⁹² João Vale de Almeida, Head of the EU delegation, welcomed the introduction of a 0.2% import levy on eligible imports to finance the African Union Peace Fund. The European Commission (EC) has reportedly offered support to the AUC, providing the necessary technical support to African Member States to implement the decision.⁹³ At the 5th AU-EU Summit, the EU encouraged efforts by AU Member States to follow up on the AU Summit Decision of introducing a levy of 0.2% on eligible imports for the financing of the Union.⁹⁴ The use of the security exception on pursue financing obligations may therefore be justified in pursuance of obligations to finance peace support operations in Africa.

Ultimately, the discussion around whether Article XXI(c) can be justified as a security exception for the use of the AU's 0.2% import levy would benefit from an interpretation by a WTO panel or the Dispute Settlement Body. To date, no such interpretation of the use of Article XXI(c) has been made. In assessing the potential obstacles to implement the import levy vis-à-vis WTO regulations, this briefing Note adopted a broad literal interpretation by linking the AU's commitment to fund 25% of peace support operations through the 0.2% import levy, within the UN obligation to maintain and international peace and security under the UN Charter. Conversely, a WTO panel or the Dispute Settlement Body may adopt a narrow interpretation which either limits the interpretation of Article XXI(c) to UN sanctions as seen in past cases or does not interpret taking 'any action' in pursuance of its obligations under the UN Charter for the *maintenance of international peace and security* to include the AU's commitment to fund 25% of peace support operations through the 0.2% import levy.

⁹¹ United Nations Security Council, [Letter dated 12 June 2017 from the Secretary General addressed to the President of the Security Council](#), Enclosure II- Report on the relevant provisions of United Nations Security Council resolution 2320 (2016) on United Nations assessed contributions for African Union-led peace operations authorised by the Security Council, S/2017/496, 14 June 2017.

⁹² United Nations Security Council, [7816th Meeting](#), SC/12595, 18 November 2016.

⁹³ Donald Kaberuka during the [Consultative Meeting on African Union Reforms](#), Kigali, Rwanda May 7th, 2017

⁹⁴ African Union- European Union Summit 2017 [Declaration](#), Abidjan, Cote D'Ivoire, 29-30 November 2017.

Conclusion

The complexity of modern peacekeeping and conflict prevention means that no single organisation is able on its own to address the challenges involved. The AU is an important partner to the UN in addressing conflict situations in Africa. To date, the EU has been the main funder of AU peace support operations through the APF, but there is a need for the AU to move towards more financial autonomy and ownership of its peace and security activities. As discussed, the AU's 0.2% import levy is fundamental to securing sustainable and predictable funding for peace and security activities. This paper argued that the use of the security exception under Article XXI(c) may be a possible justification for the use of the 0.2% import levy in pursuance of obligations under the UN Charter to maintain international peace and security. The wording of Article XXI(c) of the GATT may be subject to broad literal interpretation to include any action a country may take in pursuance of its obligations under the UN Charter for the maintenance of international peace and security. This could be interpreted to mean the obligation by the AU to finance peace support operations and the Peace Fund. The AU 0.2% import levy offers a sustainable and predictable formula to finance peace and security operations and the Peace Fund as well as the overall budget of the AU. Since there is no WTO Dispute Settlement mechanism's interpretation of Article XXI(c), balancing the WTO obligations vis-à-vis the UN obligations to finance peace and security activities is necessary. Support for the AU's 0.2% import levy through UNSC Resolution 2320 reaffirms that support by the UN to the AU in matters relating to the maintenance of international peace and security, is an integral part of collective security as provided for in the UN Charter.

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