

has happened in the Security Council in the last few months was the result of growing US influence, of being the only superpower, as Ambassador Gharekhan has said, and had it not been for that, the Security Council would have been paralyzed. Second: the reactivation of the Security Council was and still is connected to one issue – that is the Gulf. When you move from the Gulf to any other issue, the Palestinian issue for example, or any other that the United States does not believe is urgent, you will find the Security Council returning to the very poor performance of the last few years. It is a new reality that the UN is acting when the US wants it to act. Perhaps it is not so black and white, but this is, *grosso modo*, the reality.

I don't think the United Nations has really come back to what was meant by the founding fathers or by the Charter. One of my colleagues said, in his analysis of the situation, that the Security Council is becoming the political arm of US foreign policy, as the International Monetary Fund and the World Bank are considered the economic arm of US policy, and an aid to the military arm of US policy. Is this true? I don't believe that. But there are certain indications that the Security Council is performing, because of the United States, in the same direction. This might be beneficial later on, because once the wheel has started moving, perhaps the Security Council will move in a more positive and less double standard, less selective way.

Thomas Franck: If it was Devil's Advocate time I think it is also cup half full time. I think it depends on what your standard of comparison is. Yes, the United States exercised a lot of leverage and played politics very hard to keep a voting majority together on the Security Council, and build a coalition of forces against Iraq.

This was not the way people in San Francisco thought the world would respond to an act of aggression by one country against a neighbour. But it was infinitely better than anything the UN could have conceived of being able to do from 1946, all the way to six months ago. It is just incomparably better than that. It is true that the US was

lead dog but then it was always intended that some countries were going to have to do more of the fighting, and therefore would have to have more of the responsibility in the Security Council. What is striking is the fact that the United States was willing to do a number of things which most hawks in Washington thought were logistically, strategically and militarily unwise, including the 15 January deadline, in an effort to engage the political machinery that is represented by the Security Council.

There is nothing magic about the Security Council, it is just a place where some kind of systemic politics gets played out. In that process, the power of those other players – including the non-aligned bloc, and the Soviet Union and China – is certainly magnified compared to the same kind of situation without that

machinery. The machinery has in fact diluted rather than strengthened the United States as sole player, and that is all to the good.

Now to go on to the question raised by the chair: the founders had in mind exactly what you suggested, that is Article 43, plus the staff committee machinery. But a certain amount of this is a constitution that we are interpreting, and constitutions develop through usage and the UN Charter is no exception. With that rather liberal construction of the parameters of the constitutional instrument one has to review the way in which these Articles have evolved. Since nobody entered into any agreements with the Security Council – for obvious reasons, during the Cold War – to commit forces to collective security operations, two things happened: one of them was, in effect, the invention of the famous Chapter 6^{1/2} for which Brian takes

much blame, responsibility and praise. Six and a half has been one of the extraordinary achievements of a period of virtual stasis in the UN system. So that is part of why the cup is at least half full.

In addition, at least in the otherwise pretty systemically unsatisfactory example of Korea, the system did invent a way of activating a very rudimentary, very unsatisfactory – but the amazing thing was that it was there at all – international force. And so we have a kind of Article 42^{1/2} now which is somewhere between the power of the Security Council to authorize members to do things, and the failed Article 43 which is intended to result in a series of Treaties in which forces are dedicated to decisions of the Security Council.

The ultimate and more desirable pattern for the use of collective security machinery would be if we could gradually develop a preventive force that would discourage the kind of miscalculation that Hussein has made, by there being a ready-made force consisting primarily of countries other than the superpowers. There I think I would go back to the Urquhart formula for peace keeping.

Wood: It is very interesting to see in the discussion in our country around the current crisis that the evolution of peacekeeping had become identified, in very large chunk of the public mind with ▽

INSIDE THE UN CHARTER

Chapter VI of the UN Charter, titled *Pacific Settlement of Disputes*, deals with the UN's role in investigating international disputes and recommending solutions to the parties involved. Chapter VI also gives UN member states the right to bring a dispute to the attention of the General Assembly or the Security Council.

UN "peacekeeping" operations, of the sort in which Canada has traditionally participated, are not enforcement actions as envisaged in Article 42. Peacekeeping is carried out with the consent and cooperation of the parties concerned, and aims to achieve its objective through impartial supervision of cease-fires, truce or armistice agreements and troop withdrawals. "Chapter 6 and a half" is not a change in wording of the Charter, but effectively an improvisation on the existing Charter to allow for the undertaking of peacekeeping operations.

Chapter VII, entitled, *Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*, deals with the "collective security" and enforcement role of the Security Council in maintaining or restoring international peace and security in the event the Council determines that such a threat exists.

Article 41 gives the Council the power to impose non-military measures on parties involved, such as economic and trade sanctions. It is this article which was invoked in the days and weeks immediately following Iraq's annexation of Kuwait. In the event that such actions are inadequate to restore international peace and security, **Article 42** provides for the Council to take, *such action by air, sea or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade or other operations by air, sea or land forces of Members of the United Nations.*

In the case of Iraq's invasion of Kuwait, Article 42 was invoked on 29 November 1990, as Resolution 678.

Articles 43 through 47 provide for members of the UN, at the request of the Security Council, to enter into agreements with the Council to make available armed forces, assistance, and facilities in order to carry out the restoration of peace and security. Plans for the use of the armed force are to be made by the Security Council with the assistance of a "Military Staff Committee" described in Article 47. Since the founding of the UN, action has never been taken by the Security Council to implement Articles 43 through 47. □