

# The UN Security Council and Iraq

## Why it Succeeded in 1990

## Why it Didn't in 2003

## and Why the US Should Redeem it

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The United Nations Security Council has, in the words of UN Secretary General Kofi Annan, “come to a fork in the road . . . (that) may be a moment no less decisive than 1945.”<sup>i</sup> The US Administration precipitated the crisis when, unable to secure Council approval for using armed force against Iraq, it fashioned its own “coalition of the willing” and drove Saddam Hussein from power. The events surrounding the US action and its aftermath have spawned a vigorous debate over President Bush's policies and whether the Security Council in its present -- or any other -- form can play a serious role henceforth in the quest to ensure international peace and security.

In the years between the two wars with Iraq, the disasters in Somalia, Bosnia, and Rwanda gravely tarnished the Council's image. A host of commentators, with American conservatives at the forefront, castigated it for fiascos and ineffectiveness, culminating in its inability to deal with Saddam Hussein's obstructionism in 2002. Although the need for burden-sharing in Iraq's reconstruction has tempered the rhetoric, diehard neoconservatives find the Council an antiquated relic ready for the dustbin of history. On the eve of the US invasion of Iraq, Richard Perle, a prominent neoconservative advising the US government, put it starkly, “coalitions of the willing . . . are, by default, the best hope for (a new world) order, and the true alternative to the anarchy of the abject failure of the United Nations.”<sup>ii</sup>

But the Security Council's record includes significant successes. Its numerous peacekeeping operations have policed truces that ended deadly conflict; its nation-building activities have helped rebuild countries devastated by war from Afghanistan to Cambodia to Namibia; and its economic sanctions played key roles in bringing Libya to account for the bombing of Pan Am 103, and in ending the racist government of colonial Rhodesia. The Council and it alone can confer “legitimacy” for the use of armed force that is recognized around the world, even if great powers, as the enforcers of Council actions, can choose to ignore it with relative impunity.<sup>iii</sup>

The Council's most impressive achievement as a body working together to tackle a major crisis was the liberation of Kuwait. This was no mean feat given shifting political sands in the US and abroad, the enormous cost of such a major war, and the potential fighting power of the Iraqi forces. Regrettably, the ultimate breakdown of the postwar phase came to diminish the luster of the Council's accomplishment and the diplomacy that made it possible.

If the Security Council is as fatally flawed as some assert, why was it able to do the job in 1990-91? This article considers the differences between the two armed showdowns with Iraq, and what the comparison says about the central issues of

Security Council capabilities and the course of American aspirations to global leadership.

### **The Origins of the Security Council Concept**

The two Iraq wars can be looked upon as milestones in the search for an international security architecture -- a set of institutions and procedures to manage disputes among nations and guarantee global peace. To understand and assess the Security Council's efforts to deal with Iraq, one must appreciate the historical context. The following section examines how the Security Council's structure evolved from the experience of the League of Nations, and how, once established in 1945, the Council's capabilities ebbed and flowed with the willingness of its members to work together.

The structure and functions of the Security Council owe much to its predecessor, the Council of the League of Nations, which initially had four great powers -- Britain, France, Italy, and Japan. Four other members of the League Assembly were selected to join the Council on a rotating, non-permanent, basis. Perhaps its most noteworthy innovation was that the League Covenant granted the Council the power to issue verbal, economic, or physical sanctions against states violating international norms. Yet there were a number of problems from the outset. The United States, the largest of the victorious powers and the chief creator of the League, subsequently decided not to join, dealing a blow to the Council's prestige but, perhaps most importantly, undermining future efforts to create a workable system of collective security. Furthermore, the Soviet Union and Weimar Germany were not initially allowed in, although both eventually joined, Germany in 1926 and the USSR in 1934. The lack of concurrent membership at any given time by these three powers meant that putting substance into the concept of collective security remained unattainable. And, as the postwar era entered a period of renewed nationalism -- with the growing power and assertiveness of so-called revisionist powers such as Italy, Germany, and Japan -- the Council was confronted with seemingly insurmountable challenges.

The structure of the League Council also caused difficulties from the beginning. Unanimity was required for all decisions in both the Council and the Assembly, thus leading to frequent paralysis. When the number of non-permanent members increased to a total of 11 in 1936, this merely made unanimity more difficult. Judged by the lofty goals enunciated by its founders, the League Council failed to measure up to much of its original promise, and ultimately found itself unable to perform even its most basic functions. Yet if one assesses this experiment in the broader context of historical trends in the relations among states, it continues to stand, even after nearly a century since its inception, as a remarkable innovation. The Council established a number of important precedents that carried over into the era of the United Nations, in particular the effort to promote collective security and to move away from unilateral great power politics, toward more cooperative, consensual approaches to the problems of the world. Perhaps most importantly, the Council served as a model for the next attempt to create a new and improved council of powers: the United Nations Security Council.

During the Second World War the "Big Three" allied powers of Britain, the United States, and the Soviet Union formulated allied strategy by themselves. This was, however, not a formal organization, and China was gradually, at times grudgingly, accepted as the Big Three evolved into the Four Policemen. France, with her defeat in

1940, did not initially seem to merit much consideration, but ultimately reemerged as one of the permanent members of the Security Council of the UN in 1945.<sup>iv</sup>

### **The Security Council and Global Security, 1945-1990**

Today the Security Council has 15 members, five of whom -- the United States, Britain, France, Russia, and China -- have permanent status with veto power. The other ten are elected to the Security Council by the General Assembly to two-year nonrenewable terms, thus the Security Council is not so much of a great power forum as it would otherwise be. The non-permanent ten are elected on a staggered basis, with five new members brought on board each year. The number of non-permanent members was expanded from six to ten in 1965 but has remained at ten since.<sup>v</sup>

The Security Council began meeting in 1945 with much initial optimism that the world might now embark upon a new era in relations among states. After years of war, the world could be forgiven for succumbing to such optimism. And, in the United States, fear of a repetition of Woodrow Wilson's earlier mishandling of the peace led the Roosevelt and Truman administrations to oversell the Security Council's potential, particularly in the area of achieving security. Yet these high expectations were destined to be dashed. The Cold War, which evolved simultaneously with the history of the United Nations, would temper much of that initial optimism and come to have a profoundly negative influence on the history of the first four decades of the Security Council.<sup>vi</sup>

Initially, it seemed the Security Council might help ameliorate the Cold War, as it did indeed play a central role in adjudicating early Cold War tensions in Iran in 1946, facilitating a Soviet withdrawal. Its action in the subsequent Korean crisis, where large numbers of forces fought nominally under the UN banner, also led many to optimistically believe that the Security Council might loom large in the Cold War. The war which began when North Korean forces crossed the 38th parallel on June 25, 1950 marked the first time that the Security Council invoked chapter VII of the UN Charter to authorize force. The Council met in emergency session, where the Soviet Union had been boycotting the council in protest against the UN's refusal to seat the People's Republic of China. President Truman seized upon the opportunity to use the Security Council to legitimize the western response to North Korea's aggression. With the U.S. leading the way, a series of resolutions passed the Security Council before the Soviet ambassador, Jacob Malik, could return from his boycott and cast the predictable veto. Thus, in retrospect, the collective response to the Korean crisis was something of an anomaly. No member of the permanent five ever again risked boycotting the Security Council.

When the Soviet delegation returned so did the paralysis, and the US sought to use the General Assembly as an alternative peacemaking mechanism. Resolution 377(V), passed in November 1950 at the instigation of US Secretary of State Dean Acheson and commonly referred to as Uniting for Peace, set up procedures for the General Assembly to act when "the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security . . ." The resolution was not binding on members, as are Security Council actions, but it provided for " . . . recommendations to Members for

collective measures, including . . . the use of armed force when necessary . . .” Ironically, United for Peace was first used by the US to censure France and Britain at the time of the 1956 Suez Crisis, pressuring them to withdraw their invasion forces from Egypt. In the same year it was called into play against the Soviets over the Hungarian uprising. Its tenth and last invocation was the 1997 Emergency Special Session called at the behest of Arab States to censure Israel. Although the United for Peace process can have a psychological impact, it is no more able than the Security Council to compel action by a major power and, on most issues these days, the US would put little credence in an outcome determined by the Assembly’s majority of developing nations.<sup>vii</sup>

## **Winds of Change on the Security Council**

After years of Cold War inertia, currents of change began to stir the Council as the reforms of Soviet Union President Gorbachev took hold in the 1980s. The Iraq-Iran war proved the telling barometer. In 1980, Iran was a pariah state due to the ongoing US Embassy hostage crisis, and when Iraq attacked without prior warning, the UN response was muted. Although Iraq was clearly the aggressor, the US and others tilted in its favor, offering support to prevent the worse evil in their eyes, namely Iranian victory. By 1987, after horrific losses on both sides, the war was winding down and the new foreign policy of the Soviet Union opened the way for the Security Council to compel a settlement that kept either side from winning and thus preserved a power balance of sorts in the region. More than rhetoric, Council Resolution 598 held out the possible use of force by invoking Articles 39 and 40 of Chapter VII in its demand for observance of the truce, which then took hold under a Council-mandated observer mission.

Eighteen months later in December 1988, Gorbachev in a speech at the UN declared the Security Council would play a key role in the Soviet Union's changed approach to foreign affairs.<sup>viii</sup> His choice of venue for what in hindsight appears to have been a unilateral declaration of the Cold War's end seemed to demonstrate a vision on his part with the Security Council at center stage in a new international system that could now come into effect after having been postponed by East-West rivalry since 1945.

In the wake of Gorbachev's address, peacekeeping evolved in new directions. This “second generation” of peacekeeping was notable not only for the increasing degree of consensus among the permanent five -- particularly Moscow and Washington -- but also for a more concentrated, although not exclusive, focus on intrastate conflicts, as opposed to those between states, as well as an expansion of Council concern into peacemaking and nation building, areas rarely explored in the past.<sup>ix</sup> The new spirit of cooperation opened the doors for the Council to concern itself with geographic areas or spheres of interest previously considered “off limits.”<sup>x</sup>

As noted above, the Council in 1987 had been able to agree on an intervention to end the Iran-Iraq war, invoking articles of Chapter VII to threaten the use of force and compel a formal cease-fire. With the three subsequent years of nascent collaboration between East and West under their belts, delegates spoke of real possibilities that the Council would finally be able, in the UN Charter's words, to “end the scourge of war.” The Council's driving core, the permanent five, had reinforced their cooperation with a

procedure for regular consultation amongst themselves on important issues, meeting outside the UN under a rotating chairmanship. There was an almost tangible desire to forge consensus and “veto” had become a dirty word.<sup>xi</sup>

## **The Security Council and the Gulf War of 1990-91**

By mid-1990 an atmosphere of teamwork pervaded Security Council chambers. Adding to the halcyon mood, the American Administration under the senior President Bush enjoyed considerable credibility at the UN despite such aggravations as US arrears and America's widely denounced unilateral invasion to unseat Panamanian dictator Noriega in late 1989. The UN community drew comfort from the fact that the President himself had served as America's Permanent Representative from 1971-73. Moreover, the appointment of Thomas Pickering, a distinguished career diplomat, seemed to underscore that the Administration would take a serious, professional approach in its dealings with the UN. And, indeed, when the Iraq-Kuwait crisis erupted, the President and key advisors, gave high priority from day one to working with the Security Council and the international community.

The “new face” of the Security Council did not, however, dissuade Saddam Hussein from his second armed attack into a neighbor's territory, this time Kuwait. Iraq had long nurtured grievances against the Emirate, alleging illegal extractions of oil belonging to Iraq and claiming Kuwait itself to rightfully be Iraq's 19th province. As he massed his troops on the Kuwaiti border, the Iraqi leader may have drawn mistaken conclusions from the UN's indifference to his 1980 attack on Iran or from the western support he received as that conflict wore on. In fact, in the months preceding his attack on Kuwait, he had received ambiguous or confusing signals from western officials, including in a much publicized meeting with the US Ambassador. In any case, in the early hours of August 2, more than 150,000 Iraqi troops invaded Kuwait and chased the ruling al-Sabah clan into exile.

The battle between the two oil-rich nations was one sided militarily and politically. Iraq was a large country, militarily strong (despite its losses in the war with Iran), and clearly aspiring to regional dominance, while in contrast Kuwait was small, militarily weak and pro-western. The world was prepared to condemn Saddam's unprovoked aggression, but to put armies in the field and chase him from Kuwait was another matter. There was a real possibility the Iraqi dictator might have held onto Kuwait or its northern oil-fields if the US did not find the resolve to oust him and mobilize the needed force. The Security Council looked to the US for leadership.

The Iraqi invasion of Kuwait on August 2 caught Security Council members and their capitals by surprise, and put their newfound cooperative spirit to the test. Washington, Arab, and European governments, Moscow and Beijing had all calculated that the movement of massive Iraqi forces to the Kuwaiti border was merely a pressure tactic or bluff. They were wary, perhaps, but not overly concerned. Thus, Council representatives were thus taken aback when the news reached New York late on August 1<sup>xii</sup> that Iraqi tanks, easily crushing opposition, were well on their way to Kuwait City. From a Security Council delegate's point of view, the good news was the clarity of the reports -- there was no doubting the essential element of unprovoked Iraqi aggression; the bad news was that there was no game plan, no draft resolution text in hand to deal with the situation.

## **Security Council Resolution 660: A Line in the Sand**

In New York, Ambassador Pickering swung into action about 9:00 p.m., August 1 within minutes after receiving news from Washington of the Iraqi invasion. His phone consultations with administration officials swiftly reached consensus to proceed on a Security Council resolution, and he immediately requested an emergency meeting under the Council's standing commitment to convene on one hour's notice. Not all members had quick communications and several needed more time to get instructions from capitals. No one quibbled over the delay of two to three hours and the 15 Council delegates began informal consultations around midnight.<sup>xiii</sup> Pickering presented a draft with the strongest possible language that could gain approval on such short notice. Delegates soon hammered out Resolution 660, which in its essential elements:

- invoked Articles 39 and 40 of Chapter VII of the UN Charter, a formulation which followed the precedent set in the case of the Iran-Iraq cease fire resolution and made the vital link to the prospective option of military force;
- “condemned” the Iraqi action;
- “demanded that Iraq withdraw immediately and unconditionally all of its forces to positions...” of August 1 (the initial US language had spoken of the Iraq-Kuwait border); and
- foresaw “further steps to ensure compliance,” and called for immediate negotiations between Iraq and Kuwait, but no one expected this appeal to be heeded any time soon.

During the Council's review of the American draft, there had been no serious disagreement on substance. Only Yemen balked, and informally its affable Permanent Representative suggested it was not a question of approving the invasion, but rather obligations arising from the Yemeni President's personal friendship with Saddam Hussein.<sup>xiv</sup> The one material but minor change from the US draft language followed from a sensible suggestion that its reference to the Iraq-Kuwait border could engender controversy over exactly where the line was, whereas reference to positions of August 1 would be indisputable.

Amazingly, within less than eight hours from the first news of the invasion, council members had agreed on a text that committed the international community to oppose the Iraqi occupation of Kuwait. Before dawn on August 2, the Permanent Representatives moved to the familiar horseshoe table for predictable approval of the resolution and public statements. Not only the Soviet Union and China were fully on board, but so too Cuba and Ethiopia,<sup>xv</sup> at the time self-declared foes of US “imperialism.” Pickering was able to cast the US vote and catch a shuttle flight to Washington for a session of the US National Security Council.

## **Sanctions and Troop Deployments: Putting in the Teeth**

Washington's first NSC meeting on August 2 did not develop a broad consensus on overall strategy, but it was decisive on the need for immediate sanctions against Iraq, particularly to cut off the country's oil revenues. Pickering returned to New York and circulated a draft resolution, which drew on tested language from the Rhodesian sanctions (Security Council Resolution 253) for a comprehensive embargo, with potential exceptions only for food and medicine.

Spurred by emerging details of Iraqi brutality, Council members accepted strong language. The resolution went beyond 660, citing not just Articles 39 and 40 but simply "Chapter VII," thereby implicitly embracing the Chapter's full range of options, including use of force. It also established a Committee of the whole to oversee implementation.<sup>xvi</sup>

At US and British insistence, the preamble of Resolution 661 reaffirmed the "inherent right of individual or collective self-defense" under Article 51 of the UN Charter, thereby buttressing the legal case for a US-led coalition to act at Kuwait's request if the Security Council should later fail to approve the use of force. Resolution 661 passed August 6, with Cuba and Yemen abstaining -- the fact that neither voted no signaled their acceptance of the Council's action in principle.

Parallel to the Council's deliberations, the US rattled its sword, first to deter any aggression against Saudi Arabia and then to increase pressure on Saddam with the modern version of gunboat diplomacy. US troops began deploying to Saudi Arabia during the early days of August when there was genuine concern that the Iraqis with their superior numbers might cross the border from Kuwait to seize a chunk of Saudi territory. The Saudi government initially hesitated, but faced with overwhelming Iraqi forces on their doorstep, they permitted a steady American buildup on Saudi soil.

Resolution 661 did not deal specifically with enforcement and was soon challenged by the possibility of tankers defiantly setting sail with oil. When, ten days after the passage of 661 on August 16, the US announced it would begin boarding ships to enforce the embargo, China and other members expressed unease at the American use of military force in the absence an explicit Council authorization. The US, although still uncertain of the Council's proposed language, took the point, and Resolution 665 was passed without serious opposition on August 25, approving a naval blockade and authorizing enforcement action by member states.<sup>xvii</sup> Resolution 670 of September 25 then virtually eliminated aircraft flights to and from Iraq.

Before August was out, major controversy arose over the implementation of sanctions. The US, aided by the UK, had taken a very hard line on the 661 Committee and blocked consent for virtually all shipments, even though the language of the resolution provided an exception for food and medicine. Muslim charity groups, for example a women's group in Algeria, appealed unsuccessfully for permission to send aid to Iraqi women and children. Then a crisis blew up over third country nationals marooned in Kuwait and cynically denied assistance by the Iraqi government.<sup>xviii</sup> India with 100,000 nationals at risk, loaded a ship with relief supplies, threatening to sail without Security Council consent if it came to that.

India's ire forced the Council's hand. Resolution 666, passed September 13 with Yemen and Cuba again abstaining, provided for humanitarian shipments subject to strict monitoring of distribution in Iraq by international humanitarian organizations (the language at US and British behest), however, imposed such stringent requirements that the US/UK veto threat on the sanctions committee and Iraqi refusal to accept intrusive

inspections continued to prevent virtually all relief efforts. The seeds thus sown were to produce major discord for over a decade.

## **The March to War**

Although force had been authorized for the naval blockade, the prospect of a military attack to drive Iraqis from Kuwait remained controversial through September and October. The idea that sanctions could do the job, or at least should be given ample time, appealed to many, including some Congressional leaders. By October, however, the President and his closest advisors came to believe armed intervention would be necessary to free Kuwait. Major US force augmentations were announced in late October.

The President opted to try for UN Security Council action to set a deadline for Iraqi withdrawal. Britain's Margaret Thatcher and some in Washington argued for military action without further ado, fearing a negative Council reaction could make later use of force more problematic. And in fact, most Europeans, Moscow, Beijing, and Arab allies were obviously wavering on whether and when to contemplate military force. Secretary of State Baker was dispatched to garner support -- votes on the Security Council and contributions to the coalition effort. He believed the Soviets were key and carefully worked out acceptable language with his Russian colleague, Edvard Shevardnadze, to detour around sensitivity to the phrase "use of force." They agreed on "all necessary means." The wording also pleased China, which gave up its principled stand against military action and agreed not to veto.

An historic meeting of the Security Council passed Resolution 687 on November 29 with Foreign Ministers replacing their Ambassadors for the vote. Cuba and Yemen, espousing antiwar sentiments, voted no, and China abstained. Resolution 687 gave Iraq "one final opportunity" to comply with Council decisions. If it failed to do so by January 15, the resolution authorized member states to "use all necessary means." On January 9, as a last gesture from the US side, Secretary Baker met with Iraq's Tariq Aziz in Geneva, but the Iraqis were unyielding. The US administration still had to win over Congress. Resolution 687, according to James Baker, would be used to shame the opposition on the Hill.<sup>xix</sup> The failure of the last ditch meeting in Geneva evidently tipped the balance, and on January 12 Congress legislated authority for US military action. The Senate vote of 52 to 47 indicated just how close the margin was.<sup>xx</sup>

The war itself was short-lived. On January 15, the US began air strikes and on February 24 unleashed Desert Storm on the ground. Iraqi resistance crumbled and the US called a halt to coalition operations after destroying much of the fleeing Iraqi armor columns. In response to criticism for not ordering the forces to go on to Baghdad and topple Saddam, Bush later wrote he did not do so because it would have meant going beyond the UN mandate, shattering the coalition, turning the whole Arab world against the United States and making the the Iraqi leader into a martyr. The President and close advisors expected Saddam would fall from power in the wake of his humiliating military defeat.<sup>xxi</sup>

With the collapse of Iraqi forces, the Council moved to impose a postwar regime that would not only maintain sanctions to compel Iraq's complete disarmament, but also extract reparations and demarcate the Iraq-Kuwait border. Resolution 686 on March 2

set forth basic terms for a cease-fire, and a month later, on April 3 Resolution 687 laid out the Council's requirements in detail, including the establishment of the UN Special Commission on Iraq (UNSCOM). Implementing the main features of Resolution 687 -- continuation of sanctions and the ambiguity of criteria for lifting them, as well as the complex requirements for UNSCOM operations -- was to generate enormous controversy, leading inexorably to a poisonous split within the Permanent Five, between the US and UK on the one hand, France, Russia, and China on the other.

Saddam's suppression of postwar Kurdish and Shia uprisings challenged the Council and found its unity and resolve wanting. Although Resolution 688 "condemned" the Iraqi government and "demanded" an immediate end to the repression, this time words remained just words. The resolution conspicuously omitted any reference to Chapter VII and there was no consensus on any serious follow-up action. The US and British, however, chose to interpret Resolution 688 as conferring authority for establishing "no-fly zones" and deployed combat aircraft to enforce them for the next 12 years. The first was declared soon after the war in 1991 to protect a Kurdish-dominated zone in Northern Iraq and the second the following year to inhibit Iraqi air operations against Shia citizens in the South. While the French joined the northern no-fly zone in the beginning, they withdrew after the situation stabilized.<sup>xxii</sup>

### **The Security Council Between the Iraq Wars: A Decade of Missed Opportunities, 1991-2002**

The Security Council's prestige and effectiveness were gradually undermined in the years after the first Gulf War, as the Council suffered major setbacks in Somalia, Rwanda, and the Balkans. In Somalia, the consequences of the failure of the UN mission were immense. While the UN had scored a number of successes on the humanitarian front, the loss of a total of 147 peacekeepers received most of the attention. Among other unhappy consequences, the United Nations had little success establishing even the most basic of Somali state institutions. The crisis also caused American public opinion, in the wake of a sometimes hysterical blizzard of media coverage critical of the operation, to question the necessity of US forces being used in areas not considered vital to American interests.<sup>xxiii</sup> Somalia delivered a serious blow to those who had advocated that the Security Council should increasingly take an interest in humanitarian interventions.<sup>xxiv</sup>

Missteps in Rwanda and Bosnia led to far greater losses of life on the ground. In Rwanda, the very recent memory of Somalia contributed to Security Council paralysis and the phenomenon of "humanitarian fatigue" which resulted in the Council largely standing aside as 800,000 Rwandans were slaughtered in one of the worst acts of genocide since the Second World War.<sup>xxv</sup> Whereas it can be argued the UN's culpability for the genocide in Rwanda was largely one of neglect and omission, in Bosnia the Security Council was heavily involved from the very beginning of the conflict. Despite this early attention of the Security Council and the ultimate dispatch of 40,000 peacekeepers, Bosnia descended into madness, with the death of perhaps more than 250,000 people. The Security Council was unable to lift the long siege of Sarajevo and many of its proclaimed "safe areas" ultimately collapsed, the most controversial being the eastern Bosnian enclave of Srebrenica in July 1995, which resulted in the death of an estimated 10,000 Bosnian Muslims. Then in the subsequent crisis in Kosovo, the

Security Council found itself, in the face of divergent views of the permanent five, unable to take action, thus precipitating NATO bombing of Serbia.

Furthermore, through the 1990s, there was a crumbling of support for the US/UK position toward Iraq on the Security Council in part due to eroding support for US-inspired sanctions, and in part due to disagreement among the permanent five over the UNSCOM mission and mandate, as well as the maintenance of the no-fly zones over Iraq. The sanctions imposed by the Security Council in August 1990 and maintained thereafter grew increasingly controversial as evidence mounted of the dire humanitarian situation in Iraq. The Security Council established the "Food for Oil" program whereby Iraq could export a limited amount of petroleum in exchange for the purchase of humanitarian supplies from abroad. Iraq's resistance to UNSCOM's inspections resulted in the December 1998 bombing campaign by the US and UK.<sup>xxvi</sup> Yet, throughout the decade after the first war with Iraq, only Britain consistently supported the US position on the Security Council with regard to Iraq, while France, Russia, and China criticized the US approach, arguing that it was both ineffective and unduly harsh. Saddam Hussein largely escaped blame, even though he used the oil proceeds to build palaces rather than feed Iraqi children.<sup>xxvii</sup>

## **9/11 and Washington's Unilateral Course**

The September 11, 2001 attacks on New York and Washington seemed initially to restore the Security Council's relevance. Within hours of the tragedy, the Council passed Resolution 1368, which unequivocally condemned the attacks, and soon followed with Resolution 1373, which obligated member states under Chapter VII of the Charter to deny all forms of support or safe haven to terrorists.<sup>xxviii</sup> To assist in carrying out the dictates of these resolutions, the Council established a special Counter Terrorism Committee (CTC). Without more political teeth and more adequate funding, however, the CTC could not undertake a serious enforcement role.<sup>xxix</sup>

Useful as these resolutions and the CTC were, Washington declined to engage the UN in a major way as part of its response to 9/11. The US did not seek a mandate from the Council before its invasion of Afghanistan on October 7, 2001, arguing it already had adequate authority under Article 51 of the UN Charter providing for self-defense.<sup>xxx</sup> Moreover, after its victory on the ground, Washington set up a postwar security regime in Afghanistan independent of the UN, and also unilaterally orchestrated the reconstitution of the government. The UN's envoy was granted only a token political role, although UN institutions were, not surprisingly, called on for maximum humanitarian assistance. In sum, the year following 9/11, rather than uniting the UN and US in a focused campaign for the war on terror, drove wedges between them in large part stemming from divergent notions of what constitutes terrorism and what responses are acceptable.

After the dust settled in Afghanistan with Osama bin Laden and surviving Taliban leaders on the run, Washington turned its attention ever more insistently to Iraq. The US asserted that a preemptive war against Iraq was justifiable as part of the war on terror, alleging Iraqi preparations to use WMDs and links to terrorists including al Qaeda. Tony Blair signed on, but the French and Russians balked in favor of a more sympathetic

approach to Baghdad, relying on UNMOVIC inspections and carrying forward their own ongoing efforts to expand trade opportunities and ease the UN sanctions regime. Bitter wrangling persisted over the oil-for-food program, and a majority of Council members remained skeptical of the US charges against Iraq and the intelligence presented to support them. Beyond the issue of Iraq itself, the Bush Administration's new doctrine rationalizing preemptive war alarmed many governments. For some on the Security Council, the US position seemed to undermine basic principles of preventive diplomacy and collective security.<sup>xxxix</sup>

### **The Security Council and the Second Iraq War 2002-2003**

As arguments over Iraq headed toward a showdown in the early fall of 2002, the Security Council was at best stumbling. Notwithstanding an occasional success, it had been riven by a decade of discord over issues such as sanctions on Iraq, ethnic conflicts in the former Yugoslavia, and the Arab-Israeli conflict. The Council was further disconcerted by the attitudes of a US government with many key figures viscerally opposed to a strong UN. Washington's increasingly strident anti-Iraq rhetoric and its evident unilateralist disposition bedeviled permanent five cooperation and widened the gap -- almost ideological in nature -- between the US and UK on the one side and France and Russia on the other. China sided with the latter camp because of concerns over perceived US readiness to intervene in other nations' affairs.

The second Iraq war thus unfolded in a context substantially different from that of 1990-91. In the first instance, it was colored by the events of 9/11, which put Washington on a more aggressive path, using the terrorist threat as rationale for its national security strategy of preemptive attacks in the name of self-defense, although others would argue such a policy is contrary to the UN Charter's Article 51.<sup>xxxix</sup> Driven by its ideological convictions and an apparent confidence in its ability to carry American public opinion, the Bush administration by mid-2002 was clearly determined to wage war against Iraq without the kind of clear provocation that existed in 1990 and, if need be, without the support of the international community beyond its "coalition of the willing."<sup>xxxix</sup>

By September 2002, the Permanent Five were hopelessly divided over Iraq. Where one sits determines how one assigns blame for the failure to resolve differences prior to the American-led invasion of March 2003. Those who favored military action, especially in the US and Britain, point the finger at the French, Germans, and Russians for softness toward Saddam Hussein. Whereas many citizens of those countries and numerous other persons of a "progressive" bent fault the Bush administration for an unjustified determination to go to war regardless.

### **With or Without the Security Council**

President Bush threw down the gauntlet on Iraq in his watershed speech to the General Assembly on September 12, 2002. Saddam Hussein must change his ways, Bush insisted, or action would be unavoidable. His remarks were widely and correctly interpreted as promising the US would go to war on its own with coalition partners if the UN failed to act strongly enough. American diplomats began soundings on a Security

Council resolution to authorize the use of force if need be. The British signed on, but France, Russia, and China argued for more time and greater reliance on UNMOVIC and its inspections.

Opposition to war from within the US itself was effectively overcome when Congress on October 11 passed legislation opening the road to war with Iraq. PL107-243 authorized the President to use armed force to 1) defend the national security of the US against Iraq and 2) “to enforce all relevant United Nations Security Council resolutions regarding Iraq.” Neither the Congress nor the President seemed bothered by the irony of defending Council wishes against the wishes of the Council. With war powers in hand after October 11, the Administration had no absolute need to refer again to the Security Council, although polls continued to show that a clear majority of Americans preferred to act in concert with the UN.<sup>xxxiv</sup>

Evidently in response to the US public’s concerns, Washington on October 25 formally engaged the Council by presenting a draft resolution which, similar to Resolution 660 of 1990, would have given an ultimatum to Saddam Hussein and consent to military action if he failed to comply. The French and Russians emphasized reliance on UNMOVIC inspections. UN Security Council Resolution 1441, passed unanimously by the Council on November 8, was an unhappy compromise.<sup>xxxv</sup> Reflecting US demands, it strengthened the UN sanctions regime with terms almost impossible to meet, and it declared Iraq to be “in material breach” of its obligations. But, unlike Resolution 678, it contained no trigger to ratify any future US military action. For the next several weeks, acrimonious discussion continued among governments (and on the streets) as to whether there was in fact any merit to the US claim of an imminent threat from Iraq such as to justify war. The US and Britain tried hard to make their case. On February 5, Secretary of State Powell presented the Council with a detailed intelligence brief which purported to expose a range of Iraqi WMD programs. The presentation markedly swayed US public opinion, but was not persuasive to the other powers on the Council. Soon thereafter, UNMOVIC reported it had as yet found no definitive evidence of WMDs in Iraq.

Unmoved by UNMOVIC's report, the US, Britain, and Spain introduced a draft resolution on February 24 with language that could serve as the “trigger” by approving, in whatever ambiguous terms, military action against Iraq for failure to comply with Resolution 1441. Overcoming the French/Russian veto was a long shot, but the White House evidently hoped for a public relations victory by getting the nine vote majority required for passage of a Security Council resolution when there is no veto.<sup>xxxvi</sup> There was not enough give from the seven nonaligned members, however. Unable to garner nine sure votes, and with a veto still certain in any case, the US and its coalition partners set their invasion in motion.

### **Postwar: the Security Council and the US Collection Plate**

The US did not require Security Council approval for its invasion of Iraq, but it did need the Council's authorization to untie revenue from Iraq's oil.<sup>xxxvii</sup> The first step was relatively elementary: the passage of Resolution 1472 passed on March 28, freeing up funds and implementing contracts already in train under the oil-for-food program. The most critical issues, however, were not addressed in this initial Council action: control

over future oil revenues, ultimate responsibility for government of the country and the source of funds for the requisite, hugely expensive reconstruction of infrastructure. The Russian Foreign Ministry was quick to point out that the wording was not an *ex post facto* legitimization of military action and that the US coalition was referred to as the "Occupying Power," and as such was responsible in Moscow's view under international law for "solving humanitarian problems" in Iraq.

Despite the bitterness engendered by the debates over Iraq, it became apparent that the US and the Security Council would have to work together on rebuilding Iraq. The French and Russians blustered, but withheld their veto power, and Resolution 1483 of May 22 gave the Americans their essential next requirement by lifting all nonmilitary sanctions and transferring control of oil revenues to the occupation authority, thus resolving legal questions which had held up oil sales. In response, the US went along with a somewhat expanded role for a UN Special Representative and left the door open for later consideration of UNMOVIC inspections. On August 14, another small corner was turned on the road to reconciliation within the Council when Resolution 1500 "welcomed" the establishment of the US-sponsored Governing Council of Iraq, although it pointedly avoided conferring any badge of authority. Furthermore, how much legitimacy a US-sponsored Iraqi Governing Council will have in the eyes of the Iraqi peoples remains uncertain.

The bedrock questions of Iraq's political evolution and reconstruction remained unanswered months after Coalition forces overthrew Saddam Hussein. A period of tough bargaining and continued differences between the US and other Council members seems certain: whoever wins the US Presidential election in November 2004, neoconservative thinking will remain a strong influence in Congress. How these issues play out will shape not only the fate of Iraq, but the future look of global security architecture and the role to be played henceforth by the Security Council, which suffered a grievous loss of public confidence in the wake of the disputes over Iraq.<sup>xxxviii</sup>

## 1991 v. 2003

Why was the outcome on the Security Council so different in 2002-2003? It's mandate and operating procedures changed not one whit between the two wars with Iraq. The five members with veto powers of course remained the same. The 10 non-permanent members rotated, but their overall political make-up was little different: a couple of westerners, the usual contingent of nonaligned movement states from Latin America, Africa and Asia, including the presence in 2003 of Arab Syria to match that of Arab Yemen in 1990.

Two major factors can perhaps be singled out to describe the differing outcomes: the extent of the threat to international peace and the leadership of the US as the world's only superpower with the capability to deploy decisive force.

1) The nature of the crime. Saddam's armed attack in 1990 on its much smaller neighbor state was perceived by virtually all UN Member-states as unprovoked aggression that required a Security Council response under the Charter. The issue quickly became whether to use military power to remove the Iraqi army or to squeeze it out over time through sanctions. In the second confrontation, by contrast, there was no

such event to instantly clear the minds of governments. The nature of the threat posed by Iraq in 2002 was hotly disputed, the facts were fuzzy, and when the pivotal nations represented on the Council could not find consensus, they split into two opposing camps. Council unity is always problematic: the nonaligned contingent has had irreconcilable differences with the US for years over Arab-Israeli issues, and the case of the former Yugoslavia also illustrated the lingering gap between East and West. The Iraq crisis of 2002/3 showed that even western democracies with deeply shared fundamental values will not be able to cooperate when their government leaders, whether driven by political-economic considerations or public opinion, perceive the problem to be of a vastly different magnitude.

2) US leadership and 9/11. The Administration of the senior President Bush was predisposed in 1990 to forge an international coalition under UN auspices, although it reserved to itself the ultimate decision on using force under the right of self-defense for Kuwait. At the time the US bid for Security Council cooperation was a bold step given uncertainty at home, the initial hesitation of critical allies such as Saudi Arabia and Egypt, and the unpredictability of the Soviet Union and China. In the first three months after Saddam's August 1990 invasion of Kuwait, there was a substantial body of opinion in the US and abroad that favored sanctions as the main instrument to bring Saddam to heel. But the US Administration successfully argued that Kuwait should be freed without delay through military action. Of equal import, Washington made clear that it could assemble sufficient force to do the job without fail -- the "job" of course did not include occupying and rebuilding Iraq, a task that could not be so easily guaranteed. In the end Council members were responsive to US proposals largely on their merits, although the US was not above using pressure tactics to influence waverers.

In 2002-2003 the younger Bush, along with his closest advisors and some leaders of the Republican-controlled Congress, viewed the UN as largely untrustworthy and obstructionist. Spurred by the events of 9/11, the US had a plan of action -- war -- that was assured of success, but its objectives exceeded those deemed acceptable by other Council members, in particular France, Russia, and China (and Germany after January 1, 2003). While there is little likelihood the Council could have been persuaded to support the use of force, the US take-it-or-leave-it approach appeared to rule out compromise, maximize resentment and undercut the basis for post-combat cooperation.

In any event, Anglo-American forces invaded Iraq in March 2003 and within several weeks declared "victory." But, in the wake of the military successes of April 2003, it was by no means clear what the ultimate fate of Iraq would be. In fact, history seemed not to be cooperating with the forces of occupation. Washington (despite British opposition) initially blocked a larger UN role in Iraq, and thus pressed ahead with plans to pacify the region and its restive populations itself. In the face of ongoing civil chaos throughout Iraq (reminiscent, one might add, of the resistance to British domination of Iraqi society during and after the mandate),<sup>xxxix</sup> the U.S. began calling for a more proactive role for the United Nations in Iraq, an appeal jeopardized when the UN headquarters in Baghdad was destroyed in August 2003 with significant loss of life, including the head of mission, Sergio Vieira de Mello. What remains to be seen, and what most observers have failed to note, is that the fate of Iraq will ultimately be determined by the Iraqi people themselves, not by the fiat of the Anglo-American forces

of occupation. If the past history of Iraq offers any instruction, the omens bode ill for outsiders seeking to determine Iraq's destiny.

Underlying the differences between the two Security Council cases is the question of whether the 1990-1991 success was a fluke -- like the response to the Korean War -- or a precedent relevant for the future. Conversely, was 2002-2003 more a result of Florida presidential election ballot counts or a revelation of the Council's fatal flaws that require rebuilding from the foundation up? The following section offers some judgments.

### **Conclusions: What is to be Done?**

The invasion of Iraq and its aftermath have spawned a vigorous and often confusing debate over the future of the Security Council. Is it the right institution for the job; how useful is it; should it be done away with; should it be reformed and if so how? What should the US advocate in the wake of its experience before, during, and after the lightning quick coalition victory of 2003?

The benefits derived with Security Council engagement in the first Gulf War were enormous. For starters, other nations provided \$54 billion for the war effort, defraying 88 percent of the \$61 billion total US military costs.<sup>x1</sup> Sanctions voted by the Council had the force of international law immediately upon passage by the Council. The legitimacy or political cover afforded by Council approval went far to defuse potential religious or ethnic resentments. And additional troops, such as those contributed by France and Egypt in Desert Storm, if not essential to victory, did their part on the battlefield and conveyed an important political message of unity and legitimacy.

The "coalition of the willing" of 2003 obviously did not go nearly so far to share the pain and work. While the Bush administration still argues that the invasion was necessary, doubts have grown about the rationale for military action. It is perhaps impossible to say that a serious effort to impose "smart" sanctions and make UNMOVIC work would have brought a better outcome, but US inflexibility and evident disdain for the Security Council surely maximized resentment and minimized the possibilities for compromise.

The impasse at the Security Council in 2002-03 was the end of a downward spiral that started even before the end of Desert Storm in 1991. The Iraq policy of US Administrations through the 1990s was caught between hawks at home who demanded strong measures against Saddam and others abroad who wanted to return as soon as practicable to business as usual with the Iraqi government. Over the decade, UNSCOM inspections were finally ended, the sanctions regime was weakened even as Saddam won the propaganda war by blaming the US for deaths of thousands of children, and the French and Russians became entangled in the future of Iraqi oil. Thus, even before the terrible events of September 11, 2001, the split within the Permanent Five of the Security Council was virtually irreconcilable. By 2002-2003, the gut issue had become whether the Perm Five would at best find a way to agree to disagree.

### **Does the US Really Need the Security Council?**

The primary purpose served by Security Council approval of military action is the conferral of "legitimacy," in effect endorsement by the international

community. Secretary General Annan's "fork in the road" represents a choice in his view between what is now "the unique legitimacy provided by the United Nations"<sup>xli</sup> and an unfilled, potentially dangerous, void. The Security Council is the only body that can confer internationally recognized legality. Many neoconservatives deride the notion of Security Council legitimacy. They find it meaningless because it hinges on the approval of countries, like China, which they believe is not fit to stand in judgment of the United States, or France or Russia, which may (heaven forbid!) act upon narrow national interest. Nonetheless, the fact remains that a Security Council mandate is the most credible measure of world opinion and has a recognized function in international law, however imperfect the system may be. Without the Council's blessing, one group's knight errant in shining armor can be another group's wild west bandit in the movie classic "Treasure of the Sierra Madre," who, when asked to prove his authority, responded, "I don't need no stinkin' badge."

The Security Council's worldwide legal reach is especially important whenever sanctions are at issue. The UN Charter obligates member nations to carry out Council decisions,<sup>xlii</sup> thus providing an international framework for implementation of embargoes on trade, transportation or financial transactions. Absent a Council fiat, some basis in a treaty or international agreement is required. The Security Council's post September 11 terrorism resolution<sup>xliii</sup> requires all countries to prosecute terrorists, freeze their assets and take steps against funding and recruitment -- within a few months over 170 countries had designated official points of contact for coordination. This running start could not have been achieved otherwise without complex, time-consuming negotiations, government-by-government.

When the US has proceeded on its own, there has been a price to pay, although not an unbearable one for a superpower. The US military actions to force regime change in Grenada and Panama elicited reproach from many quarters, but no nation, took any serious action, and within months the events faded from view. Nonetheless, such American interventions doubtless linger in memories and contribute to resentment of American power -- how much Security Council approval would negate this factor is difficult to say. There is little doubt, however, that billions of dollars would flow from an amicable arrangement that led to Council approval for reconstruction of Iraq in 2003 and beyond.

In any case, for most of the last 60 years the world has survived without an effective Security Council. As noted in preceding sections, the confrontation between East and West neutralized the Council soon after it came into being. For the next four decades, the Council was able to deal only with minor crises that did not affect vital interests of the veto-wielding powers. After the Cold War it flexed its muscles briefly, only to find itself within a short time once again hobbled by Perm Five disunity. When Americans dissented on Arab-Israeli issues or the Russians went their way on the former Yugoslavia, there was grumbling -- but few pronounced the Council terminally ill, until the American outbursts in 2002-2003.

While the US may be able to act without Security Council approval, it might prove to be unwise -- and ultimately disadvantageous -- to discard the Council like an old shoe. Intervention by a coalition of the willing should be seen as regrettable and temporary, lest a minority group of nations, self-selected by virtue of wealth and power, become an unrestrained world policeman. To move in this direction gives up on the

progress made since 1945 toward a rule of law. As Michael Ignatieff has put it, “The signal failure of American foreign policy since the end of the Cold War has not been a lack of will to lead and to intervene; it has been a failure to imagine the possibility of a United States once again cooperating with others to create rules for the international community.”<sup>xliv</sup>

## **Would Security Council Reform Help?**

Can reform of the Security Council make it more supportable in the US and assure it a more effective role on the international stage? Criticisms of the Council have focused on three issues: its membership and voting makeup; procedures that allow countries like Syria to be seated; and weaknesses in its operational capabilities for peace operations.

There is no denying the membership anomalies that exist, in particular given the rise of Japan, Germany, and India (some might include Brazil, perhaps others) to positions of world leadership arguably on par with at least France and Britain among the Permanent Five. But no reform proposals have gotten very far in the face of harsh realities: at least one of the Permanent Five is virtually certain to veto any effort to deny or dilute its veto power; and there is no easy way to accommodate regional competition such as that between India and Pakistan or Brazil and Latin American peers for any favored seating arrangement with or without a veto.

The Security Council could be made more representative even without structural change. Non-permanent members are chosen by regional caucus and have an implicit duty to fairly represent the regional consensus. Ways could be sought to make this obligation more explicit and thereby give greater weight to the regional group. Moreover, if white South Africa could be denied a seat because of apartheid policies, in theory any country could be barred for activities such as supporting terrorists. The practice of rotating seats on the Council (and other UN bodies) to achieve “equitable geographic representation,” without regard for the government’s character, seriously compromises the institution’s credibility and effectiveness.

A second set of reform proposals concerns the Council’s operational capabilities to respond to crises. In 2000, the UN issued a comprehensive study, the Brahimi Report,<sup>xlv</sup> detailing issues in UN peacekeeping operations and recommending changes, which have been partially implemented. Here too, lack of vision frustrates progress on crucial aspects such as funding limits, the size and power of the UN’s Department of Peacekeeping Operations, the sources and sharing of intelligence, the relationship between troop contributors and the Security Council, and the relevance of women’s issues. Washington has offered few concrete proposals to advance the dialogue and much of the State Department’s energy has been devoted to securing country-by-country agreements to exempt US peacekeeping participants from the jurisdiction of the International Criminal Court.

In today’s context, however, such reform proposals put the cart before the horse, given the US Administration’s challenge to the basic principles of existing UN security mechanisms. The Security Council as an institution was not to blame because France and Russia disagreed with the US and Britain over what to do about Saddam Hussein in 2002-2003. Nor could the Council be expected to somehow knock down the fence

between the two sides and no amount of tinkering with the Council's make-up or guidelines will give it the capability to do so in the future.

### **The US: Leading Citizen or Top Cop?**

The contretemps of 2003 has made evident that there is now no clear consensus on the extent of Security Council responsibility nor on how to deal with crises when the Council is deadlocked. Perhaps the most salient question is not what to do with the Security Council, but what to do when the Perm Five cannot agree. In the case of Saddam Hussein in 2002, the US answer obviously was a "coalition of the willing," while opponents resentfully acquiesced. It is not a heartening precedent, but it demonstrated America's dominating position. The key to progress toward a workable system for international security lies in Washington, not New York. Neither major military action nor economic sanctions can succeed without US participation. For the foreseeable future, the US will remain the only superpower and, for better or worse, Uncle Sam's seal of approval is necessary if any global security architecture is to be viable.

When massive military force is required, active US participation is essential for success. No other nation has the power to mount and sustain military operations on the scale of the two wars with Iraq. Not all crises are of such enormous proportion, however. In more circumscribed situations, smaller forces under UN auspices have succeeded without major US support, such as the Australians in East Timor and the British in Sierra Leone. Unfortunately, this experience has not been built upon and the Security Council has not been able to devise truly effective responses to the horrors of internecine fighting in places such as Liberia and the Congo.

As for economic sanctions, the commanding position of the US in the world economy is similarly crucial to success for any international effort. Although Washington at times undermined trade restrictions imposed against South Africa and Rhodesia, private campaigns inside the US, such as the widespread calls to withdraw US capital from South African investments, helped sustain the pressure that contributed to the end of minority white rule in both countries. On the other hand, the US alone cannot assure success. Porous borders and/or noncooperative nations can dilute the impact of sanctions as happened to Washington's great frustration in the case of Iraq after the Gulf War.

Ironically, throughout the 1990's and on to the present day, US public opinion has consistently favored working through and with the UN. Congressional action has not reflected this reality, although, after the more moderate Senator Richard Lugar replaced Helms, the tenor has markedly improved and the US has cleared up most of its overdue payments. Internationalists who support closer US-UN cooperation have been unable to articulate the case for more robust support for UN programs or to find ways to deal with controversial issues such as the Kyoto Protocol and the International Criminal Court.

It is time to again make America the world's leading citizen rather than just its strongest cop. This does not mean the US has to forswear the use of force, but it does mean Washington should take the lead in advancing the rule of law and rely on armed combat only as the last resort. Whether the 2003 invasion of Iraq was justified or not, Americans should look at the genesis and consequences of that event to help prepare for the next such test.

The successes of the Security Council, first and foremost in the Persian Gulf War, demonstrate that it is in the US interest to participate fully in the Council. The Council's failures demonstrate that it is still an imperfect instrument, and the US should take the lead in exploring ways to improve it. But the perfect should not become the enemy of the good -- it makes far more sense to build on the progress made since 1945 than to throw away the Council or reduce it to a small claims court that takes on only problems of minor consequence.

A sensible US policy to right things after the debacles of the last decade would flow from the following principles:

- putting the rule of law at the forefront of American foreign policy
- supporting the Security Council as the primary forum to address challenges to global peace and security
- working to improve the Security Council's capability to intervene more effectively in crises where the US is unwilling to mount an ongoing military operation
- exploring membership reforms for the Security Council (and other UN bodies), to strengthen the influence of democracies and reduce the participation of dictatorial governments
- finding a way for the US to participate in the International Criminal Court and renewing the US commitment to the International Court of Justice; and
- promoting serious international debate on the future of the Security Council and codes to guide "coalitions of the willing" when their use becomes unavoidable.

Now is the time to start such a return to a stronger multilateral orientation for America's foreign policy, although a major turn in this direction is unlikely under the current administration. The issue is already on the agenda for the presidential election in 2004. It remains to be seen whether the US public's support for greater international cooperation will translate into action.

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<sup>i</sup> UN Secretary General Kofi Annan, "Address to the General Assembly, New York 23 September 2003," from: [www.un.org/webcast/ga/58/statements/sg2eng030923](http://www.un.org/webcast/ga/58/statements/sg2eng030923)

<sup>ii</sup> Richard Perle, "Thank God for the Death of the UN," The Guardian, March 21, 2003.

<sup>iii</sup> See Sashi Tharoor, "Why America still Needs the United Nations," Foreign Affairs, Sept./Oct. 2003 for an articulate exposition of the Security Council's relevance and benefits.

<sup>iv</sup> For the best account of how China and France ended up on the Security Council see Robert Hilderbrand, Dumbarton Oaks: The Origins of the United Nations and the Search for Postwar Security (London, 1990), pp. 122-126, 236.

<sup>v</sup> The selection formula is based upon equitable geographical distribution as follows: five non-permanent members must come from Africa and Asia, two from Latin America, two from Western Europe, and one from Eastern Europe. Sydney D. Bailey and Sam Daws, The Procedure of the UN Security Council, Third Edition (Oxford: Oxford University Press, 1998), 141-154. The inclusion of the non-permanent members augments the UN's universality in that any nation has the opportunity to sit on the Security Council at some point. Some have criticized the status and conduct of the non-permanent members, but their right to pass judgment on the actions of the permanent five enhances the Security Council's legitimacy.

<sup>vi</sup> Nonetheless, the extent to which the UN aided in keeping the Cold War from becoming a hot war has often been overlooked, and how it at times provided a forum for negotiation and the airing of grievances in a number of Cold War controversies. In the decades following the founding of the UN, and with considerable tension among the great powers, another cataclysmic war never occurred, to the surprise and relief of many. Thus one major contribution of the UN system may be what has *not* happened in the years since its founding, as opposed to what has. Such accomplishments are difficult to assess historically.

<sup>vii</sup> A number of activists and NGOs unsuccessfully sought to invoke Resolution 377(V) for an Emergency Special Session to "stop" the US invasion of Iraq in 2003. See for example the Global Policy Forum website ([www.globalpolicy.org](http://www.globalpolicy.org)) and the ad hoc Uniting for Peace Coalition at [www.habitat](http://www.habitat).

<sup>viii</sup> It seems that Gorbachev was seeking to initiate a revolution in world politics, one that would end the stalemated bipolarity of the Cold War era and usher in a new approach to the international system with the Security Council at its center. Gorbachev's so-called "new thinking" about the world included support for expanded UN peacekeeping operations, the revival of the moribund Military Staff Committee, expanded use of the International Court of Justice, and an enhanced role for both the General Assembly and the Security Council. Such a move also played into Gorbachev's strategy of shifting the locus of national power away from the Soviet military-industrial complex to a new sphere of public and civic culture. See Archie Brown, The Gorbachev Factor (Oxford, 1996), 220-251.

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<sup>ix</sup> For example, although unthinkable only a few years before, Moscow raised relatively few objections to UN involvement in the several crises in the former Yugoslavia in the 1990s, nor did it veto a UN role in former Soviet republics such as Georgia and Tajikistan. Conversely, after 1989, Washington allowed for a UN role in its own Cold War sphere of influence in Central America and the Caribbean, when the United Nations launched observer missions and moderate nation building efforts first in Nicaragua and, later, in El Salvador, Haiti, and Guatemala. Since the end of the Cold War, peacekeeping has emerged as one of the most visible, and perhaps also the most controversial, roles of the United Nations. Although peacekeeping is not enshrined in the UN Charter it has been an evolving concept, born, some have argued, of necessity and implemented on an ad hoc basis. See contributions in Peacemaking and Peacekeeping for the New Century, Olara A. Otunnu and Michael W. Doyle, eds. (Rowman and Littlefield, 1998).

<sup>x</sup> Most scholars of peacekeeping generally divide it into two segments: a “first generation” featuring more narrowly-defined missions, beginning with a modest endeavor to monitor the border between Greece and Bulgaria in 1947 and two subsequent observer missions in the Middle East and Kashmir; and a much more expansive “second generation” in the wake of the Cold War, beginning with the 1989 effort in Namibia to provide humanitarian relief, repatriate refugees, educate voters, and oversee elections. All in all, during more than four decades of the Cold War, the UN launched only 13 peacekeeping operations. See Norrie MacQueen, The United Nations Since 1945: Peacekeeping and the Cold War (Longman, 1999) and Paul F. Diehl, International Peacekeeping (Johns Hopkins, 1994).

<sup>xi</sup> In the wake of the 1991 Gulf War there were no vetoes cast for the next two sessions. Other than the United States, which has used the veto on seven occasions since the end of the Cold War, no member of the permanent five, other than China (twice), has used the veto since 1994. During the first quarter-century of the Security Council the US took great pride in never having used the veto. It has not exactly wrapped itself in glory with its use of the veto since then. Of the US’s seven vetoes since the end of the Cold War (c.1991), six were used to block Security Council criticism of Israel. Going further back, of the 76 vetoes used by the United States from 1970-today, a total of 36 were issued to block resolutions critical of Israel, (1972-today); 20 to block resolutions critical of white-ruled South Africa or Rhodesia (1973-88) (several of these vetoes sought to block sanctions on the grounds that sanctions violated South African sovereignty); 7 were used to block resolutions critical of US actions against Nicaragua (1982-86) (two of those were resolutions to implement International Court of Justice rulings); 6 blocking Vietnam’s applications for membership in the wake of the Vietnam War, 1975-76; 4 blocking resolutions critical of US invasions of Panama or Grenada; one blocking action against Britain during the Falklands War, 1982; one blocking a Libyan complaint against the US attack, 1986; and one blocking renewal of Bosnian peacekeeping (ICC controversy). Britain has cast 32 vetoes, of those 25 were to block resolutions critical of white-ruled regimes in South Africa or Rhodesia, 1963-1988. For further information on the vetoes see “Subjects of UN Security Council Vetoes,” [originally from Sydney Bailey and Sam Daws, The Procedure of the UN Security Council, Third Edition (Oxford: Clarendon Press, 1998)] or check the website at: [www.globalpolicy.org/security/membership/veto/vetosubj.htm](http://www.globalpolicy.org/security/membership/veto/vetosubj.htm).

<sup>xii</sup> Kuwait is eight time zones from New York/Washington. The Iraqi attack was launched during the early morning hours of August 2 and by 3:00 a.m. Kuwait time or 7:00 p.m. August 1 in Washington, Iraqi forces were well into Kuwaiti territory. Michael R. Gordon and Bernard E. Trainor, The Generals' War (New York 1994) is an excellent account of the Gulf War from the American perspective.

<sup>xiii</sup> The Council at the time operated roughly in three phases. First, the groups within the Council would huddle separately to compare notes: the Permanent Five, the western and neutral members, and the developing country members, referred to somewhat anachronistically as the nonaligned movement or NAM members, who had a special caucus room for their consultations in the Council chambers. Then the Permanent Representatives with no more than two assistants (room permitting the US occasionally snuck in another one or two) would meet, with the Secretary General attending, in the “informal” meeting room to hammer out consensus on actions to take and/or resolution language. Only after the informal sessions

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had reached agreement did the Council proceed to its familiar horseshoe table for an open session, in this case with a formal vote and prepared speeches.

<sup>xiv</sup> The personal relationship between the two leaders may have been a factor, but Yemen soon became the voice of Arab radicalism, opposing war and arguing for more lenient treatment of Saddam Hussein, although it did not reject sanctions in principle. Cuba espoused similar positions, inspired in large measure it seemed by what it saw as parallels in its own quarrel with the US.

<sup>xv</sup> Ethiopia at the time was still under Mengistu's brutal dictatorship. In any event, Ethiopian Permanent Representative Tadesse was especially supportive and eloquent in comparing Saddam to Mussolini and the latter's shameful aggression against his home country in the 1930's.

<sup>xvi</sup> The 660 Sanctions Committee as it came to be called, like other such committees, was a committee of the whole, with all 15 members represented, usually by their Deputy Permanent Representatives. Its voting procedures paralleled those of the Council itself, including the veto power.

<sup>xvii</sup> Resolution 665 set an interesting precedent as the first to authorize individual nations to act, as opposed to establishing a UN force.

<sup>xviii</sup> The Council had earlier passed Resolution 664 calling on Iraq to release any and all third country nationals who wished to leave Iraq and/or Kuwait.

<sup>xix</sup> See James A. Baker, III, The Politics of Diplomacy, (New York 1995) for a description of the intense diplomacy he undertook in the run up to Resolution 678.

<sup>xx</sup> Dilip Hiro, Iraq: In the Eye of the Storm (New York: Nation Books, 2002), 35-39.

<sup>xxi</sup> John Allphin Moore and Jerry Pubantz, To Create a New World? American Presidents and the United Nations (New York: Peter Lang, 1999), 298-304.

<sup>xxii</sup> Daniel Byman, "After the Storm: US Policy Toward Iraq Since 1991" Political Science Quarterly, vol. 115, no. 4, 2000-01.

<sup>xxiii</sup> That the United States forces in Somalia began to pursue different priorities and aims once in Somalia further complicated the UN's mission. The civil war and the subsequent famine had already taken an estimated 300,000 lives and an estimated 4.5 million were threatened with starvation at the time of the UN intervention in 1992. The United Nations Operations in Somalia (UNOSOM) sought to aid in the distribution of humanitarian relief and to establish a secure environment for the delivery of further aid. But the chaotic conditions made the UN's humanitarian efforts difficult and, with US encouragement, the UN's mission in Somalia began to increasingly focus on the political and security problems as the root of the humanitarian crisis.

<sup>xxiv</sup> The UN forces, and particularly the US troops within them, became increasingly obsessed with political matters such as regime change, seeking to capture the Somali clan leader Mohammed Farah Aidid. Subsequent efforts to disarm or capture Aidid resulted in the deaths of 24 Pakistani peacekeepers in the autumn of 1993. Then, US forces, without informing the UN, mounted an abortive raid against Aidid, which left 18 US peacekeepers dead. In the face of an angry and stirred up Somali population, and a firestorm of media fury in the United States, President Clinton began the process removing US forces from Somalia, thus decapitating the UN's larger mission there. See Norrie MacQueen, United Nations Peacekeeping in Africa Since 1960 (Longman, 2002), 197-220.

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xxv The international community responded with pious declarations of its good intentions, but little more. The commander of the previously established UN Assistance Mission in Rwanda (UNAMIR) repeatedly called for international support, but on the Security Council, the United States, fearful of another Somalia, blocked further action and the Council gingerly avoided the use of the word “genocide” which, under the provisions of the Genocide Treaty, might have automatically committed the Security Council to take action. Michael Barnett, Eyewitness to Genocide: The United Nations in Rwanda, has argued that the UN’s paralysis in Rwanda was not driven by incompetence or cynicism but by choices conditioned by moral considerations. “The UN recently had demonstrated in Somalia and Bosnia that it was not fit to get involved in civil war. The peacekeepers on the ground in Rwanda were in mortal danger -- ten already had died under brutal circumstances. There were no troops ready to march into this paroxysm.” p. x-xi.

xxvi Daniel Byman, “After the Storm: US Policy Toward Iraq Since 1991” Political Science Quarterly, vol. 115, no. 4, 2000-01.

xxvii Daniel Byman, “After the Storm: US Policy Toward Iraq Since 1991” Political Science Quarterly, vol. 115, no. 4, 2000-01.

xxviii For a full account of the UN’s response to terrorism see: <http://www.un.org/terrorism/>.

xxix See, for example, “Responding to Terrorism: What Role for the United Nations,” International Peace Academy conference reports, New York, October 2002.

xxx Article 51: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”

xxxi It immediately demonstrated its problematic application in areas of UN concern elsewhere. For example, in the midst of the Anglo-American invasion of Iraq, the Indian Defense Ministry warned that, under the new doctrine of preemption, neighboring Pakistan which, along with India, is now a nuclear power and has fought three wars with India since 1947, was a prime candidate for preemptive action.

xxxii Alan Averyt, “The Use of Force, Legitimacy, and the UN Charter,” The Inter-Dependent, vol. 29, no. 1, Spring 2003.

xxxiii See Christopher Marquis, “Midcourse Corrections: In Besieged Iraq, Reality Pokes Ideology in the Eye,” The New York Times, Week in Review, August 31, 2003.

xxxiv The Program on International Policy Attitudes (PIPA) at the University of Maryland regularly compiles surveys of US public opinion regarding the US. Results vary depending on the timing and phrasing of the question, but both before and after the 2003 invasion of Iraq a majority favored the UN and preferred the US act with its approval. See reports at [www.pipa.org](http://www.pipa.org)

xxxv Michael Glennon, “Why the Security Council Failed,” Foreign Affairs, May/June 2003.

xxxvi “White House sources: U.N. vote might not happen,” CNN, posted March 13, 2003 on [www.CNN.com/world](http://www.CNN.com/world). The US had earlier indicated it would push for an up-or-down vote on the trigger resolution and with British help was lobbying what the CNN article identified as “the six officially undecided countries -- Pakistan, Angola, Cameroon, Chile, Mexico and Guinea.” Syria was sure to vote

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no. Nine yes votes are required to pass a Council resolution and the assignment of seats by regional group normally assure nonaligned movement countries will have a blocking majority (three from Africa, two from Latin America, one from Eastern Europe, and one or two from the two Asian group members that includes Asian and most Middle East nations, and thus on occasion Japan which votes with the west).

xxxvii To oversimplify a complex and difficult set of issues, there were three main problems at hand in connection with Iraqi oil: first, what to do with money already in UN hands from prewar sales under the oil-for-food program; second establishing who could receive money for near term sales of Iraqi oil, i.e., oil already pumped but not sold and oil which could be pumped in the near future, and how to establish authority to manage oil production and sales over the longer term, including adjudication of claims against Saddam Hussein's government.

xxxviii "Views of a Changing World, 2003: War with Iraq Further Divides Global Politics," Pew Research Center, June 3, 2003. Available at the Center website: [www.people-press.org](http://www.people-press.org)

xxxix New scholarship on the history of Iraq and its consequences for the present day includes Timothy J. Paris, Britain, the Hashemites, and Arab Rule, 1920-1925: The Serifian Solution (Frank Cass: 2003); Toby Dodge, Inventing Iraq: The Failure of Nation-Building and a History Denied (Columbia, 2003); and U.S. Policy in Post-Saddam Iraq: Lessons from the British Experience, Michael Eisenstadt and Eric Mathewson, eds. (Washington Institute for Near East Policy, 2003).

xl Information taken from Conduct of the Persian Gulf War, The Final Report to the US Congress by the US Department of Defense; April 1992; Appendix P.

xli UN Secretary General Kofi Annan, "Address to the General Assembly, New York 23 September 2003," from: [www.un.org/webcast/ga/58/statements/sg2eng030923](http://www.un.org/webcast/ga/58/statements/sg2eng030923)

xlii The UN Charter, Article 25, reads, "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

xliii SC Resolution 1373 .

xliv Michael Ignatieff, "Why Are We in Iraq? (And Liberia? And Afghanistan?)," New York Times, September 7, 2003.

xlv Report of the Panel on United Nations Peace Operations, the official UN document known as the Brahimi Report from the name of its chairman, available at: [www.un.org/peace/reports/peace\\_operations/report.htm](http://www.un.org/peace/reports/peace_operations/report.htm).