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**A Victory for Collective Security  
- the UN and the Gulf Crisis**

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## **Part I**

# **Collective Security, the UN and the Gulf Crisis**

## **1 Introduction**

The topic of this study is the role of the UN in the Gulf crisis 1990-91. The Iraqi attack on Kuwait on 2 August, 1990, was a clear-cut act of aggression and a violation of Art. 2.4:

*All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations (Art. 2.4).*

There is no doubt that the Security Council had a mandate for action. The UN collective security system is based on the Charter. Chapter VI and VII provide directives for dealing with conflicts threatening international peace and security. The system depends on the continuing cooperation between the victorious great powers from the Second World War. The ensuing rivalry between the two superpowers probably provides the main explanation for the unsuccessful implementation of the UN collective security system. However, by 1990 the Cold War was over and the new rapprochement between East and West was reflected in the Security Council. The Gulf crisis 1990-91 was a test of how the UN system can work in a new era of cooperation.

With the exception of the Korean war, the Gulf crisis was the first time the members of the Security Council could agree to punish a country that had violated the general prohibition of the

ause of force.<sup>1</sup> The Security Council adopted twelve resolutions from 2 August to 29 November. The last one, res. 678 (1990), authorised the use of "all necessary means" if Iraq did not withdraw its forces by 15 January, 1991. The Gulf crisis is the closest the organisation has come to using the system of economic and military sanctions outlined in the Charter. The purpose of this study is firstly to shed light on why this was possible, and secondly to assess how the system actually functioned during the crisis. Thus the main questions of this study are:

- A. Why were the members of the Security Council able to cooperate in responding to this crisis?*
- B. How did the UN collective security system function during the Gulf crisis?*

The analysis of these issues focuses on the period between the Iraqi invasion of Kuwait on 2 August 1990, to the beginning of "Desert Storm", on 17 January 1991.

In analysing the first question it is fruitful to make a distinction between formal and real motivations for cooperation. The formal motivation was that the Iraqi aggression was an unambiguous violation of international law and that the Security Council had authority to take appropriate measures against such action. From a historical perspective threats, breaches of the peace, or even acts of aggression, have not been sufficient to activate the Security Council. In addition, there must be political will both to fight aggression and to find solutions within the framework of the UN. Political will can be characterised as real motivation.

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<sup>1</sup> The UN engagement in the Korean war was possible because of the Soviet boycott of the Security Council. The boycott was a protest against the representation of Nationalist China in the Security Council. The UN military action in Korea is the most extensive in the history of the UN.



The UN Security Council is not a unitary actor, but an arena where independent states promote their own self-interests. It is therefore necessary to analyse these interests in order to answer the first question. If one assumes that national interests are not absolute but relative, it is also important to throw light on the international power relations. The East-West relationship had changed and the former Soviet Union had lost its position as a global superpower.

The second question, why the members of the Security Council were able to cooperate during the Gulf crisis, will be discussed in light of three factors; 1) the Iraqi breach of Art. 2.4, (formal motivation) 2) the changes in the international structure of power after the Cold War (real motivation) and 3) national interests (real motivation).

The purpose of the second question is to consider how the UN system for collective security functioned during the crisis. The analysis is organised in three steps. Firstly, to outline the different responses open to the UN, when facing international conflicts. Secondly, to examine the legal measures taken (and not taken) by the Security Council. This is important in order to understand the interplay between international law and national interests. This is also crucial for understanding the various responses of the Security Council members to the Iraqi aggression. The legal aspects are also important because international law was used to justify the action against Iraq. The extent to which the provisions of the Charter were followed is used as a criterion for determining how the system functioned from a purely formal basis. Thirdly to examine the response in terms of "collective security" action. There is an extensive amount of literature on the new opportunities and limits for collective security which replace the post-war bipolar balance of power. On the rhetorical level collective security is connected to the frequently used but vague notion "New World Order".

*The crisis in the Persian Gulf, as grave as it is, also offers a rare opportunity to move toward a historic period of cooperation ... a new world order can emerge... (Bush, 11.9.90).*

It is relevant to contrast collective security with balance of power when testing some basic questions for international security. Inis Claude contrasts the two security systems theoretically. Empirically this contrast is topical after more than 40 years of an alliance system - a balance of power that paralysed the Security Council. After the breakdown of the bipolar system, the question is what the "New Order" will be. Will it resemble the idea behind the UN Charter of 1945? The crisis in the Persian Gulf alone cannot give the answer to that question, but it can indicate the merits and defects of collective security.

## **2 Collective security - theory and practice**

The evolution of the concept collective security came as a result of three historical traits. First, war and poverty is *morally* unacceptable. The peace plans from the enlightenment culminated with the League of Nations and the United Nation in our century. Second, the technological and economical development over the last two hundred years have created a situation characterised by increasing *interdependence* between the nation states. Finally, this development has required *institutions* which defend the national interests in an anarchical international system. The institutions must have global scope in order to meet global problems. A universal system for collective security is meant to resist aggression and maintain global peace and security (Thompson, 1972, p. 565).

Richard Betts indicates that collective security is an old idea which has been revitalised three times in this century; after the two World Wars and the Cold War. The concept has reference to 1) Wilsons Fourteen Points and the League of Nations 2)the Rio

Pact, the United Nations and anti-communist alliances and 3) today's discussion of new security arrangements in Europe (Betts, 1992, p. 5-6)

In order to use the concept as an analytical tool it is necessary to define it. A general understanding is that several states cooperate in order to obtain common security. Armed force against one state is perceived as an attack on the whole community of states. As a reaction to this, the community will defend the victim according to the principle "all for one - one for all". In this system it is not profitable to act aggressively, because the collective resistance will always be stronger than one is capable to defend. This perception creates stability. Collective security can be expressed in different forms of institutionalization. The ideal system is inclusive where as many states as possible participate and where all act according to universal rules and principles.

Inis Claude describes the words "security", "collectivity" and "system" in this way:

*"security" represents the end; "collectivity" defines the nature of the means; "system" denotes the institutional component of the effort to make the means serve the end (Claude, 1962, p. 250).*

## **2.1 Collective security versus balance of power**

According to K. Thompson collective security is

*... a method of managing the power relations of nation states through a partially centralized system of security arrangements. While the ultimate power remains diffused among independent sovereign states, authority in the specifically defined spheres of maintenance and enforcement of peace is vested in an international body (Thompson, 1972, p. 565).*

This description is a broad outline. A more explicit definition is necessary in order to distinguish the concept from other security arrangements.

Collective security may be characterised as an arrangement placed between two extreme security systems - alliance system and world government (Claude, 1962, Naidu, 1974). An *Alliance system* is based on the principle "somebody for somebody" and not "all for all". The system is selective and therefore incompatible with the principle of collective security. When an institution is created in order to defend the members against an external enemy, it must be described as extrovert and exclusive. An alliance is dependent on the common perception of an enemy. In contrast, a collective system is inclusive. A *world government* on the other hand implies a permanent system with a supra-national authority. The world government has the authority to make common rules of international behaviour and it has the apparatus to sanction violations of the rules.<sup>2</sup>

Thompson's definition of collective security is broad since it also includes alliance systems. The problem with a broad definition is that distinctions in the analysis is lost. Inis Claude argues that balance of power and collective security are two fundamentally different security arrangements.

*Collective security implies a general alliance, a universal alliance, which is disentangling in the sense that it eliminates the pattern of competitive alignments which characterizes the balance system... It calls for an alliance system which unites the nations in defense of the order of the community, instead of one which divides them into antagonistic groups (Claude, 1962, s. 144-145).*

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<sup>2</sup> The future goal is an evolution from a international system to a world community of individuals. The idea is that the nation state disappears.

If one follows this chain of thought, the balance system focuses on the enemy outside the alliance, while collective security is occupied with the security of the members inside the system. The balance system assumes that security can be created by keeping a certain order despite fundamental disagreements or conflicts. On the other hand the idea of collective security is to develop a structure based on agreement and cooperation so that conflicts do not break out. The creation of collective institutions is a dynamic which takes advantage of the existing potential for cooperation. Balance of power on the other hand is founded on the manipulation of antagonism.

In contrast to the balance of power where stability derives from competition, stability in the collective system comes from cooperation. In the collective system aggression is a threat against the existing order and national interests, while a balance system from time to time ignores conflicts and finds them irrelevant for the state's interest. In the latter aggression is first of all a means for defending interests.

*Collective security decrees a set of responses in support of any victim of aggression; balance of power confirms the freedom of the state to pick and choose (Claude, 1962, 146).*

In other words, the balance system is opportunistic in resisting aggression, while the collective system is absolute in its resistance.

## **2.2 Collective security - delimitating criteria**

In order to systematise the discussion about how the UN system functioned during the Gulf crisis it is fruitful to use some delimitating criteria. M.V. Naidu points out seven criteria for collective security (Naidu, 1974, p. 17-19)

1) *Prohibition of Force*: The use of force is morally wrong and politically unwise and should therefore be prohibited.

2) *Collective Guarantee of Security*: Increased interdependence between nation states means that war is no longer a bilateral affair. All members are morally and legally committed to assist in stopping aggression and maintaining peace everywhere because peace is indivisible.

3) *Collective Force as Deterrence/Sanction*: The principle of prohibition of force and guarantees becomes effective through deterrence. The preponderance of international force cannot be guaranteed if the members are free to develop their own military force. It is important that no single member is so powerful that it becomes invulnerable within the system.

4) *Automatism in Collective Actions*: The collective guarantee that aggression will be stopped automatically and the credibility of deterrence will increase. The automatics of the system apply both to stop the aggressor and to defend the victim.

5) *Anonymity of Aggressor and Victim*: An important assumption for the automatics in collective actions is the anonymity of the conflicting parties in the sense that they are not discriminated against on a racist, religious or ideological basis. The guarantees apply no matter who the victim or aggressor might be. The system fights aggression *per se*.

6) *The question of Guilt*: The implementation of sanctions presupposes the unquestionable fact that an act of aggression has occurred. Such an agreement presupposes the existence of a universal definition of aggression. In addition there should be procedures for the evaluation of aggression, and an impartial institution responsible for such considerations.

7) *Permanency and Generality of the System*: A collective system must not be based on an ad hoc arrangement. The system should be a permanent and institutionalised arrangement of roles and relationships.

Naidu's ideal type was according to himself an attempt to redefine Claude's model<sup>3</sup> in order to test different security systems and the UN in particular. His conclusion from 1974 was that the UN system did not fulfill the criteria. It is disputable whether this conclusion would apply 16 years later in the Gulf crisis 1990-1991. I shall return to that discussion in chapter 8.

### 2.3 A realist critique

There are many problems associated with the realization of a collective security system. A fundamental problem is that it assumes the continuity of the existing international order and the territorial *status quo*. The potential for conflicts in such a system has increased tremendously in recent years. Ethnic conflicts and claims for independence are a challenge to the existing territorial borders. As collective security is a system for peace, and at the same time presupposes peace, it is doubtful whether the system will function when needed.<sup>4</sup>

Another problem is that it is questionable whether states are willing to subdue their security interests for the collective interests. When there is discrepancy between national interests and the common good, there is no guarantee that the latter will be given highest priority. On the contrary, competing national interests are probably the most serious threat to the system. An ideal collective security organisation presupposes a high degree of concordant interests among the members. Hence, there must exist

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<sup>3</sup> Claude, 1964, p. 250-96.

<sup>4</sup> Kupchan & Kupchan reject this criticism by arguing that the existence of the system is in itself a potential for cooperation. (Kupchan & Kupchan, 1991, p. 130). This is also a crucial point in Keohane's neo-liberal institutionalism where he asserts the opinion that regimes not only create, but also produce, cooperation (Keohane, 1984, p. 57).

some sort of similar way of thinking where morals and values are concerned. If national interests dominate the system, the claim for equality cannot be fulfilled. The security guarantee will disappear as the system changes to the principle of "survival of the fittest". The fittest or the most powerful can take advantage of the system at the expense of the other members.

The ideal system for collective security is universal and inclusive. One problem in this respect is that the universal scope makes it difficult to reach political consensus (Kupchan & Kupchan, 1991, p. 138). It is difficult to define criteria for aggression, not to mention appropriate responses. The result might be either inability to make decisions or ignorance of less powerful members. This problem will be even more serious when there is a large gap between the members in the power hierarchy. Small and great powers might have different opinions on the justice of the existing *status quo*. Besides, large organisations may easily lead to the problem of non-paying passenger. All members, the small and less influential ones in particular have incentives to sneak away from contributing to the common good. The major powers will have to pay unproportionally, but at the same time they will gain more control over the organisation.<sup>5</sup>

The assumption of automatic and binding obligations for collective actions has complicated implications. The advantage of joining the community is reduced by the fear of participation in wars and contributions wherever and whenever aggression occurs. Besides, the certainty of obligation in such situations can result in unwillingness to recognise conflicts. If the organisation fails to place conflicts on the agenda it will gradually lose its credibility. The automatics of collective action are supposed to

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<sup>5</sup> In reality the problem is that the small powers pay proportionally more than the big powers, i.e. the financial problem in the UN is to a large extent a result of the major power's unwillingness to pay their share. Nevertheless the P5 have strongest influence in the organization.



occur as a reaction to aggression and since there exists a precise legal definition, there will be no doubt about what an act of aggression is. Accordingly, there is a deterrent element in the expected reaction to aggression, but the system is less developed in taking preventive measures. This is a problem because it is more costly to stop a crisis after eruption.

The UN is not a "pure" collective security system, but there are powerful elements of collective security in the Charter (Hurrell, 1992 p. 41). The following discussion will focus on how the idea of collective security is integrated in the UN system both formally (the UN Charter) and in practice.

## **2.4 The UN system for collective security**

The League of Nations had not been successful in maintaining world peace and a more authoritative organisation was required to prevent new wars. The United Nations was therefore founded in 1945. However, the new organisation was not to be a supra-national organ. The independent nation states would be the actors in the organisation. Accordingly, the function and efficiency of the organisation would depend on the member's political will. In order to obtain consensus, it was not only desirable but also necessary to find a common set of values and norms - some sort of lowest common denominator. It was assumed that the members, regardless of power capabilities and international circumstances would resist from using military force. The founders of the Charter made a general rule against military force (Art. 2.4). Exceptions from this rule were the right to self-defence (Art. 51) and military force authorised by or under the command of the Security Council (Ch. VII and VIII)

The victorious great powers from the Second World War constituted the hard core of the new organisation and were responsible for maintaining peace and security.

*In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf (Art 24.1).*

The Security Council consists of 15 members including 5 permanent (United States, Soviet Union (Russia), France, United Kingdom and China). The General Assembly elects the remaining ten every second year. All the members of the Council have one vote each.

The right of veto protects the permanent members against sanctions and this privilege can be regarded both as a strength and as a weakness of the system. The strength is that it gives an incentive to take responsibility. The weakness is that it favours some countries in a way that breaches the principle of equality. But what is even more serious is that the veto has made the Security Council ineffective in handling conflicts. As long as national interests are broadly defined and given high priority the Security Council cannot be trusted as a responsible protector of world peace and security.

The UN system for collective security is outlined in Chapter VI and VII in the Charter. Chapter VI deals with the peaceful settlement of disputes. The measures here are peaceful and non-violent. If the Council finds these measures inadequate, Chapter VII makes provision for coercion.

Chapter VII gives the Council authority to prevent the violation of international law with military means if necessary. The measures are basically described in Art. 41 and 42. Art. 41 concentrates on non-military actions such as economic sanctions or

the interruption of diplomatic relations. If this is inadequate, the Council has the right to take military action. According to the Charter the members should contribute armed forces to the Council's disposition (Art. 43) and a military staff committee should organise this international force. Theoretically these are the main features of the UN collective security system. In practice it failed to function.

The Cold War between the United States and the Soviet Union was probably the main cause for the UN failure to police the world. In conflicts where the superpowers were involved the Security Council was unable to intervene. The low profile of the Security Council became the rule rather than the exception as long as most conflicts in the world in some way or other involved the superpowers.

*Cynics might say that indeed the organization is very skilled in this particular course of action, that the United Nations exists so that nations who are unable to do anything individually can get together to decide that nothing can be done collectively (Thakur, 1993, p. 8).*

If conflicts were placed on the agenda, the veto often stopped valid decisions if the permanent five did not have concurrent interests. To the extent when resolutions were adopted they did not have very much impact (Skjelsbæk, 1991, p. 36)

The Security Council has not fulfilled the ambitious obligations of the Charter. More than 150 wars have been fought and more than 20 million people have been killed (Munthe-Kaas, 1990, p. 71). On the other hand these figures are absolute and they say nothing about how many wars the UN has prevented or how many lives it has saved. The UN has in many cases succeeded in freezing conflicts, or at least postponing open confrontations.

The rivalry between the superpowers prevented the establishment of a permanent UN force. As a result the organisation's potential for military intervention is limited.<sup>6</sup>

However, the lack of a standing force has not totally prevented the UN from using coercion. The Security Council can delegate the maintenance of peace and security. According to Art. 53 the Council can "where appropriate, utilise such regional arrangements or agencies for enforcement action" (Art. 53).

Another method in the attempt to secure peace has been the evolution of peacekeeping operations. These operations should not be confused with the military units in Chapter VII. Peacekeeping operations are not mentioned explicitly in the Charter, but have their legal basis in Art. 40, "comply with such provisional measures". The forces are lightly armed and are not supposed to use coercion except in self-defence. They are impartial and their employment is based on a consensus between the adversaries.

*The UN peacekeeping forces have relied more on moral authority than on military might. Despite their modest size and firepower they have often proved their ability to persuade, convince and deter adversaries from violating cease-fire agreements (Skjelsbæk, 1986, p. 8).*

Over the years more than 30 peacekeeping operations have been employed, of which half are still operative. Most of them have been established during the last five years in Kuwait, Angola, El Salvador, Western Sahara, Croatia, Bosnia, Somalia and Cambodia.

Military force based on Chapter VII has been the exception before the Gulf crisis in 1990-91. The United States intervened

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<sup>6</sup> However, the Nordic countries participate with specially trained forces for peacekeeping operations.

under the UN flag to protect South Korea in 1953. But neither that action nor "Desert Storm" conformed to Art. 42-43. The action in the Gulf was an *ad hoc* coalition under American command and control. The UN had nothing to do with it, except for the authorization of the use of all necessary means.

Another important element in the UN security system is the "good offices" of the Secretary General. The Secretary General is the highest official in the organisation and has at least formally a significant independent role. Art. 99 states "The Secretary General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security". This is open to different interpretations regarding the extent to which the Secretary General should perform his duties.

The most important task for the Secretary General is to control the UN bureaucracy and execute his diplomatic functions. He is the major spokesman for the organisation's principles and to a large extent a symbol of the organisation. An important task for the Secretary General is to mediate in conflicts. It is especially this function the great powers have in mind when they are looking for the right person for this position. The six Secretary Generals from 1945 until today have had differing opinions on the implementation of the assignment, and in particular on their degree of independence from the Security Council. Notwithstanding their attitude to this matter, the role of the Secretary General cannot be isolated from the rest of the organisation as he is to a great extent instructed by the Security Council. In such situations the Secretary General has to comply with the permanent five.

On the other hand the independent role of the Secretary General is more significant in situations where the Security Council is paralysed from acting. The means of the Secretary General varies. According to Art. 99 the Secretary General can bring any matter to the attention of the Security Council which in his opinion may threaten the maintenance of international peace and security. The Secretary General can use his good offices and

mediate in situations where the adversaries are not willing to negotiate. Furthermore, the Secretary General can authorise humanitarian and administrative aid or send mediators and personal representatives. It is difficult to draw conclusions about the work of the Secretary General since much of his activity is clandestine and dependent his personal initiative.

## **2.5 The Security Council and the Gulf Crisis<sup>7</sup>**

On 2 August, 1990 Kuwait was invaded by Iraqi troops. The Security Council condemned the invasion a few hours later in res. 660 (1990). The Security Council demanded immediate Iraqi withdrawal to the positions of 1 August.

The diplomatic activity increased as Iraq did not respect the resolution. There were two subjects of negotiation - Iraqi withdrawal and the international reaction to the Iraqi aggression. The latter became more complicated as time passed and as escalation within Chapter VII became more relevant.

On 6 August, the Security Council adopted res. 661 (1990) which initiated economic sanctions in an attempt to force Saddam Hussein to withdraw from the occupation of Kuwait. The resolution referred to Ch. VII and Art. 51. The sanctions included the interruption of imports from and exports to Iraq and occupied Kuwait. With the exception of food and medicine for humanitarian purposes, the sanctions included all kinds of goods. The sanctions were binding for all UN members and the Security Council requested non-members to accede. In case of economic obstacles, the members could consult the Security Council according to Art. 50. A committee of representatives from the

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<sup>7</sup> The sources for this chronological discussion are UN Chronicle, US Department of State Dispatch, Journal of Palestine Studies and Falk, 1991, s. 19-26.

Security Council (Security Council Committee) was appointed to supervise the implementation of the resolution. Res. 661 (1990) was adopted by 13 votes. Only Cuba and Yemen abstained. At the same time Iraq closed its borders and foreigners were not permitted to leave the country.

On 8 August, Iraq annexed Kuwait. The Security Council declared the annexation null and void in res. 662 (1990). The resolution was adopted unanimously. The Iraqi annexation and declaration of Kuwait as its nineteenth province was perceived as a confirmation of Iraq's decision to maintain the occupation. The UN Secretary General, Pèrez de Cuèllar met with the Iraqi foreign minister, Tariq Aziz, but did not reach a solution. President Bush of the United States and President Gorbachev of the Soviet Union, met in Helsinki on 9 August. and called on the UN members to respect the sanctions against Iraq.

The United States deployed the first armed forces in Saudi Arabia on 8 August on invitation of the Saudi government. The task of the operation, under the codename "Desert Storm", was to defend Saudi Arabia from a potential attack from Iraq. During the next three months the force grew to a multinational military coalition consisting of 28 countries and more than 400 000 men.

On 10 August the Arab League held an extraordinary summit in Cairo where they decided to send Arabic troops for Saudi self-defence. Iraq argued that the decision was invalid since nine countries had reservations against the communiqué. Iraq maintained that the summit was part of an American conspiracy to give the American domination an Arabic wrapping. According to the Iraqi protest the communiqué would legitimise the American-dominated multinational aggression against Iraq.

The first Iraqi initiative to change the situation came on 12 August. Saddam Hussein suggested that certain Iraqi arrangements could be implemented in Kuwait if Israel withdrew its forces from occupied Palestine, Syria and Lebanon. Furthermore, Syria must withdraw from Lebanon and Iraq from Iran. Saddam Hussein did not make any promises to withdraw if these condition

were met, but certain "arrangements" could be made. The Kuwaiti answer to this suggestion was that as long as Iraq made a parallel of their own occupation with the Zionists' infringements in the Arab world, Iraq lost its credibility both in the Arab world and the rest of the world.

Four days later the United States informed the Security Council that at the request of the Kuwaiti government, it controlled and interrupted traffic in the Gulf in order to keep the sanctions under close observation. It also communicated that military force would not be used as long as the international community respected the sanctions. Iraq and Libya protested and insisted that such measures should not be taken unilaterally by the United States but collectively by the Security Council.

In res. 664 (1990) of 18 August, the Security Council claimed that all foreigners in Iraq and Kuwait should be allowed to leave the country without any risks to their security. Iraq made the condition that departure was dependent upon the unimpeded delivery of food and medicine to Iraq. As long as the United States and its allies resisted attacking Iraq, the security of the foreigners in Iraq should be guaranteed.

The Foreign Minister of the Soviet Union, Mr Eduard Shevardnadze confirmed that the Soviet Union supported the anti-Iraqi coalition. Also China gave the assurance that it would not veto sanctions against Iraq, not even military sanctions. Iran, which had obtained conciliation with Iraq after the first Gulf war, supported the claim of forcing Iraq out of Kuwait, but maintained that foreign troops must leave the region after the war.

On 19 August, Saddam Hussein took another initiative. He called on the Security Council to claim withdrawal of American troops in Saudi Arabia and at the same time ensure that a possible collective action in the area would be under the command and control of the UN. Iraq and Saudi Arabia would make a mutual agreement on non-aggressive actions. An alternative suggestion was that the Security Council would guarantee peace and security in the region and that foreign forces would withdraw from the



holy territories in Hijaz and Najd. If these suggestions were accepted, Iraq would give the foreigners in the country permission to leave.

The adoption of res. 665 (1990) of 25 August was an important step in the escalation of the punishment against Iraq. The resolution permitted the international fleet in the Gulf to use limited armed force to control the maintenance of the sanctions. Yemen and Cuba abstained from the resolution. The Soviet Union and China had their reservations, but voted for.

On 13 September, the Security Council decided that inspections should be carried out in Iraq to assess the humanitarian needs and that the UN would organise humanitarian aid if necessary. Res. 666 (1990) underlined that access to food is a fundamental human right independent of other conditions and that the Iraqi government must respect this principle. Saddam Hussein rejected the resolution and claimed that it was an insult to the Iraqi people - a people proud of their humanitarian inheritance and their advanced contribution to civilization. He referred to the history of Mesopotamia as a centre for trade and production at a time when the ancestors of the resolution-makers lived in caves.

Three days later the Security Council adopted res. 667 (1990) which strongly condemned the violations of foreign embassies in Iraq and Kuwait.

Res. 668 (1990) of 25 September gave the Sanctions Committee the right to examine requests for assistance from countries that suffered economically from the sanctions against Iraq. The Sanctions Committee would put forward proposals to the President of the Security Council on appropriate measures. The Council adopted additional sanctions the same day. Res. 670 (1990) ascertained that all countries should avoid flight connections except for humanitarian purposes between their own territory and Iraq. No planes would be permitted to fly over the territories unless they were inspected for not breaking the resolutions 661 (1990) and 670 (1990).

On 1 October, President Bush suggested that unconditional withdrawal of Iraqi forces was an important step in order to solve the other conflicts in the Middle East. Gorbachev sent Jevgenij Primakov to Amman for talks with Saddam Hussein. According to a Soviet report Saddam Hussein had consented to leaving Kuwait if he received the oilfields he claimed and the two islands Warba and Bubiyan. The report was later denied by Iraq.

After the massacre on the Temple Mount in Jerusalem on 8 October, the French foreign minister Roland Dumas expressed his support for the Palestinians and wish for a UN resolution which condemned Israeli infringements.<sup>8</sup> The French attitude to this conflict probably contributed to the release of the French hostages on 23 October. Eventually all foreign hostages were set free.

Res. 674 (1990) of 29 October referred to the hostages' situation. In this resolution the Security Council held Iraq responsible for the destruction of Kuwait as a consequence of the occupation. In mid-November Saddam Hussein said he was willing to negotiate provided he was not forced to leave Kuwait first. But President Bush answered that it was not possible to compromise on the claim for withdrawal.

Increasing internal pressure in the United States made international support through the UN essential for American mobilization in the Gulf. Even though the Americans and the British claimed that Art. 51 of the Charter was a sufficient legal basis for intervention, an authorization from the Security Council would strengthen the legitimacy of a military action. Since the presidency of the Security Council was allotted to the United States in November, and Yemen was to take over in December, the

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<sup>8</sup> These statements were expressed in a speech in the Parliament on October 10. President Mitterrand linked the Palestinian question to the Gulf crisis and stressed that international law should be respected in both cases.

Americans worked for a resolution to be adopted before the end of the month (Dannreuther, 1991/92, p. 40). Secretary Baker set out on a 10-day trip to Europe and the Middle East on 16 November to gather support for a resolution that opened for the use of force. The Soviet Union represented the greatest challenge. At the CSCE meeting in Paris on 19-21 November President Bush and Gorbatshev discussed the issue. Gorbatshev had reservations but what was more important, he did not rule out the American initiative on the use of force. The final decision of the Soviet Union was reached after the visit of the Iraqi Foreign Minister Tariq Aziz to Moscow where no sign of moderation could be discerned on the part of Iraq. Secretary Baker succeeded in his personal diplomacy with all the members of the Security Council apart from Yemen and Cuba.

Res. 678 (1990) was adopted on 29 November at a meeting where 13 of the members were represented by their foreign ministers. The resolution authorised the use of "all necessary means" unless Iraq withdrew its forces from Kuwait within January 15, 1991. The interim period was regarded as a "pause for peace and goodwill" when diplomacy and negotiations would be given a last chance.

Cuba and Yemen voted against the resolution and China abstained. In the beginning the United States and the United Kingdom did not want any deadline for intervention, but pressure from France and the Soviet Union and several rounds of negotiations between the permanent five resulted in a compromise. Within this period of six weeks Iraq was given the chance to withdraw without military confrontation.

In the period between 2 August, and 29 November the Security Council adopted 12 resolutions. Three of them dealt with the sanctions: res. 670(1990), res. 666(1990) and res. 669(1990). The other resolutions claimed that foreigners should be permitted to leave the country, res. 664(1990); condemned aggression against foreign diplomats in Kuwait res. 667(1990); held Iraq responsible for its violations in Kuwait res. 674 (1990); and

condemned Iraq's attempt to change the demographic composition of Kuwait res. 677 (1990). The last, res. 678 (1990), authorised the use of all necessary means if Iraq did not withdraw within the deadline. The resolutions can be summarised in the following table:

Table 2.1: UN resolutions on the Gulf crisis

Re. no.:	Date:	Measures:	Voting: For-Against-Abstain
660	Aug. 2	Condemnation of the Iraqi invasion	14 - 0 - 0 (Yemen did not participate)
661	Aug. 6	Economic sanctions; establishment of the Sanctions Committee	13 - 0 - 2 (Yemen, Cuba)
662	Aug. 9	The Iraqi annexation is declared null and void	15 - 0 - 0
664	Aug. 18	Demand that Iraq permits and facilitates departure of the nationals of third countries	15 - 0 - 0
665	Aug. 25	Permit the use of such measures as may be necessary to inspect and verify in- and outward shipping	13 - 0 - 2 (Yemen, Cuba)
666	Sept. 13	Inspection of the humanitarian situation for possible aid	13 - 2 (Yemen, Cuba) - 0
667	Sept. 16	Condemnation of the Iraqi aggression against foreign embassies in Kuwait	15 - 0 - 0
669	Sept. 24	Requests for assistance will be examined by the Committee established under res. 661 (1990)	15 - 0 - 0
670	Sept. 25	Confirmation that economic sanctions include all kinds of transport	14 - 1 (Cuba) - 0

674	Oct. 29	Condemnation of the actions by Iraq to take third-State nationals hostage and to mistreat foreigners	13 - 0 - 2 (Yemen, Cuba)
677	Nov. 28	Condemnation of attempts by Iraq to alter the demographic composition of the population of Kuwait	15 - 0 - 0
678	Nov. 29	Authorization of the use of all necessary means to uphold and implement re. 660 (1990) if Iraq does not withdraw its forces within 15.01.91.	12 - 2 (Yemen, Cuba) - 1 (China)

On the day after the authorization of military force, President Bush offered direct negotiations. Foreign Minister Aziz was invited to Washington and Secretary Baker was ready to go to Baghdad. Saddam Hussein accepted negotiations, but insisted on a linkage to the Palestinian question. The United States suggested several dates, but Iraq could not accept any of them. Iraq suggested 12 January, but the Americans thought it was too late. The difficulties in finding a date were interpreted by the Iraqis as a sign of American unwillingness to negotiate.

On 26 December, Saddam Hussein offered what he called a serious and constructive dialogue. A few days later he threatened to attack American interests all over the world if a war broke out. On 3 January, President Bush made a last effort to find a diplomatic solution. Eventually, Iraq agreed to meet for talks in Geneva on 9 January. Secretary Baker assured Aziz that if Iraq withdrew there would not be any military action from the coalition. The meeting lasted for six hours but no breakthrough was possible. According to Secretary Baker there was no sign of flexibility from Iraq.

On 12 January, the American Congress decided to start the war. On the following day Pèrez de Cuèllar met Saddam Hussein in Baghdad, but the "logic of war" was irreversible. As a final attempt, France suggested sending Foreign Minister Dumas to

Baghdad, but the United States did not support this suggestion and Iraq was unwilling to take part in further negotiations. On 15 January, the Secretary General appealed to Iraq to respect the UN resolutions. On the day the coalition attacked Iraqi military bases in Kuwait and Iraq. "Desert Shield" was changed to "Desert Storm".

This chronological account indicates that the UN system for collective security was not implemented. A more systematic discussion of this topic will come in Part III. Nevertheless, the UN played a significant role in this conflict through its condemnation, sanctions and eventual authorization of all necessary means against Iraq. This role assumed that the veto powers were willing to cooperate and the ensuing discussion will examine how they were able to do that.

## **Part II**

### **Why Were the Members of the Security Council Able to Cooperate in Handling the Gulf Crisis?**

In this part the aim is to throw light on the first question of this study. The cooperation between the permanent five during the Gulf crisis is one of the exceptions in the history of the UN. It is therefore interesting to study the motivations behind each member's involvement in this particular crisis.

#### **3 Iraq's Invasion and the UN Charter**

The UN condemnation (res. 660(1990)) of the Iraqi invasion came a few hours after it had taken place. This was the first time in history that the whole territory of a UN member had been occupied by an armed force. The invasion was classified as a breach of international peace and security. The Council demanded the immediate and unconditional withdrawal of Iraqi forces. Furthermore, the Council demanded that the adversaries should start negotiations. The resolution had its legal basis in Art. 39 and 40 which opened for the use of force under Chapter VII.

The resolution was adopted by 14 votes. Yemen did not participate in the voting on the grounds that the representative had not received instructions from his government. This prompt and almost unanimous reaction from the Security Council can to a large extent be explained by the fact that the Iraqi invasion was so blatant that it could not be justified.

Iraq had violated the territorial integrity and political independence of Kuwait with armed force. Art. 39 gives the Security Council authority to determine whether there was a breach of Art. 2.4. and there was no doubt that the members of the Security Council deemed the Iraqi invasion to be a violation of this article.

*The rule that had been broken was so fundamental to the nature of interstate relations that you could get agreement across the ideological spectrum that this could not be permitted to stand (Laurenti, 4.12.92).*

Nevertheless, the breach of Art. 2.4 was not expressed explicitly in the resolution. The text says that "there exist a breach of international peace and security ...". It is important to be aware of the distinction between "threat to the peace", "breach of the peace" and "act of aggression". The first is used in the description of civil wars, and conflicts within nation states. The others are used in international relations. "Break of the peace" is more neutral and less condemning than "act of aggression". "Act of aggression" has often been used but the Security Council has not been able to take further action with sanctions. On the other hand the description "Breach of the peace" has only occurred four times: Korea 1950, The Falklands 1982, the first and second Gulf war 1981-88 and 1990-91, but the results of this diagnosis have been much more decisive.<sup>9</sup> Iraq's invasion constituted "breach of the peace". But why didn't the Council refer explicitly to Art. 2.4 or "act of aggression" in the first resolution (res. 660 (1990))? According to Oscar Schachter the Council considered the negotiations would have a better chance for success if it did not condemn Iraq for having committed "a supreme crime of aggression" as a breach of Art. 2.4 would imply (Schachter, 1991, p. 453). Legally it did not make any difference as far as the further treatment of this case was concerned whether the reference was included or not.

Iraq tried different strategies in order to repudiate the condemnation: First, Iraq insisted that they had been invited by the opposition in Kuwait:

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<sup>9</sup> See i.e. White, 1991, pp. 41-50 for a more detailed description of the distinctions between these three concepts



*The Free Provisional Government of Kuwait requested my Government to assist it to establish security and order so that the Kuwaitis would not have to suffer" (S/PV. 2932).*

In this way Iraq tried to create a parallel to the American invasion in Panama which was legitimated as a pro-democratic invasion on the invitation of those who claimed the right to rule the country. If this analogy was embarrassing for the United States, the argument could not be supported according to international law. From a legal point of view it is not possible to overthrow a government and replace it no matter how despotic it is or how good the democratic intentions are (Greenwood, 1991, p. 39). International law primarily regulates the relations between states and gives no authority to interfere in matters which are within other countries' domestic jurisdiction (Art. 2.7).<sup>10</sup>

Another argument for the Iraqi invasion was that Kuwait had been separated from Iraq at the time when the territorial borders in the Middle East were drawn, after receiving independence from the colonial powers.

*That is why the Iraqi Revolutionary Command Council decided to restore to our country the portion taken away from it, thus re-establishing the eternal, indestructible unity of our country (S/PV. 2934).*

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<sup>10</sup> However, it is not possible to drag the Panama-Kuwait analogy too far. There are some fundamental distinctions. The opposition in Panama that invited the United States had won an election six months before and was supported broadly both before and after the US invasion. The pro-Iraqi regime in Kuwait consisted of men who were not known in Kuwait and who had hardly any support by the Kuwaitis. They were probably officers from the Iraqi army. Besides "The Provisional Government of Free Kuwait" lost its power when Iraq annexed the country.

Iraq regarded Kuwait as an integral part of Iraq and not as an independent state. The annexation on 8 August of Kuwait, was explained as a legitimate restitution of the country as the nineteenth province of Iraq (Fermann, 1991, p. 13).<sup>11</sup> If this claim had been valid on legal terms, the Security Council would not have had any authority to interfere. According to Art. 2.7, or the principle of non-intervention, the UN shall not interfere in domestic matters. This point was underlined by the Iraqi representative at the meeting in the Security Council on 2 August.

*...the events taking place in Kuwait are internal matters which have no relation to Iraq (S/PV. 2932).*

The members of the Security Council did not accept the Iraqi argumentation. The independence of Kuwait was recognised in 1961, and the attack in 1990 could therefore not be regarded as an Iraqi domestic matter. Iraq did not accept the independence of Kuwait and maintained its irredentist claims. A crisis developed in which Iraq threatened with military actions. British and Arabic troops were deployed in Kuwait. However, a military confrontation was avoided and after the change of president in 1963, the relationship between the two countries improved. In October 1963 an agreement was signed in which the independence of Kuwait was confirmed and accepted by Iraq. Subsequently, the Iraqi assertion that the crisis in 1990 was an internal matter was not convincing.<sup>12</sup>

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<sup>11</sup> The Iraqi claim to Kuwait has its historical roots at the time when Kuwait was part of the Basra province in the Ottoman Empire. The Ottomans never accepted Kuwait as a British protectorate and meant that Kuwait was established as a result of British imperialism.

<sup>12</sup> Schofield writes that shortly after the invasion of August 2, a memorandum from the Iraqi embassy in London declared the agreement of 1963 null and void. The reason was that the Iraqi Revolutionary

On the other hand the agreement from 1963 did not clarify the right of ownership to the Rumaila oilfield which is situated on the border between Iraq and Kuwait. 90 per cent of this oilfield is on the Iraqi side but Iraq accused Kuwait of pumping oil worth 10 billion dollars from this field during the 1980s. The bitterness over this "theft of oil" was reinforced by the Kuwaiti refusal to let Iraq off the debt on 30 billion dollar which was incurred to pay the war against Iran. Saddam Hussein regarded this war as a struggle on behalf of the Arabic people against Khomeini's Islamic revolution. He therefore expected the Arabic countries, and in particular the Gulf countries, to show their gratitude by release the Iraqi debt.<sup>13</sup> Saddam Hussein's request for remission was rejected twice during 1990.

The economic crisis in Iraq after the first Gulf war intensified as Kuwait started over-production of oil followed by a reduction of the oil-price. This meant a big economical loss for Iraq. At the summit for the Arab League in Baghdad in May 1990, Saddam Hussein argued that the overproduction combined with Iraq's poor economy could be regarded as an economic war against Iraq.

*This enormous drain on our economy derives from a lack of vision or a failure by those directly concerned locally to view matters from a pan-Arab angle... This is in fact a kind of war against Iraq (Hussein, 30.05.90).*

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Council had never ratified the agreement. According to the Association for Free Kuwait this argument was not acceptable because the two countries had reestablished diplomatic, economic and cultural relations immediately after the agreement in 1963. (Schofield, 1991, pp. 112-113)

<sup>13</sup> The war against Iran cost USD 500 billion, where 80 billion were borrowed from other countries. Half of this sum was borrowed from Kuwait, Saudi Arabia and the United Arab Emirates (Babbah, 1992, p. 52)

The justice of this characterization can of course be discussed. But more important here is the question of whether there is any legal basis for this argument. An economic war would probably not constitute a breach of Art. 2.4 as this article concerns "threat or use of force". A reasonable interpretation of "force" is according to Goodrich & Hambro "physical force" or "armed force".

*Therefore, coercion through economic or diplomatic or psychological methods is to be excluded from the scope of the term "force" (G. & H. in Naidu, 1974, p. 29).*

In the light of this interpretation Iraq's accusation could not be supported. As no armed attack had occurred against Iraq, the country's attempt to characterise the invasion as an act of self-defence according to Art. 51 was not valid.

The Security Council did not accept the Iraqi argumentation and maintained the condemnation and claims in res. 660 (1990). The almost unanimous condemnation of the Iraqi invasion was an important assumption for the cooperative spirit in the Security Council in the autumn of 1990. However the content of res. 660 (1990) is not unique in the history of the UN. The Security Council has several times condemned a member for the breach of peace and security. What is unique in this crisis is that the Security Council reinforced the condemnation by sanctions and the authorization of the use of force. In most cases the practice of the Security Council has been limited to a verbal condemnation. The unique cooperation and willingness of the permanent five to use the teeth of the Charter in this particular crisis must then be explained by additional factors.

## **4 Changes in the International Power Structure**

In order to understand why the Security Council acted as it did in the Gulf crisis, it is important to remember that the Cold War had

just come to an end. The structural changes in the power relations between East and West began with Gorbatschev's coming to power in the Soviet Union in 1985. Glasnost and perestrojka created radical changes in both society and foreign affairs. There were basically three events which had great impact on the end of the Cold War: the INF agreement (Intermediate Range Nuclear Forces) of 1987 which stated that all American and Soviet intermediate-range ballistic missiles should be destroyed and that no further missiles of this type should be produced; the Soviet unilateral disarmament in Eastern Europe; and Gorbachev's speech in the UN in 1988 where he almost encouraged the democratic upheavals in Eastern Europe.

Both the revolution in Eastern Europe and the profound economic and political problems in the Soviet Union contributed to the end of the rivalry with the United States. These changes occurring in the late 1980s created new opportunities for cooperation in the UN Security Council and other arenas. In 1990 this new era of cooperation was established. The five veto powers consulted each other regularly about international disputes.

The Iraqi invasion of Kuwait represented the first crisis after the Cold War. The Council reacted promptly and decisively. It was obvious that both the United States and the Soviet Union wanted the international reaction to come from within the framework of the UN. Furthermore, this was possible as long as none of the members of the Security Council defended Iraq's aggression and opposed the others.

If the Security Council is no more than a reflection of the world outside and the United States is the only global superpower, it is reasonable to think that the United States has all the power in the Security Council. In spite of its special position, this is not so. After all there are five veto powers in the Council which means that compromises must be found from case to case. Besides, there are domestic considerations to be taken. The Minister Chancellor at the American Mission in New York, Mr Robert Gray, said that he had more difficulties in negotiating draft resolutions with his

own administration than with the other members of the Security Council (Gray, 2.12.92).

For the United States, the dominating participant in the international response against Iraq, there were many advantages in canalising its policy through the Security Council.

The end of the Cold War implied that the legitimate basis for intervention in other countries had disappeared. Containment against communism was no longer a credible or acceptable reason for the maintenance of the American grand strategy. However, the United States had no difficulties in legitimating its military or political involvement in the Gulf crisis. Iraq's aggression against Kuwait could not possibly be defended in international law. In this way Saddam Hussein gave the United States the necessary legitimacy.

Respect for international principles and new hope for the UN as a central institution for handling international disputes were repeating themes in President Bush's statements about the Gulf.

The notion "New World Order" was central in the American rhetoric during the Gulf crisis. President Bush stressed the fact that the commitment in the Gulf must be regarded as a course of the "New World Order" after the Cold War. To a great extent cooperation within the UN Security Council had been paralysed after the Second World War on account of the veto. But the new rapprochement between the two superpowers gave the United States a new opportunity to use the United Nations in its global policy.

By linking the crisis management policy to the UN, the United States obtained the ideological basis for its presence in the Gulf. This was important as the United States wanted to keep its dominating position in the "New World Order". But no less important, the crisis in the Gulf became a test of the credibility and legitimacy of the United Nations after the Cold War, and in this way the United States obtained international support more easily.

## **5 National Interests**

The permanent members are equal powers in their right to exercise the veto, but apart from that their influence and power differ. Certain interests are more important than others. In an attempt to show these nuances it may be fruitful to study how the different countries relate to different factors such as oil resources, arms trade and their own power position in the "New World Order". Where such factors are irrelevant, it is necessary to shed light on other interests in order to understand their commitment.

It is not a simple task to identify the basic motives behind official policy. The formal arguments and the real explanations are not necessarily concurrent:

*The justification the Bush administration offered for its conduct in the Gulf war should not necessarily be identified with its motives. A justification for acting, and a motive for doing so, are two different things. One is public, the other private (Tucker & Hendrickson, 1992, p. 86).*

The official arguments are not difficult to trace. The underlying motives on the other hand are difficult to identify, but at the same time more interesting. If one takes a realist approach to international relations, the main task is to find the motives behind the moral and rhetoric wrapping. However the problem is that one never knows exactly what the moving motives are.

### **5.1 American Interests**

According to Secretary Baker, there were three points at stake in this conflict. First, Iraq's aggression was a threat to world peace. The armament of chemical, biological and - possibly nuclear weapons was an indication of ambitions which went far beyond the annexation of Kuwait.

It was maintained that Saddam Hussein destroyed the vision of a better world after the Cold War:

*While the international community tries to build on the successful ending of the Cold War, Saddam Hussein seems hell-bent on a revival of hot war (Baker, 29.10.90).*

Second, Iraq's aggression was, according to Secretary Baker, a regional challenge. It would be very difficult to find solutions to the many conflicts in the Middle East without peace in the Gulf:

*But Saddam Hussein's way is not the way of peace. His is a prescription of war (Baker, 29.10.90).*

Third, Iraq's aggression was a challenge to the world economy. It was therefore important to secure the oil resources in the Gulf:

*Neither we nor the rest of the international community can afford to let one dictator control that access (Baker, 29.10.90).<sup>14</sup>*

In which way did these statements contribute to monitor the real motives for the United States?

### *5.1.2 The Threat to World Peace*

If the most important goal was to free Kuwait, what were the motives behind the bombing of Iraqi military installations?

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<sup>14</sup> Secretary Baker of 29.10.90. This speech summarizes the official version of the motives of the Bush administration.



The fear of Iraqi nuclear power was certainly an additional factor. In 1990 Iraq had the material and equipment to produce nuclear weapons and it was expected that it would do so within a year or two (Newsweek, 29. Oct, 1990, p. 16).<sup>15</sup>

From an American point of view the changes in Europe and the Soviet Union were no guarantee for a more peaceful world. Besides, the rise of hostile powers in the third world, equipped with modern weapons, was regarded as a major threat to American security. As an answer to this threat, the American strategy was to attack quickly, strike hard and make a firm settlement (Klare, 1991, p. 50). Saddam Hussein represented such an enemy in the third world. The American goal was therefore, also officially, extended to include the destruction of the Iraqi nuclear potential.

*We are determined to knock out Saddam Hussein's nuclear bomb potential. We will destroy his chemical weapons' facilities (Bush, 16.1.91).*

The bombing of Iraqi military installations was therefore not only a means to pull Iraq out of Kuwait, but more generally to destroy its nuclear capability.

The Iraqi aggression could also be regarded as a threat to world peace in the sense that this was the first big challenge after the Cold War. Who should take action when conflicts occurred and how? If the brutal infringement on Kuwait had been left without any reaction but a verbal condemnation, it could from an Iraqi point of view be interpreted as a sign of international impotence to sanction aggression. It was therefore important to show

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<sup>15</sup> Newsweek refers to a statement made by Leonard Specter, nuclear expert from Carnegie Endowment for International Peace in Washington.

Iraq and the rest of the world that aggression does not pay<sup>16</sup>. This demonstration was of particular importance, at least at the rhetorical level, in a period of transformation from the old order to a new one.

### *5.1.3 The Regional Challenge*

Why was the United States so occupied with the regional threat in the Gulf? American interests in the Gulf included two linked goals: it was of prime importance to maintain stability in the area; besides, it was in American interest to have access to the oil-resources. Until 1979 the support of Iran and Saudi Arabia was the best guarantee of maintaining this goal. After the revolution in Iran and the outbreak of the war between Iran and Iraq in 1980, the United States approached Iraq in fear of Khomeini's Islamic regime. From an American point of view, Iraqi politics had become more moderate and pragmatic during the war. The background for this view was Iraq's gradual loss of dependence from the Soviet Union. It had become less isolated and more pro-Western in foreign affairs. In this way Iraq became a geopolitical counterbalance to Iran - "the enemy of my enemy, is my friend". However, the American attitude towards Iraq was mixed with scepticism.

The security of Saudi Arabia was given high priority in the Reagan doctrine in the 1980s. The monarchy was vulnerable in

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<sup>16</sup> On reflection in 1994, it is more likely that the signal Saddam Hussein received in the Gulf crisis was that aggression does not pay as long as it threatens American interests. (Possible aggression on the part of the United States or Europe is here excluded.) The war in former Yugoslavia illustrates the powerlessness of the international community in the attempt to solve the conflict. The question has therefore been raised whether the international impotence had been so striking if Bosnia had rich oil-resources.

the war between Iraq and Iran, and in the last resort its security was guaranteed by the United States. This was also the case for the small, but rich, sheikdoms in the Gulf. The security of Saudi Arabia and the Gulf states benefitted American oil interests in the region.

The Iraqi aggression towards Kuwait was regarded as a threat to stability in the region. The invasion created insecurity and uncertainty for the future. In particular the United States was worried whether Saddam Hussein intended to attack Saudi Arabia. The rapid deployment of American troops to defend Saudi Arabia can be explained by the fact that the Americans gave priority to Saudi security and oil resources.

Another important consideration was the relationship with Israel. Israel has been and still is a strategic supporter and receiver of American financial and military aid in the Middle East. However, the strategic significance of Israel was limited in the Gulf crisis. As the United States was dependent upon Arabic support in the coalition, it was necessary to hold a low profile in the relationship with Israel. In particular, it was crucial not to give the impression that the impending war favoured Israeli interests (Butterfield, 1992, p. 104). Such an impression would not be unrealistic taking into account the American-Israeli traditional relationship and Israel's fear of the Iraqi threat. Six months earlier Saddam Hussein had threatened to burn down half of Israel as revenge against a possible attack. According to Aronson the purpose of this statement was to deter Israel from repeating its attack of 1981 on Iraqi nuclear installations (Aronson, 1992, p. 618). "Desert Storm" was therefore a welcome action for Israeli interests, particularly the bombing of military targets.

It was crucial for the United States to tone down its relationship with Israel. According to Butterfield two important signals were given: firstly, to hold back loan guarantees voted for in Congress before the crisis; secondly, not to put a veto on the UN resolution, which criticised the Israeli treatment of Palestinians on the West Bank and Gaza (Butterfield, 1992, p. 104).

The Palestinian question is a basic problem for stability in the Middle East and it was activated during the Gulf crisis. Because there was so much emphasis on respect for international law, the linkage between the Gulf crisis and the Palestinian question was inevitable. However, this linkage was problematic in relation to the traditional support of Israel and the pro-Israeli lobby in Congress which strongly suggested an increase in the economic and military aid to Israel.

#### *5.1.4 The Oil*

The world's richest oilfields is situated in Saudi Arabia, Iraq, Iran, Kuwait and the smaller Gulf states. The OPEC countries own 74 per cent of all oil resources in the world, whereas the Gulf states have 62 per cent. Oil drilling in the Middle East is twelve times cheaper than in the United States. The American oil production has decreased in recent years because it is not competitive on the international market. As a result the United States is dependent on import. In 1990, the United States imported 28 per cent of its oil consumption from the Gulf, which was a considerable increase from 1985, when the import share was 7 per cent.<sup>17</sup>

The crisis in the Persian Gulf resulted in an increase in the price of oil which could be regarded as both positive and negative. It was positive in the sense that the price rise could make American production competitive and in this manner reduce the import. On the other hand it was maintained that the potential for American oil production was not good and that the United States had to accept and live with its dependency on import. The latter view was probably most prevalent in Washington - a view which implied that the United States was interested in low prices.

The low prices in recent years were to the advantage of

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<sup>17</sup> Arts & Renner, 1991 is the source of these figures.

American consumers, in contrast to the tendency in Western Europe where taxes had compensated for the price fall. Moreover the economy of the United States is much more energy intensive than Western Europe's (Austvik, 1990, p. 6). In this way the oil from the Middle East at low prices has been more important to the United States than other Western countries. On the other hand Europe and Japan import more oil from the Middle East than the United States.

According to Thomas Friedman there were three interests at stake for the United States in the Gulf. First, there was the fear of Iraqi control over the prices and production of oil since in the long run the annexation of Kuwait would give Saddam Hussein control over 20 per cent of the OPEC oil production (Friedman, 1991, p. 204). If Iraq in addition had intended to invade Saudi Arabia, the country would have controlled more than 45 per cent of the world's oil reserves. That would not have been favourable for the United States, bearing in mind the fact that Saddam Hussein wanted to raise the prices. At the last OPEC meeting before the invasion Saddam Hussein suggested increasing the price from \$15 to \$25 a barrel.

Oil is a key resource in the industrialised world and stable moderate prices are therefore a basic factor for economic growth. It was therefore important to the United States, Europe and Japan that Iraq did not gain too much control over this resource. On the other hand it was possible that Iraq, like Saudi Arabia, would not raise the prices over a short period of time as the buyers would then try to find alternative energy resources. In the latter case, the prices would be pressed down.

Secondly, it was important to have control over the oil resources. Preferably this control should be divided among several states (Friedman, 1991, p. 205). But since such a division is unrealistic Washington preferred Saudi Arabia to have the control, not Iraq:

*The United States is not sending troops to the Gulf simply to help Saudi Arabia resist aggression. It is sending troops to support the OPEC country that is more likely to cater to Washington's interests (Friedman, 1991, p. 205).*

The reason why the United States preferred Saudi Arabia is that historically this monarchy - in contrast to Iraq - has been more anti-Soviet and more forthcoming towards American interests. This argument is perhaps less important as the Soviet Union did not cause any threat to the United States in the region in 1990.

Thirdly, it was important to maintain stability after the Cold War (Friedman, 1991, p. 206). If the United States and the Soviet Union did not react to the Iraqi aggression, it could - as mentioned above - be a signal to other regional powers to use the same methods. The action against Iraq would therefore function as a deterrent to potential aggressors. The sovereignty of states would be respected and the principle "survival of the fittest" should not prevail. According to Friedman it is appropriate to indicate the inconsistency in these ideals.

*...the might-makes-right arguments and those of national sovereignty are really, at best, more palatable ways of saying that the United States interest in preserving the status quo and stability in the Persian Gulf is primarily economic (Friedman, 1991, p. 206).*

### *5.1.5 Can the United States Afford to Remain a Superpower?*

After the second world war the United States had both the power and the political will to finance the building of a global military force. In addition to the economic capacity there was political agreement on high military expenses. They were needed in order to carry out the policies of containment and deterrence towards the Soviet Union. The Soviet threat decreased at the end of the 1980s, and subsequently the ideological legitimacy for the

American grand strategy disappeared. Another serious problem was the gradual increase in the price of this policy. The great budget deficit in American economy makes it difficult to mobilise the necessary resources by own means. The Gram-Rudman-Hollings acts bind the government and the Congress to suggest budgets which pay the deficits. If the fixed rates are not obtained, automatic and general cuts are implemented. In spite of that, the deficit increases. The Gulf crisis has on the other hand indicated that the United States is still willing to maintain its global strategy, but is dependent on economic support. The claim for financial support was at the same time motivated by the argument that the United States not only defended its own interests but also the interests of others.

*This is not, as Saddam Hussein would have it, the United States against Iraq. It is Iraq against the world (Bush, 11.9.90).*

The advantage of external financial support is that the plans for deficit reductions and increase of taxes will not be challenged to the same extent. Besides, this arrangement meets the American claim for burden-sharing. For a long time the Congress has blamed Japan and Western Europe for not contributing enough to their own defence. It also pointed at the injustice of American security guarantees whether they concerned the threat from the Soviet Union or Iraq. However, the disadvantage of sharing the financial burden is that the contributors will not necessarily be satisfied with reaping the fruit; they also want influence in the decision making process. Because the economic growth in Western Europe and Japan has been stronger than the American, they can take advantage of their positions and challenge the American status as a superpower. If the American military actions are to be paid by others, their influence will decrease and the superpower might reduce itself to a mercenary. (Smith, 1990, p. 42).

The most important financial contributors to "Desert Shield"/ "Desert Storm" were Saudi Arabia, Kuwait, The United Arab Emirates, Japan, Germany and South Korea. In addition there were a great number of individuals. The contributions came on invitation from the United States in August/September 1990 and at the beginning of 1991.

*A formula was devised that called for Japan to provide 20 per cent of the cost, the US and its allies another 20 per cent, and the Gulf states the rest" (Freedman & Karsh, 1993, p. 358).*

The contributions were sent to the US Defence Department - USD 48.7 billion from foreign governments and USD 687,000 from individuals. The contributions were given as financial support, equipment and transportation.

*Table 5.1 Foreign contributions in USD millions<sup>18</sup>*

Saudi Arabia	13,928
Kuwait	13,927
United Arab Emirates	4,088
Japan	9,987
Germany	6,554
Korea	219
Other	26
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Total	48,729
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<sup>18</sup> The figures for foreign contributors is documented in *Operation Desert Shield/Storm. Foreign Government and Individual Contributions to the Department of Defense*. United States General Accounting Office. Report to Congress, May, 1992. The figures in the table are from September 30 1991 However, the contributions continued to come and in April 1992 the sum was USD 53,7 billion from foreign governments.



The American hope and demand for burden-sharing became fulfilled. Indeed, it was so successful that there were suggestions that the cost of the war had to be artificially inflated by including costs that might otherwise have been omitted. The irritation over the American profit in this war gave rise to discussions in Germany on whether they should claim repayments or not (Freedman & Karsh, 1993, p. 358-359).

The economic situation in the United States would have made the implementation of "Desert Storm" very difficult. This was probably an important consideration in handling this crisis within the framework of the UN. By legitimating the action in the Gulf by means of international law it became much easier to share the bill.

#### *5.1.6 A question of principles?*

The American intervention in Grenada in 1986 and Panama in 1989 illustrate the fact that respect for international law has not always had top priority in American foreign affairs. Nor have other countries' violations of international law perpetrated by other countries caused the United States to react consistently. One example is the American veto against the Security Council's condemnations of Israeli occupation of Arabic territory.

Against this background it would be interesting to know whether this emphasis on principles is a genuine interest or just a factor for legitimating less decent motives. Some of my sources said that this is not a question of either - or, but both - and. In the Gulf crisis respect for international law and national interests had the same goal and on the rhetorical level it was therefore natural to emphasise the first and tone down the latter. There is no reason to believe that the Western commitment in the Gulf was a result of a new respect for the UN Charter (Skjelsbæk, 1991, p. 43). In other words it is reasonable to maintain that the emphasis on principles was opportunist in order to serve other interests. On the

other hand the action in the Gulf would not have been possible on the grounds of interests alone.

*It could not have happened without law. I mean there are two different points, one is that law is necessary if not sufficient (Schachter, 7.12.92).*

One important reason for the United States handling the conflict within the UN framework was the positive outlook for cooperation within the Security Council. As already discussed, it was a result of two factors; the end of the bipolar power structure which had traditionally paralysed the Council and the fact that the Iraqi aggression was so serious that few countries had difficulties in dissociating themselves from it. All of them demanded Saddam Hussein's withdrawal from Kuwait even though their motives were different.

Not only was the outlook for cooperation in the Council positive, it was also necessary. Domestically it would not have been acceptable to go to military action in the Gulf without UN authorisation. Popular opinion in America would have queried why more than 400 000 soldiers should risk their lives for oil. Not only were the oil argument unworthy for risking American lives, it was also questionable how important the oil was after all. Despite the increase in the price of oil which would put pressure on the economy, the action in the Gulf would cost the Americans USD 45 billion. According to Laurenti, the Congress could not have sent troops without UN authorization. The multinational force was drawn from 28 countries. In order to strengthen the unity of the coalition, it was important that American motives were toned down.

## 5.2 The Soviet Union

The Gulf crisis represented a great challenge for Gorbachev's "New Thinking" which had become a dominating trait in Soviet foreign affairs in the 1990s. "New Thinking" in the relationship to the third world can be summarised in five points.<sup>19</sup>

- 1) *Accentuation of survival*: The danger of nuclear weapons forces the superpowers to acknowledge that human survival is more important than national interests, classes and ideologies.
- 2) *Withdrawal from third world*: The need to abandon the superpower rivalry in these countries.
- 3) *Balance of interests* between the USSR, the United States, and regional powers.
- 4) *Non-military conflict management*: Attempt to resolve regional conflicts with peaceful means within the framework of the United Nations.
- 5) *Superpower cooperation*: Regional conflicts have implications for the relationship between the superpowers. The détente is dependent on joint actions by the superpowers to settle regional conflicts.

In spite of a general withdrawal from many areas in the third world, Soviet policy towards the Middle East had become more active than in the 1980s. The Soviet Union had improved its relations with Egypt and Israel in the hope of arranging an international conference on the Arab-Israeli conflict. By supporting pro-Western states in the Middle East, the Soviet Union could expect positive reactions from the United States both regarding economic assistance and agreements on disarmament. However, the rapprochement between Egypt and Israel was at the expense of the relationship with Syria and the PLO.

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<sup>19</sup> This chapter about the Soviet Union is based on Freedman, 1991, pp. 1-17 and Kapeliouk, 1991, pp. 70-78.

In the relationship with the Gulf countries and the Iran-Iraq war, the Soviet Union supported the adversaries in turn. At the end of the war the Soviet-Iranian ties were strong and the two countries signed a political, economical and military agreement in 1989. Nevertheless, the Soviet Union and Iraq still had mutual interests even though their relationship had been reduced. Iraq was dependent on military equipment and the Soviet Union was dependent on payment from Iraq. When Saddam Hussein invaded Kuwait, there were almost 8.000 Soviet economic and military advisors in Iraq.

The Soviet Union established diplomatic relations with Kuwait in 1964 and the two countries benefited from Soviet arms export and Kuwaiti payment. The relationship with the other Gulf states improved under Gorbachev. Diplomatic relations were established with Oman, Qatar and the United Arab Emirates. But Saudi Arabia and Bahrain were sceptical of the Soviet Union because its support of Iran and would therefore not establish diplomatic relations.

The political position of the Soviet Union in the Gulf had improved considerably under Gorbachev. The Iraqi invasion of Kuwait was a challenge to the Soviet Union in many ways. First the invasion violated the principles of the "New World Order", an expression used not only by President Bush. When the United States began the defence of Saudi Arabia, the Soviet Union had to make a choice. If it supported the coalition cooperation between the superpowers would be maintained. It would not be to the advantage of the Soviet Union if the United States was too dominating in defending Kuwait. There are several reasons for this consideration. Firstly, a solo play from Washington would give the United States the honour of saving Kuwait and would confirm its position as the only superpower after the Cold War. Secondly, an alliance with the United States would strengthen the Soviet relationship with the Gulf states, Syria and Egypt, which also supported the American defence of Saudi Arabia. The Soviet Union would thus have a better chance of developing diplomatic

relations with this country. If Moscow did not oppose the Iraqi aggression, there would probably be negative consequences for its relations towards the other Gulf states.

The Soviet Union had much to gain in supporting the anti-Iraqi alliance, but it also had something to lose. Iraq paid generously for weapons and Soviet know-how in the oil industry, the military sector, and in agriculture. The conservatives in the Soviet Union regarded Saddam Hussein as a containment against Western imperialists who wanted to control the oil in the Middle East and who deployed military forces near the Soviet border. That was a threat to the balance of power at a time when the Soviet Union was in the process of losing its grip on Eastern Europe. Another point which was stressed by Middle East experts in the Soviet Union was that if Iraq gained support and prestige in the Arab world by linking the action against Kuwait with the Palestinian issue, it would not be in the interests of the Soviet Union to oppose Iraq. These considerations resulted in a low profile support of the anti-Iraqi and American-dominated reaction.

Having chosen sides, the next question was how to react. It was not feasible to offer military equipment and assistance for the disposition of the coalition because of economic problems including shortage of food and goods in general. Besides sending Soviet troops would provoke the Muslims in Central Asia and Asarbajdjan.

Consequently Gorbachev's strategy was to minimise the contribution to the coalition and at the same time maximise Moscow's influence in Iraq. The Soviet Union wanted a peaceful solution and the United Nations should be the arena for crisis management. All the UN resolutions in the Iraq-Kuwait conflict were supported by the Soviet Union, including res. 678 (1990) which authorised the use of "all necessary means". However, the Soviet Union did not contribute to the military build up and they did not withdraw their advisors and experts from Iraq. From an American point of view this strategy was not very convincing,

and the question of Soviet credibility was raised. The Soviet Union was critical of the American willingness to use military power. In particular they were sceptical to the massive military build up in Saudi Arabia. Nevertheless, they supported this build up indirectly, by voting for res. 678 (1990).

### **5.3 France**

The French position in the Gulf must be viewed in the light of its relationship with the Middle East, the United States and Europe. Another trait in French politics which also played a role during the Gulf crisis was the traditional French independence in foreign affairs.

France has had a strong influence in the Middle East. In particular, its relationship with the Maghreb countries and its economic interests in oil and the arms trade, have been the most important traits in French Middle East policy since de Gaulle. In the Gulf crisis this policy has also had important domestic implications. Three million of the French population were Muslims. Maghreb which was the most important political ally in the Middle East was to a great extent pro Iraq. Neither Algeria nor Tunis supported the anti-Iraqi coalition. This fact explains why France so persistently tried to find a peaceful solution. As late as on 14 January, France presented a peace proposal to Iraq, but the Security Council did not support this initiative. The French attempt was after all important for Mitterrand as it gave French popular opinion the impression that he had gone "the extra mile for peace".

Next to the Soviet Union France has been the largest exporter of arms to Iraq. Until the boycott, 7 per cent of France's imported oil came from Iraq and was paid with arms. The post-colonial French policy in the Arab countries began under de Gaulle after the Arab-Israeli war in 1967. Its purpose was to show that France could act independently in foreign affairs in contrast to the United

Kingdom and the United States. When the Ba'ath party came to power in Iraq in 1968, the country was from a French point of view regarded as leader of the Movement of non-aligned countries and therefore a natural partner. France became one of Iraq's supporters and thereby weakened the Iraqi dependency on the Soviet Union. France and Iraq developed a "special relationship" based on economic and military cooperation. In particular the arms trade in which France contributed to the build up of Iraqi nuclear force was perceived with scepticism in the United States and the United Kingdom. On the other hand, France maintained that the arms trade served peaceful means. Saddam Hussein hoped that the close cooperation with France would survive the invasion of Kuwait, but the French authorities and opinion were reserved. Not only had Iraq in recent years been unable to pay back its loans from the French arms trade, France could no longer defend the Iraqi violations of human rights. At the end of August 1990 the Iraqi foreign minister Tariz Aziz was asked if the relationship between the countries could be saved. His answer was:

*I have never asked France to side with us over Kuwait. But we had thought that she would conduct herself differently from the United States and Britain. Her attitude has shocked us. We now recall France's colonial past, whereas the Middle Eastern policy of de Gaulle, Pompidou, Giscard d'Estaing and even, at the beginning, Francois Mitterrand, was clearly different from that of America... Today, we are seeing a confrontation at the heart of the Arab world: on the one side the independent forces of progress, on the other the corrupt and reactionary monarchies. France has made her choice (Bulloch & Morris, 1991, p. 84).*

On 21 August 1990 the Iraqi news agency INA published a communiqué which expressed the end of the friendly relationship with France. Even though France clearly had its reservations about the Iraqi aggression and supported all the resolutions in the Security Council, the country tried, more than the United States and the United Kingdom, to find a peaceful settlement. This

strategy must partly be explained by the traditional French interests in Iraq, but what was more important, it was a demonstration of French initiative and independence from the United States.

In contrast to the United Kingdom, which has strong historical ties across the Atlantic, France has made an effort to mark its independence and the country is not a member of NATO. In spite of its non-aligned policy, France supports the United States when serious crises emerge. The Cuba crisis and NATO's placing of Persing and Cruise missiles in Western Europe are two examples which indicate the French "prickly-and-difficult-but-totally-reliable-ally-in-a-crunch image" (Heisbourg, 1992, p. 21). During the Gulf crisis France insisted that the French forces should be under own command and that all decisions concerning the French involvement should be taken by Mitterrand himself. But as the war drew nearer, an agreement was made to coordinate the multinational coalition under one command. French forces were therefore placed under American command. However, the French prime minister Michel Roland stressed that it was only temporarily.

In spite of France joining the American-led coalition it kept its independence in the UN and the EEC. France tried to link its commitment in the Gulf to a larger Middle East conference in order to put the Palestinian issue on the international agenda.

The French role in the Gulf crisis must be seen in the light of the French desire to be a great power in a European and global perspective. An important element in the Gaullistic tradition has been to defend the great power position of France. In that respect the dramatic changes in Europe in recent years have been a great challenge. The Gulf crisis was a chance to confirm French power and influence within the framework of the EEC and the UN. Under the leadership of Mitterrand the country had not been in trouble with the UN. De Gaulle had had serious problems with the UN as a consequence of the war against Algeria. But in 1990 France had considerable influence in the Security Council.



On the whole, there were no vital economic interests at stake for France. This is important in order to understand France's reserved attitude to the use of force. Why should France contribute enormous resources and risk human lives in Kuwait, a geographical area where French interests were scarcely affected?

All the political parties agreed on a cautious French attitude to the crisis. The extreme left and the extreme right, in particular, were critical of a strong military commitment.

#### **5.4 The United Kingdom**

What was the attitude of the United Kingdom to the Gulf crisis? It had little interest in the oil resources in the Gulf, as it is self-sufficient in oil. Compared to its colonial past in the Gulf region, the United Kingdom had not very much influence in 1990. Nevertheless, Margaret Thatcher was firm in the decision to force Iraq out of Kuwait. She was in the United States at the outbreak of the crisis and had talks with George Bush. Her influence on the American decision to meet the Iraqi aggression with military means should not be underestimated (Woodward, 1991, p. 230). The United Kingdom was clearly opposed to the Iraqi occupation and was not reluctant to support a military action in the last resort. Mrs Thatcher supported the American policy from the very beginning of the crisis and the "special relationship" between the two countries was confirmed, a relationship that had faded after the Reagan period. The Gulf crisis therefore provided an opportunity for Britain to show loyalty as an ally. Within the coalition, it was considered the most hardline in response to the Iraqi aggression.

*Even the Bush administration felt obliged for a brief period to distance itself from the British prime minister's proposals to bring the Iraqi leader to justice for his war crimes, while a poll of public opinion throughout the Community found that Britain was the most*

*hardline of the EC countries in its attitude towards the crisis*  
(Fawcett & O'Neill, 1992, pp. 144-145).

The Gulf crisis showed that the Atlantic ties were strong in spite of the mainstream in British opinion which was more European-oriented. Mrs Thatcher's policy set the tone for the involvement of the United Kingdom. Mr John Major became prime minister in November 1990, but he did not change the political line in the Gulf.

Jolyon Howorth points out three causes of the British involvement in the Gulf: firstly there is a tradition in the United Kingdom of tackling foreign troublemakers such as Napoleon, Hitler, Nasser and Saddam Hussein. This tradition must be seen in the light of the United Kingdom as a great power. Secondly, the relationship with Kuwait is of special interest because the United Kingdom has protected this country against Iraq before. Kuwait was a British protectorate from the end of the 19th century until 1961. After Kuwait became independent, Iraq threatened to attack and British troops were deployed. The British commitment in 1990 might have been regarded as an obligation to follow up the protection of Kuwait. Thirdly, the commitment arose out of nostalgia for former imperial power in the area (Howorth, 1991, pp. 151-152).

The past glory of British involvement in the Gulf had its roots in the years from 1921 to 1958 when they supported the Iraqi monarchy. In 1967 the British Labour Government under Harold Wilson decided to withdraw all British troops east of the Suez. Even though the United Kingdom had interests in trade and weapon contracts with most of the Gulf states, the contact with the Gulf was minimal compared to former times. Howorth says it is not far from the truth to conclude that by the outbreak of the crisis on 2 August, the United Kingdom had hardly any Gulf policy at all, not in the way the French, the Americans and the Russians understand the concept.

The United Kingdom did not regard the Iran-Iraq war as an affair which affected British interests. The diplomatic relations with Iran were broken as a result of the Rushdie affair and the British were turned out of Iraq for the benefit of the French.

The British involvement in the Gulf, where they fully supported the American policy, must be regarded more as a result of shortsighted tactical aims than longsighted geostrategical considerations (Howorth, 1991, p. 154). Saddam Hussein had caused a lot of irritation in the United Kingdom in 1990. An Iranian journalist living in London, Farzad Bazoft, was hanged in Baghdad after accusations of espionage against Iraq. Mrs Thatcher had asked Saddam Hussein for mercy but with no positive result. Later in 1990 came the Iraqi supergun affair where parts of the Iraqi weapon system were discovered in British customs from London to Baghdad. It is reasonable to assume that Iraq was in the process of building artillery with an exceptionally long range. This information resulted in disturbances between Iraq and its neighbours, which again gave rise to concern in the United Kingdom and the United States.

Both the Conservative government and the Labour party officially agreed to adopt the Security Council resolutions 660 (1990) and 678 (1990). International peace and security in the region should be restored, but there were disagreements about what this meant in practice. John Major's government declared that it did not include the physical or political elimination of Saddam Hussein. On the other hand it was admitted that such a solution was not unwelcome. However, one clear objective was that the Iraqi war machine should be destroyed. Minister of defence, Mr King, stated to the BBC in January 1991 that British military objectives exceeded Iraqi withdrawal from Kuwait. King underlined the significance of destroying the Iraqi offensive military capability and that this should be regarded as a logical consequence of res. 678 (1990).

## 5.5 China

By the outbreak of the Gulf War in 1990, China had developed political, military, and economical relations with both Iraq and Kuwait. For a long period the Gulf region had been an attractive market for engineering, employment and arms trade. This factor is important for understanding the reluctance in the Chinese reaction to the Iraqi invasion. China supported the claim of solving the conflict within an Arabic context.

On the other hand, China's position in international affairs was not favourable in 1990. After the massacre in Tianamen square in June 1989, China was ostracised by the Western world and Japan. The Gulf crisis offered an opportunity for China to regain international recognition by supporting the anti-Iraqi alliance.<sup>20</sup> As a member of the UN Security Council China had the opportunity to be one of the main Third World actors in settling the Gulf crisis. "For China, Iraq's aggression could thus be a blessing in disguise" (Shichor, 1991, p. 82)

However, China's strategy in the Gulf must be balanced between two important considerations; on the one hand the Maoist tradition of non-interference in Third World conflicts or support of the superpowers' interests in such conflicts; on the other hand it was important for China to work for international peace. Both as a member of the UN Security Council and as a big power in the Third World, China chose a middle way. In other words China held a low profile. It criticised the United States for being the "big hegemon", but at the same time it grasped the opportunity to improve its relationship with Washington. The Chinese-American relationship was tense by the outbreak of the

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<sup>20</sup> I asked one of my anonymous interviewee about this connection. The person said that such a connection was irrelevant; China had no intentions of taking advantage of the Gulf crisis. The Iraqi invasion was very serious and the conflict had to be stopped with peaceful means

Gulf crisis because of disagreements on human right issues, arms trade and the massacre in Tianannan square. By supporting all the UN resolutions in late 1990, except for res. 678 (1990) from which China abstained, the country began a dialogue with the United States on a high political level. The foreign ministers of the two countries met twice after the Iraqi invasion when they discussed bilateral affairs in addition to discussing the Gulf crisis.

If the Chinese had vetoed res. 678 (1990) their international position would have been even worse. If they had voted for the resolution they would have broken with their priority of finding a peaceful settlement.

*...the wording "all necessary means"... runs counter to the consistent position of the Chinese Government, namely, to try our utmost to seek a peaceful solution (S/PV. 2963).*

The official explanation of why China did not vote against res. 678 (1990) was that Iraq did not meet the claim of withdrawal. Res. 678 (1990) referred to this claim and since China supported it, it could not vote against the resolution. The day after the adoption of res. 678 (1990) China's foreign minister was invited to the White House to meet President Bush - "a symbolic act of reconciliation" (Shichor, 1991, p. 84).

China's cooperation with the United States during the Gulf crisis resulted in the abolition of the political and economical sanctions which had been in operation since 1989. In addition, China regained its most favoured nation status. In spite of the improvement in the American-Chinese relations, the two countries were sceptical of each other. China accused the United States of taking advantage of the Gulf crisis in order to gain more influence and control in the rich oil- producing states of the Middle East. The United States was concerned with China's violations of human rights, its admission to the American market and its arms trade with the Middle East.

## **5.6 Common Goals, Different Motives and Disagreements on the Means**

The permanent members had a common goal in putting an end to the Iraqi aggression, even though their motives were different. For the United States it was important to secure the oil resources and confirm its new position as the one and only global superpower. For the Soviet Union and China the Gulf crisis gave an opportunity to obtain political and economical goodwill by supporting the United States. For the Soviet Union it was an opportunity to mark "New Thinking", which among other things involved cooperation with the United States in solving Third World conflicts. The involvement of France and the United Kingdom must be regarded in the light of their historical roots as imperial powers in the area. To some extent France marked its independent role as a great power towards the United States. The United Kingdom was given the opportunity to show its loyalty as an ally of the United States.

However the members of the Security Council had different opinions on how the conflict should be handled, and different attitudes to the interpretation of the UN Charter. This is possible because the Charter's provisions on the use of force is not unambiguous. Art. 51 and 2.7 have traditionally caused problems. Art. 51 can be used to legitimate military force, while Art. 2.7 protects states against interference in domestic issues.

Broadly speaking the United States and the United Kingdom were not unwilling to seek a military settlement of the crisis, while France, the Soviet Union and China worked for a peaceful settlement as long as possible. These positions gave the countries different interpretations of Art. 51: the United Kingdom and the United States deemed that the right of self-defence lasted throughout the entire crisis, while France and the Soviet Union maintained that the Security Council had taken measures which made Art. 51 invalid. However, the Secretary General declared in the beginning of November that Art. 51 was invalid. From that

point, the United States in particular worked for a resolution which authorised the use of force. At the same time, the Americans doubled their forces in the Gulf.

### **Part III**

## **How Did the UN Collective Security System Function During the Crisis?**

The United Nations received both positive and negative reactions to its handling of the Gulf Crisis. On the one hand there was a great deal of optimism and enthusiasm as the system finally became operative after 45 years. On the other hand the organisation was criticised because the sanctions were not given much time to work before res. 678 (1990) was adopted.

### **6 The Role of the Security Council**

Based on chapter VII of the UN Charter, the functions of the Security Council can be classified into four steps; (i) preventive diplomacy, (ii) peacekeeping, (iii) economic sanctions and (iv) military force.<sup>21</sup> This classification can be regarded as an escalation. In spite of the principle of searching for peaceful settlements, there is no rule which says that the escalation should be followed step by step. The Security Council has the authority to consider appropriate measures at any stage of a conflict. The efforts to find consensus in the Council have historically been proportionate with to the level of escalation.

When placing the UN handling of the Gulf crisis within this scale, the Security Council started with relatively strong measures. Preventive diplomacy was too late as the Security Council reacted after the Iraqi invasion and not before. Four days after the condemnation, the Security Council agreed on sanctions, res. 661, (1990). Until then sanctions had been quite unusual. Historically

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<sup>21</sup> The Peacekeeping Operations do not have a clear basis in the Charter, but can be covered under art. 40 "provisional measures".



it has been more common to limit the UN reaction with a condemnation without further measures. The United Nations has adopted binding economical sanctions twice: against the white minority regime in Rhodesia in 1966 and the arms embargo against South Africa in 1977.

There are many problems connected with the use of sanctions. Firstly they must work for some time to give any effect. Secondly, it is uncertain whether they will give any effect at all. The question is therefore how long the sanctions should work before further measures should be taken. This is also a question of the political will of the countries concerned. Parallel with the implementation of sanctions the United States started the military build up in Saudi Arabia and the Persian Gulf.<sup>22</sup> This could be taken as a sign that the Americans were unwilling to wait for the result of the sanctions. According to minister counsellor Mr Robert Gray in the American Mission to the UN, the explanation was that there would be no Kuwait left to defend if the Iraqi occupation continued (Gray, 2.12.92). Besides, it was not very likely that Saddam Hussein would withdraw from the pressure of sanctions alone. Another argument, which was not underlined by Mr Gray, was the enormous cost of having a big multinational force standing in Saudi Arabia over a period of time. In addition the coalition was fragile as it consisted of 28 countries. When the military build up escalated, the force was likely to be used.

In the period between 2 August and 29 November, 1990, the Security Council adopted 12 resolutions. The last one, res. 678 (1990), authorised the use of "all necessary means" if Iraq did not implement the foregoing resolutions within 15 January 1991.

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<sup>22</sup> August 2: The Security Council condemned the Iraqi invasion of Kuwait. August 3: The United States sent the first marines to the Gulf. August 6: The Security Council adopted the first resolutions on sanctions against Iraq. August 8: Iraq sent troops to Saudi Arabia under the codename "Desert Shield".

However, it is important to emphasise that the multinational force which started the offensive war against Iraq was not under UN command. The 28 countries in the coalition participated on their own initiative and under their own flags. The military leader of the operation was the American general Norman Schwarzkopf, who was directly under the command of President Bush. The multinational force was therefore neither a standby force in accordance with Art. 42-43 nor a peacekeeping operation which is based on the consensus of the adversaries and which is under strict rules for the use of force. On the other hand there was consensus on the need for a UN authorization for the use of force. The UN function in the war was limited to the authorization in res. 678.

Even though the Security Council agreed on strict measures against Iraq from the beginning, the organisation also had other functions in the conflict. Peacekeeping operations and the diplomacy of the Secretary General should not be underestimated as the UN had the most experience in these fields.

A peacekeeping operation, UNIKOM, was established after the war in April 1991 in order to superintend the border between Iraq and Kuwait. It was not relevant to use such forces earlier as the essential conditions were not present. Peacekeeping operations are based on consensus between the conflicting parties. They are lightly armed and use force only in self-defence. A peacekeeping operation could not have been relevant before the ceasefire of 28 February, and therefore it could not have been an alternative to the multinational coalition.

## 6.1 The Diplomacy of the Secretary General

On the question of how one should explain the significant role of the UN during the Gulf crisis, Mr Giandomenico Picco answered:<sup>23</sup>

*The most significant part of the role of the UN was what was not there (Picco, 9.12.92).*

Res. 660 (1990) of 2 August had no reference to the role of the Secretary General.

Mr Picco had pointed out this problem to Mr de Cuèllar and suggested that he should discuss it with the Security Council. De Cuèllar had answered that the omission of his role was done on purpose. However res. 661 (1990) requested the Secretary General to provide

*...all necessary assistance to the Committee [Sanctions Committee] and to make the necessary arrangements in the Secretariat for the purpose... (res. 661 (1990)).*

But this was not an invitation to the Secretary General to act as an independent mediator.

The activity of the Secretary General is not formally dependent on an invitation from the Council. Art. 99 state that the Secretary General "may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security" (Art. 99). A wide interpretation of this article gives the Secretary General an independent mediating role - a role which implies that he must be

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<sup>23</sup> Mr Picco was the former adviser, assistant and negotiator for Mr. Pérez de Cuèllar since 1976. He played a central role in the negotiations between Iran and Iraq. He is well-known for his successful negotiations for the release of hostages in the Middle East.

willing to extend the will of the Security Council or at least to stretch the goodwill as much as possible. Perhaps de Cuèllar did not feel at home in such a role.

According to Sir Brian Urquhart, it is to a large extent the personality of the Secretary General which determines his role:<sup>24</sup>

Pèrez de Cuèllar kept a low profile and had probably little influence on the development of the crisis. However, one should be careful in drawing such conclusions. It is difficult to measure the significance of the Secretary General's diplomacy. But by virtue of his special position as a representative for the UN Charter and his independence from national interests, he could have been more active as a corrective to the Security Council and more importunate in peace negotiations. This was certainly not so easy when he lacked the support of the Security Council. In a critical situation, the activity of the Secretary General will be regarded as too active by some and too passive by others (Urquhart, 1991, p. 159).

During the Gulf crisis the United States and the United Kingdom in particular opposed too much initiative from the Secretary General because it would disturb the strategy of "Desert Shield":

*... the moment they decided on "Desert Shield" and got the Americans involved completely, there was no way they were not going to run the whole thing" (Urquhart 3.12.92).*

But taking into account the unwillingness of Saddam Hussein to withdrawing from Kuwait, it is questionable whether the Secretary General would have been able to change the situation even if he used his power to the utmost.

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<sup>24</sup> Urquhart has long experience from his work in the UN Secretariat where he has been close to the five Secretary Generals from 1945 to 1986. From 1947 to 1986 he was Under Secretary General.

Pèrez de Cuèllar was very disappointed with the outcome of the Gulf crisis and stated that it was a backlash for the UN. The victory of the multinational force was not a victory for the UN. "It was not a United Nations war. General Schwarzkopf was not wearing a blue helmet" (Pèrez de Cuèllar 16.4.91).<sup>25</sup>

In addition it was a defeat for the Secretary General who was criticised og being too passive. However, he had not been encouraged by the Security Council to offer his good offices.

## **7 The UN Charter and the Handling of the Gulf Crisis**

Chapter VII of the Charter gives the organisation an opportunity to implement sanctions and military force against a state that has broken international law, in particular Art. 2.4. It is therefore interesting to examine what the articles under this Chapter say and then to discuss if and to what extent the Security Council acted according to these articles during the Gulf crisis.

### **7.1 Chapter VII of the Charter**

The first resolution of the Security Council, res. 660 (1990) of 2 August, builds upon Art. 39 and 40.

*The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security (Art. 39).*

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<sup>25</sup> The quotation is referred to in Munthe-Kaas, 1991.

Art. 39 stated the authority of the Security Council to condemn the Iraqi invasion of Kuwait and to decide which measures were to be taken in accordance with Chapter VII. In addition to the condemnation of the Iraqi violation, the Security Council claimed in its first resolution, res. 660 (1990), that Iraq immediately and unconditionally should begin withdraw its forces from Kuwait and that the two countries should start negotiations in order to solve the conflict. It was not specified which problems should be considered, but a reasonable implication would be territorial and financial disagreements.

The last part of the resolution, which concerns immediate withdrawal and negotiations, has its roots in Art. 40, which is the first step in the escalation of Chapter VII.

*In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures (Art. 40).*

If the measures in Chapter VI are insufficient, the Security Council may implement economical sanctions. Sanctions are considered to be non-violent measures and are legally based on Art. 41.

*The Security Council may decide what measures not involving the use of armed force to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communications, and the severance of diplomatic relations (Art. 41).*

Four conditions must be fulfilled if the sanctions are going to bite. First, they must be respected. Secondly, the cost of implementation must be shared in order to guarantee support. Thirdly, the country that is the target of the sanctions must be financially dependent on and vulnerable to other countries. Eventually, the political support of the regime must be limited or declining (Skjelsbæk, 1991, p. 34).

Before the Council implements stronger measures, the result of the sanctions should be evaluated. If the sanctions are inadequate, the next step is military force:

*Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may 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, and other operations by air, sea, or land forces of Members of the United Nations (Art. 42).*

The problem with Art. 42 is to decide the content of the first sentence. What does "consider measures inadequate or have proved to be inadequate" imply? This is open to several interpretations. It is difficult to consider the adequacy of sanctions. As already mentioned the effect of sanctions is dependent on time, and this is again dependent on financial ability and political will.

If the Security Council considers the measures inadequate, the next step will be military force. Art. 43 is about the organisation of military measures.

*1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.*

*2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.*

*3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council and the Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes (Art. 43).*

The tense relationship between the United States and the Soviet Union was the reason why UN forces were never established. The permanent members of the Security Council could not agree on either the size or the proportions for contribution. The United States wanted a big and powerful force, while the Soviet Union wanted a smaller one with equal contributions from the permanent five. As a result of the disagreement over size and proportions, the question of command and finance was not even discussed. The negotiations within the Military Staff Committee continued until 1948, but without any result.

The Security Council is able to implement sanctions and military intervention in spite of the lack of own forces, i.e. it can authorise the use of force as an act of self-defence (Art. 51)

*Nothing in the present Charter shall impair the inherent right of individual or collective self-defence 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-defence 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 seems necessary in order to maintain or restore international peace and security (Art. 51).*

The right to self-defence permits state A to defend state B if B is a victim of attack. The International Court has defined this right



to include military assistance, provided that state B has asked for such assistance. There is no claim for a formal UN authorization for using force in self-defence, but it is desirable as it gives legitimacy.

The Security Council can also justify the use of force in Art. 53. This article is part of Chapter VIII, but it is important when it comes to the authorization of military force.

*The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council...(Art. 53).*

### *7.1.1 Interpretations*

The articles of the UN Charter are general and vague in their formulation and therefore open to interpretation. Oscar Schachter maintains that in spite of the wide authority of the Security Council, it is bound to act according to the principles of the Charter (Schachter, 7.12.92). Accordingly, it is not only interesting to consider the legality of the resolutions, but also whether they could reasonably be defended according to superior purposes and principles. The problem is that there is no authority other than the Security Council itself to interpret these general principles.<sup>26</sup> There is no legislative organ to adjust the Charter or any police force to secure universal succession (Gardner, 1991, p. 66).

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<sup>26</sup> Art. 24.1 gives the Security Council authority. The security mechanism against unreasonable interpretations is that the P5 must come to agreement. On the other hand the veto can contribute to the opposite - that the Council makes unreasonable interpretations to protect its members' interests.

The question remains whether there is so much scope for interpretation that any political interest may be legitimated. In that case the Charter would be rather worthless. Mr Picco confirmed this objection and added that the main task for the UN in the years to come is to draw a line between international law on the one side and national sovereignty on the other. If such a line does not exist the UN Security Council will be nothing but a reflection of the national interests of the members. On the other hand Mr Picco points out that even though the UN reflects the world outside it is at the same time a place where one tries to find common rules of behaviour. But the rules are not constant. "The mistake is to believe that there is an international law... We are making international law as we go along" (Picco, 9.12.92).

## **7.2 Self-defence and the Authority of the Security Council**

In the period until 29 November (res. 678, (1990)), there were different opinions on the use of force, based on Art. 51. The problem with Art. 51 is that it gives the members the right to individual or collective self-defence only until the Security Council has taken the measures necessary to maintain international peace and security. It was therefore questionable whether the Security Council had taken the necessary measures and subsequently if the right to self-defence was invalid. The adoption of sanctions, res. 661 (1990) could be an argument in this direction. A military operation to free Kuwait could therefore not be based on the right of self-defence, but claimed special authorization from the Security Council.

However, it was problematic after so short a period of time to consider whether the sanctions were inadequate and even more difficult to predict how they would work in the future. It was therefore uncertain whether the Security Council had taken the necessary measures. If they had not, Art. 51 would still apply.

According to Schachter the Security Council is competent to take this consideration itself.

*If they say this measure was necessary and we do not have to take more measures, then Art. 51 would not apply, but that is in other words in my view, this is not necessary in everybody's view (Schachter 7.12.92).*

In other words the Security Council has the right to decide when Art. 51 applies. This is a responsibility which can be abused politically as long as no criteria exist for how the measures of the Security Council should be considered.

The United States and the United Kingdom asserted the opinion that Art. 51 could apply even after the sanctions were implemented. Their arguments were that the assumptions for self-defence were present; Iraq had invaded a UN member and the legitimate Government of Kuwait had asked for assistance. But even more important, res. 661 did not only decide upon sanctions, it also affirmed "the inherent right of individual or collective self-defence... in accordance with Article 51...". The multinational coalition was therefore not formally dependent on an authorization from the Security Council. Another argument was that nothing in the Charter states that the right to self-defence disappears as soon as the Security Council pays attention to a conflict, nor when the Security Council takes measures according to Chapter VII.

The right to self-defence continues until the Security Council takes the necessary measures to secure international peace and security. In practice it means that if military actions are implemented, self-defence could be a part of an operation controlled by the Security Council. In the Gulf crisis most of the members maintained that the use of force needed a UN authorization, an opinion which opposed the Anglo-American view.

Mr Pèrez de Cuèllar ascertained on 8 November 1990, that the wording in Art. 51 meant that self-defence did not apply as the Security Council had taken measures with basis in Art. 41.

No resolutions dealing with the sanctions refer explicitly to Art. 41, but more generally to Chapter VII. However this does not rule out Art. 41 as the legal basis. The question is, however, if res. 661 was in conflict with the charter was it possible to combine the right of self-defence (Art. 51) with the measures of the Security Council under Art. 41?

The United States gave up the right of self-defence, but tried to influence the Security Council to adopt a resolution which authorised the use of force. If it had been a theoretical possibility to claim the right of self-defence it would not have been wise as the United States was not alone in the military build up in the Gulf. A UN authorization gave more legitimacy and it was therefore easier to hold the coalition together. The United Kingdom maintained the right of self-defence throughout the whole crisis in order to be flexible.

*I think because there was a possibility that the UN operation might go wrong we wanted something to fall back on (anonymous source in the UN-system, 1992).*

### **7.3 Why the Sanctions Were Given Up**

The Security Council has the authority to consider sanctions inadequate, but how does it make such considerations? A common objection against the UN handling of the Gulf crisis was that the sanctions were not given enough time (Urquhart, 3.12.92; Childers, 2.12.92). The argument has legal support due to the

references to different articles in the Charter.<sup>27</sup> According to some of my interviewees this argument is weak because the Security Council has the authority to decide at any point of time, or at any level of a conflict, which measures should be taken.

On the question of how and why this consideration was taken so rapidly after the implementation of sanctions the interviewees had different opinions. Schachter referred to the authority of the Security Council to make such decisions and that there are no rules or procedures on how the sanctions should be evaluated.

*The Security Council is the master of this whole procedure and it has a prerogative in determining what situation threatens international peace and security (anonymous source in the UN system, 1992).*

Sir Brian Urquhart's answer to the question was

*I think that the evaluation was that George Bush had decided that after the Congressional elections that he was not going to keep the American forces inside what he was calling "Desert Shield" at that time, hanging around there without doing something, and he therefore doubled the force and decided that he was going to use it. I don't think anybody evaluated the sanctions at all. (Urquhart, 3.12.92).*

Another point that was underlined by some of the interviewees was that in the aftermath, it is not reasonable to believe that Saddam Hussein would have given in to sanctions.

*... those of us who thought that sanctions could have worked were wrong ... Sanctions would not get him out of Kuwait. In the end Bush proved right on that (Laurenti, 4.12.92).*

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<sup>27</sup> i.e. art. 1 "... to bring about by peaceful means,... adjustment or settlement of international disputes..."

It is of course much easier to consider the wisdom of decisions after the events have taken place. If there is good reason to believe that the sanctions did not have any effect on the Iraqi policy, the Security Council should have expressed that point before escalating to stronger measures. But it did not. It would probably not have received the necessary support for such a statement. In order to secure the support for res. 678 (1990) this point had to be omitted. However, implicitly it was clear that none of the members thought sanctions would work. According to Schachter this is not in defiance of the Charter and he underlines that the Security Council is not a general court. It does not have to document or support by facts to the same extent as other legal units.

#### **7.4 Resolution 678 (1990)**

The legal basis for res. 678 (1990) is insecure. The resolution itself refers to Chapter VII, but it did not specify any articles. This general reference is open to several interpretations. One possibility is that Chapter VII gives a general sufficient legal basis. Another view is that a resolution which authorises military force must have its basis in Art. 42, and should therefore be organised according to the arrangements under Art. 43. A third position is that the authorization must be regarded as a confirmation of the right to collective self-defence and that the Council therefore applied Art. 51. (Schachter, 1991, p. 459).

Res. 678 (1990) builds on the articles of collective measures in chapter VII (Art. 41 and 42) and collective self-defence (Art. 51). The question is whether the Council authorised the use of all necessary means against Iraq on behalf of the UN or if the UN gave its blessing to an operation based on the right of self-defence. Even though Art. 43 was never realised it does not mean that Art. 42 is without significance. The Council cannot require that the members contribute with military forces, but it can

authorise the use of force to volunteers. Art 42 does not claim that such operations should be under the control of the UN.

An indication of the argument that res. 678 (1990) was an authorization of collective action (Art. 42), and not a blessing of collective self-defence (Art. 51), was paragraph 2 in the resolution which authorised all necessary means to restore international peace and security in the area. The basis for this paragraph must be Art. 42 and not 51 as it includes more than what could strictly be called self-defence. The legal implication of this is first of all that the measures were not restricted to the liberation of Kuwait. As long as Iraq did not respect Kuwait's sovereignty and upheld the occupation with military means, paragraph 2 would in practical terms imply the intervention of Iraq and the destruction of its military capability. To restore peace and security in the area would therefore involve more than the liberation of Kuwait.

The forces in Saudi Arabia could be legitimated by the fact that they were invited by the Saudi government to protect the country from a possible Iraqi attack. If an Iraqi attack against Saudi Arabia or any of the other Gulf states had come, the right to collective self-defence under Art. 51 would have been the legal basis for the use of force.

#### *7.4.1 The Opposition in the Security Council<sup>28</sup>*

Of the 15 members in the Security Council only Cuba and Yemen voted against res. 678 (1990). The reservation from these countries concerned the management of the crisis. The disagreement

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<sup>28</sup> The following statements are taken from S/PV. 2963 of 29 November 1990, which is the minutes from the meeting in the Security Council where resolution 678 was discussed and adopted. The members were represented by their foreign ministers, except Yemen and the Ivory Coast which were represented by their representatives in the UN.

was not about the condemnation of the Iraqi invasion or the claim of restoring the authority of the legitimate Government of Kuwait, but the use of force. The Yemeni representative in the Security Council, Ambassador Al-Ashtal argued that the resolution was too general in implementing the former 11 resolutions. It opened for an extensive military confrontation in order to reach the unclear objective of restoring international peace and security. Besides the draft resolution did not relate to any particular article under Chapter VII. The Security Council would not have any control over the forces as they were operating under their own national flags. The command of the anti-Iraqi alliance would not have anything to do with the UN, except for the authorization. "It is a classic example of authority without accountability" said Al-Ashtal (S/PV. 2963).

He also said that the Gulf crisis occurred as a "New World Order" was about to replace the Cold War, and that this was a historic opportunity to give peace a chance.

The Cuban representative contrasted the engagement of the Security Council in the Gulf to the Arab-Israeli conflict. Even though Cuba maintained that it would not be realistic to link the Gulf crisis to the Palestinian question, Mr Malmierca indicated the scandal of not treating all conflicts by the same standards.

If the new intention was that international law and justice should have priority over geopolitical interests and hegemony over oil resources, it was important to follow the principles in the UN Charter and provide equality and justice for all, not only for some (S/PV. 2963).

China abstained from res. 678 (1990). The official explanation was that the wording "all necessary means" opened up for military confrontation. This was against the Chinese position which was to find a peaceful solution. On the other hand, China maintained its condemnation of Iraq through res. 660 (1990). Since Iraq did not follow up the claims from this resolution, China could not vote against res. 678 (1990).



#### 7.4.2 *Did the Security Council abdicate?*

The Security Council has been criticised for abdicating in the Gulf crisis by the adoption of res. 678 (1990). (Butenschøn, 1991, and Childers, 1992). The basis for this criticism is that the Security Council gave the responsibility for command and control to the leaders of the multinational force. At the same time the American dominated force was given legitimacy through the Security Council authorization. "Desert Storm" was not carried out under the UN-flag and the participants in this action were relatively free to define the ends and means. Besides res. 678 opened up for displacement of the objectives.

By reference to Art. 43 one can criticise the Security Council for not following the arrangements lined up in the Charter. However, this is not to say that res. 678 (1990) was illegal.

*There is nothing in the Charter which says it can not do that. But what it says it should do in the Charter is not at all what it did (Urquhart, 3.12.92).*

The Security Council has the right to act on its own authority, but it also has the right to delegate actions according to Art. 53. Besides it would be unrealistic to act according to Art. 43 because no preparations had been made to establish UN military forces. The Military Staff Committee met regularly before the war but they did not have any influence. According to Laurenti the activity in the Military Staff Committee had a symbolic effect which was important for getting support from the Soviet Union. "This (MSC) was Washington's bone to Gorbachev" (Laurenti, 4.12.92). Art. 43 was thus a dead letter.

My interviewees had different opinions on the question of a UN abdication. Most of them thought it was an abdication in the sense that the Security Council delegated command and control. But given the assumption that the use of force was necessary, there was no other solution. The Security Council does not have

the practical arrangements for leading a military action, and the authorization could therefore not be called an abdication.

*...the UN showed that it could make a decision and when the opponent said screw you, instead of blinking the way everybody expected the UN to do for the past 40 years to now, the UN said no, screw you! and then applied the screws (Laurenti, 4.12.92).*

However, it is a moot point whether and to what extent the Security Council applied "the screws". "Desert Storm" was not a UN operation and the contribution of the Security Council was limited to authorization of military force. From a military point of view more control from the Security Council would probably have made the implementation of the operation insecure. A one-command structure where UN diplomats did not breathe down the generals' necks was undoubtedly more efficient. On the other hand such "carte blanche" is precarious since there are no guarantees for how far the multinational coalition would go in its use of force.

However, to limit the question of abdication to a consideration of military efficiency is too narrow. The reason is that res. 678 (1990) was not a resolution for war in the sense that it explicitly took a military confrontation for granted. It is the interpretation of the expression "all necessary means" which gives the resolution that impression. If res. 678 was not a resolution for war the argument for military efficiency is not acceptable. In reality the resolution was clear enough as it did not exclude military action. The wording "all necessary means" was a diplomatic manoeuvre which contributed to the support in the Council.

If one follows the argumentation that res. 678 (1990) was not a resolution on war, the criticism of abdication is even more relevant as the actual outcome of the conflict became "Desert Storm". If one takes the resolution at face value, the Security Council had not made a decision on whether the conflict was

worth a war or not. On the other hand this is a question of formalities. There is no reason to believe that the members of the Security Council did not know what the wording in res. 678 meant in practice.

Is it correct that the multinational force was given a *carte blanche* from the Security Council? It is obvious that they did not get it in absolute terms. There are at least three restrictions. Firstly, the authorization from the Security Council was restricted in time as a military offensive should not take place before the deadline of 15 January, 1991. Secondly, the multinational force was subject to international law which restricted the use of force to military targets. However, it is debatable what military targets include. In particular it is difficult to separate military and civil targets when bombing of infrastructure. Thirdly, it must be understood that the authorization of the Security Council had the purpose of restoring the "sovereignty, independence and territorial integrity of Kuwait". The right of self-defence is restricted to the necessary use of force to obtain this purpose (Fermann, 1991, p. 17).

The latter point is, however, a question of the members' interpretation of res. 678 (1990). The wording of the resolution was not unambiguous.

*Authorizes...to use all necessary means to uphold and implement res. 660 and all subsequent relevant resolutions and to restore international peace and security in the area (res. 678 (1990)).*

The restoration of the territorial integrity and political independence in Kuwait is connected to the implementation of res. 660 (1990). The problem arise in the last part of the sentence: "to restore international peace and security in the area". It was uncertain whether the multinational force had been given this ambitious task or whether the resolution was restricted to imple-

ment earlier resolutions.<sup>29</sup> The international coalition chose the latter. The objective was to force back the Iraqi occupation of Kuwait. However, this end had wider consequences. It also included the destruction of the Iraqi military power.

What would the multinational coalition have done if they did not have the authorization from the Security Council? This is of course a hypothetical question; nevertheless there are certain traits which would probably have been different. Some of my interviewees maintained that they would have gone all the way to Baghdad:

*... if the Security Council had abdicated its responsibilities and just told the coalition to go and do whatever it liked, then we would presumably have gone to Baghdad and kicked Saddam Hussein out, in which case we would not have all the problems we now face (anonymous source in the UN system, 1992).*

This argument is disputable too, and the question remains whether it really was in American interest to topple Saddam Hussein. If he was removed from his position, the area would be even more unstable and insecure. The regional balance could be broken and Iran would have gained a freer position. Besides, there was no powerful opposition which could take over the regime of Saddam Hussein. If it was an American objective to topple Saddam Hussein in spite of these arguments, it would have been an advantage if the Security Council were unable to commit itself to the crisis. The reason is that such an objective is not legally acceptable according to international law. The credibility of the UN involvement, not to mention the American rhetoric of "New World Order", would have been even less if the coalition went all the way to Baghdad.

As an objection to the criticism against the UN abdication in

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<sup>29</sup> The possibility that the first interpretation was correct was one of the reasons why Yemen and Cuba voted against the resolution.

res. 678 (1990), the only realistic alternative would be to do nothing. The assumptions and practical arrangements for Art. 43-47 have never been carried out and a military operation under the command and control by the UN is therefore unrealistic. To the extent the criticism of abdication is justified it should be associated with all the conflicts and crises in history when the UN were paralysed from acting.

## **8 The United Nations and the Gulf Crisis: Collective Security in System**

The evaluation of how the UN system for collective security functioned during the Gulf crisis is not only a question of the degree to which the rules of the Charter were followed. If by system we understand an ideal type of collective security, an evaluation in regard to the Charter would be too narrow. The UN Charter is not an ideal type as it is open for interpretations. Besides, there exist essential criteria for collective security which are not present in the Charter. In this way the legality will in some cases contrast the ideal system. Compared to earlier practice the UN handling of the Gulf crisis indicated that the Council did not stop at a verbal condemnation this time, but followed up with sanctions and authorization of military force. That was a great challenge for the UN system for collective security. With reference to M.V. Naidu's seven criteria for collective security, the following discussion will focus on how the Security Council handled the crisis (Naidu, 1974, pp. 17-20). In this evaluation it could be fruitful to compare these criteria with the UN Charter and the earlier practice of the organisation.

## 8.1 Prohibition of force

*Military force in international conflicts is not morally acceptable and should therefore be illegal*

The UN Charter does not meet this criterion in Art. 2.4. However there are exceptions to this general prohibition through the right of self-defence (Art. 51) and military might authorised by the Security Council (Ch. VII, VIII and XVII). Neither the UN Charter nor the ideal type is pacifist as it does not presuppose a total prohibition of the use of force. On the contrary, military force is legitimate when it serves the "common interests". The introduction of the Charter states "armed force shall not be used, save in the common interest". The common interest in this context means the maintenance of international peace and security. Individual or collective use of force presupposes a previous breach of the peace.

The Iraqi invasion of Kuwait was a clear break of Art. 2.4. (Schachter, 1991 and Greenwood, 1991). Furthermore, the authorization of the Security Council to use "all necessary means" is an example of the exception from the prohibition on the use of force. The aim of res. 678 was to "restore international peace and security in the area". This general aim was interpreted to include two basic issues: 1) to free Kuwait from Iraqi occupation and 2) to destroy the Iraqi nuclear potential (Dannreuther, 1991-92, p. 47).

Whether the multinational force respected international law in war, *jus in bello*, or not, is an interesting discussion. However, more important in this context is that a break of the peace had occurred and that the UN Charter is open for military sanctions, *jus ad bellum*.

Naidu argued that the right of individual or collective self-defence is not, compatible with the ideal type for collective security according to Art. 51. The reason is that the right of self-defence involves collective action of *some* and not all, while

collective measures under the authorization of the Security Council represent all the members. The problem here is that the members can take advantage of the Charter for their own selective interests. Therefore, the opportunity of using sanctions according to Art. 51 is limited compared to collective action authorised by the organisation. The right of self-defence applies only when a state is already attacked ("acts of aggression" and "break of the peace"), while collective actions organised or authorised by the Security Council also apply when there is a "threat to the peace".

The main objective of "Desert Shield" was to protect Saudi Arabia from an expected Iraqi attack, but the coalition could not use the protection of Saudi Arabia as an argument for starting a military action against Iraq as a preventive measure. The latter would not be legal as self-defence presupposes former violation of the adversary. The change from "Desert Shield" to "Desert Storm" involved an extension of both ends and means. The forces were doubled and the main objective was to free Kuwait. In this way from a legal point of view there would not be any problem about acting in self-defence (Art. 51) as Kuwait was already attacked and had asked for assistance. In regard to the ideal type for collective security, an action without a UN authorization would probably receive less support. In spite of the criticism of the Council for giving a "blanco cheque" on the use of force, (Childers, 1992, p. 132) there were some limitations. But what was more important in this context was that the authorization of the Security Council was a majority decision on behalf of all the members of the UN. In this way "Desert Storm" was closer to the principle "all against one" than a collective action of self-defence without resolution 678.

## **8.2 Collective Guarantees of Security**

*Owing to the fact that states have become inter dependent, war is no longer a bilateral affair. All members are morally*

*and legally committed to assist in stopping aggression and maintaining peace everywhere because peace is indivisible.*

The Security Council was meant to be the institutional guarantee - if necessary by military means - in order to maintain the international peace and security on behalf of all the members of the UN. According to the Charter, the Security Council can adopt binding decisions and in this way commit the members of the organisation to contribute to the UN security system. However, Art. 43 is an exception because the agreement on providing forces "shall be subject of ratification by the signatory states". In other words the members are not committed to provide military forces. As the system designed in Art. 43-47 was never realised, the Security Council could not guarantee collective actions under UN command and control. On the other hand, it is not certain that such a system would have given guarantees either, as the members would have had the opportunity to impose conditions - if not in legal terms at least in practice. The reason why this security system never became a reality was that the permanent members were not able to cooperate. The veto powers put an effective stop to collective security guarantees.

*... it [the veto] is a principle that reintroduces the decentralization and thereby neutralizes the collectivist approach of Chapter VII (Naidu, 1974: 37).*

No one could therefore guarantee that the Security Council would rescue Kuwait and punish the Iraqi aggression. The multinational force was an ad hoc coalition which was deployed under special circumstances. The Iraqi invasion of Kuwait was the first major military conflict after the Cold War, and the end of the East West rivalry meant improved opportunities for cooperation in the Security Council. That was a great advantage for the United States which took the initiative and led the coalition. The prospects of leading a military action with the support of the Security



Council gave more legitimacy. The fact that the system functioned as satisfactorily as it did may be explained by the concurrence of national interests and international law.

The problem was not that the Security Council did not do anything in this conflict, but that there was no guarantee for equivalent reactions in other conflicts. If the system should work satisfactorily according to the idealtyp, the principle "all against one" should apply consistently and independent of national interests. This is not likely. On account of the veto the Security Council can be described as a political organisation and it is therefore unrealistic to expect the system to work when needed. Without guarantees the system will not be predictable unless the interests and preferences of the veto powers are familiar at any time.

### **8.3 Collective Force as Deterrence/Sanction**

*The principles of non-violence and collective guarantees become effective through deterrence. The preponderance of the collective force cannot be guaranteed if the members are free to build up their own military force. It is important that no single state is so mighty that it becomes invulnerable in the system.*

The multinational force was clearly superior to Iraq in the Gulf war. However, the credibility of the coalition's deterrence was not sufficient as Iraq did not withdraw from Kuwait within the deadline. According to some informants Saddam Hussein did not believe that the build up of "Desert Storm" represented a realistic threat.

*He did not believe they would attack him, not for a moment. I can tell you, I know him (Picco 9.12.92).*

*He did not have any idea what it was all about. I think he thought it was all a bluff. And everything in the past indicated that it was because when he had done the same thing before [i.e. attacked Iran in 1980], nothing had happened (Urquhart 3.12.92).*

Another reason was according to Urquhart that no one dared to inform Saddam Hussein about bad news, not even foreign minister Tariq Aziz. Thus, it is possible that Saddam Hussein miscalculated because he was not well informed.

Even though the multinational force against Iraq satisfied the criterion of preponderance, it is not likely that a similar action could be taken against the United States, or any other veto power. In this way some states are invulnerable to collective actions. The problem does not only occur if such states are the aggressive part, but also if they take the initiative and dominate actions against aggressors.

The Gulf crisis confirmed that the United States is the one and only superpower after the Cold War. The military superiority and the diplomacy of Secretary Baker dominated the events which led to war. The active role of the UN must to a great extent be explained from this perspective. American dominance both in the Security Council and as the leader of the international coalition was not compatible with the ideal type for collective security as the national interests of one state do not necessarily coincide with the collective interest.

On the other hand, if the United States had not taken the initiative and led the operation, the Security Council would have been powerless in the conflict as had happened many times before. The Gulf crisis was a confirmation of the need for a leader, especially when the role of the Security Council was limited to an authorization of the use of force. If there was UN forces in existence, the American leadership would probably have been of less importance. A more institutionalised system would to some extent have limited the national latitude through rules and procedures. On the other hand, it is not certain that UN forces

would have been efficient in the face of such limitations, not to mention the difficulty in finding consensus. "Desert Storm" was dependent on American initiative, American military force and American control of the operation.

Urquhart maintains that a UN command for the forces in the Gulf was never seriously considered because the most powerful participants in the military action against Iraq thought it unrealistic or unacceptable.<sup>30</sup> There were therefore practical and political reasons why the articles in Chapter VII were not referred to explicitly. Instead, res. 678 had a general reference to Chapter VII.<sup>31</sup> Another motivation was that China would probably have put a veto against a resolution which referred directly to military power.

The lack of UN forces is a dilemma because the organisation becomes dependent on voluntary contributions on an ad hoc basis. In this way one cannot expect aggression to be treated consistently as long as the military contributors primarily defend their own interests. In other words, the UN is not only dependent on the military capacity of the great powers, but also on their political will. This is bad for the reputation of the organisation, especially from the perspective of the Third World which has only modest influence in the decision-making process in the Council even in conflicts where these countries are concerned.

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<sup>30</sup> Statements referred to in the Danish paper, *Information*, Saturday-Sunday, April 13-14, 1991.

<sup>31</sup> Critics of res. 678 maintain that the Security Council circumvented the Charter as it did not refer to the actual articles. An objection to this critic is that no one has found the frequent use of peacekeeping operations questionable even though they are not specifically referred to in the Charter.

## 8.4 Automatism in Collective Actions

*The collective guarantee that any acts of aggression will be stopped automatically. Thus the credibility of the deterring function will increase. The automatics of the system apply both in opposing the aggressor and defending the victim.*

The UN system for collective security is not a mechanism which automatically reacts to aggression. The Security Council has the authority to consider appropriate measures adapted to the current situation. The principle of peaceful settlement of conflicts should also be considered in this context. Besides there is no rule which says that the escalation in Chapter VII should be followed automatically. The resolutions and decisions of the Security Council are a result of negotiations and compromises in every case.

However, the reaction came very rapidly in the Gulf crisis. The Security Council condemned the invasion a few hours after it had taken place (res. 660, (1990)). Economical sanctions were adopted four days later. The sanctions were given only three and a half months before the Security Council opened up for military actions. In spite of the quick reaction and escalation, it was not automatic. The members of the Council had different opinions on which measures were to be taken and the draft resolutions were revised several times before they were adopted. To a large extent the decision-making process took place outside the Council, and as always the informal consultations were important. One example which illustrates this is the preparation of res. 678 - this is an abbreviated version:<sup>32</sup>

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<sup>32</sup> For a detailed description read Freedman & Karsh, 1993: 228-229 and Taylor & Groom, 1992, pp. 26-35.

Secretary Baker gave "The Deputies Committee"<sup>33</sup> the task of making a draft resolution in October. The basic idea was that the Security Council should authorise military force, but not under its own command and control. In addition it was important to find a vague wording which did not exclude the use of force. A first draft was finished after consultations with the United Kingdom in the beginning of November. Then some busy weeks followed with extensive travel for Secretary Baker. Formulations were discussed with all the members to the Security Council. On 24 November, another draft was presented to the Security Council followed by informal discussions between the permanent five. One of the topics for discussion was the deadline which was originally set at 1 January. The Kuwaitis did not want any deadline and they lobbied for its removal. Also the British were against a deadline. The Soviet Union suggested 31 January, which the United States found too late. The French proposal of 15 January, became the compromise all but China could agree on. China would in any case abstain from a resolution on the use of force. The adoption of res. 678 was the final result of a political process where different opinions and interests were considered.

## **8.5 Anonymity of Aggressor and Victim**

*An important assumption for the automatics in collective actions is that no one becomes discriminated against on the basis of race, religion or ideology. The Guarantees should be valid no matter who the victim or aggressor might be. The system opposes aggression per se.*

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<sup>33</sup> A group in the American administration composed of different institutions to discuss political solutions to the Gulf crisis.

In theory the UN system for collective security applies to all members. In practice it does not apply to the permanent members.

Why did the Western world react so offensively to the Iraqi invasion of Kuwait, when it had ignored so many others? "Because this is politics", answered Mr. Picco and added that all activity in the Security Council is motivated by national interests. If this is a correct observation, it means that the system is opportunist in fighting aggression. As long as the Security Council is not a supranational institution it is obvious that collective interests are subordinated to the national interests. In this situation it is even more important that there is a certain balance of interests if the principle of fighting aggression shall meet the criterion of anonymity.

The UN Security Council has a problem of legitimacy because the composition of the permanent five no longer represents the most influential actors in international relations. The Gulf crisis confirmed that economical great powers such as Japan and Germany would have been natural members of the Council if the decisive criterion for membership was the economical ranking. The two countries financed large parts of the war and they are ranked as number two and three in the economical "top five". The United States and France are among the five, but not Russia, the United Kingdom or China. If the criterion for being a permanent member of the Security Council was military expenses, all of them but China would still hold their positions. If population was the decisive factor, China's position would have been obvious. In addition India would be a weighty candidate. If geographical division of regional great powers were the decisive factor, Brazil, Nigeria and India would have been natural candidates.<sup>34</sup>

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<sup>34</sup> Facts about the different rankings is further elaborated in Kontakt, 1991/92, 4:25.

Decolonization increased the number of UN members and subsequently the distortion of the composition of the Council as four of the permanent five represent industrialised countries.

*...if the UN is to be seen as an acceptable institution for global riot control, it also has to reflect the agenda of all the major groups of actors and not just the Western component of the P5 (Taylor & Groom, 1992, p. 43).*

Proposals for enlarging the Council and replacing the existing members have been put forward. However, it would be difficult to change the composition. How would it be decided which states would have the responsibility and privilege of being permanent member? Besides more veto powers would imply that greater efforts would have to be made to find consensus. The threshold for placing conflicts on the agenda would be higher if the prospects for cooperation were bad. More consultations, more time and a more ponderous bureaucracy would also imply a less efficient Council and thereby another problem of legitimacy would appear. A Security Council which does not react or reacts too late will lose credibility and it is more likely that important decisions will be taken by the great powers outside the framework of the UN. In this way the authority of the Security Council will become weaker and then it does not really matter if the composition is legitimate. If the Security Council is not able to fulfil its responsibilities the purpose of the institution will disappear.

In other words, it seems as if there is a choice between an inefficient but representative Security Council or an efficient Security Council which is not representative - a choice between legitimacy and efficiency. Beetham objects to such a simplification as he maintains it is not right to regard the two concepts as inversely proportional.

He argues that efficiency can both confirm and undermine legitimacy (Beetham, 1991, p. 139).<sup>35</sup>

If the Security Council is able to maintain international peace and security in an efficient way, this is in itself a sign of legitimacy. But if this responsibility is taken without a representative composition, there is a larger risk of mismanagement, i.e. selective and unfair authorization of the use of force. To some extent the Gulf crisis is an example of this dilemma. On the one hand the Security Council strengthened its legitimacy as the members were able to agree on the measures against the Iraqi aggression. This is not necessarily the same as maintaining the international peace and security efficiently. However, it is an indication of a more active and responsible Council. On the other hand the Gulf crisis was an indication on the American dominance in the Security Council - an institution which does not reflect the international division of power. However, the illegitimate composition of the Council will be more striking in conflicts where the act of aggression is not so blatant and where the support of the Security Council is not as overwhelming as in the Gulf crisis.

## 8.6 The Question of Guilt

*The implementation of sanctions presupposes that an act of aggression has occurred, and that there is no doubt about it. Such an agreement presupposes the existence of a universal definition of aggression. In addition there should be procedures for evaluation of aggression, and an impartial institution which is responsible for such considerations.*

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<sup>35</sup> It is necessary here to be aware of the fact that Beetham discusses the two concepts within the concept of one state. I presuppose that it is possible to transfer this discussion to an international context.



The concept "Act of aggression" has been used several times in the Charter but without a definition. Several attempts have been made in the 1950s and 60s, but it was difficult to find universal criteria. Besides, there has been disagreement on whether such a definition is possible or desirable. A universal definition must necessarily be quite wide and general, and therefore ineffective. A more precise and narrow definition could on the other hand leave out other types of aggression. An objection against this argument is that a general definition would after all be better than nothing. If it is right that such a definition could be abused, no definition would be more favourable for the aggressor. According to Brownlie, a definition would in any case be preferable. At best it is preventive; at worst it will not be respected.<sup>36</sup>

After several attempts to define aggression the General Assembly adopted a resolution in 1974 which lists several acts which exemplify aggression.<sup>37</sup> The General Assembly believed that the Security Council needed some criteria to specify aggression. However, such criteria should not exclude a thorough examination of all the relevant facts in every single case. The definition is valid in international relations.<sup>38</sup>

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<sup>36</sup> For a more detailed discussion see eg. Brownley, 1963, pp. 351-358.

<sup>37</sup> a) Invasion and occupation b) Bombardment by armed forces and use of any weapons c) Blockade d) Attack by armed forces e) The use of armed forces of one state which are within the territory of another state with the agreement of the receiving state f) The action of a state in allowing its territory, which it has placed at the disposal of another state to act aggressive against a third State g) The sending of armed bands, groups or mercenaries on behalf of a state to carry out acts of armed force against another state

<sup>38</sup> This is a problem when it comes to identification of the aggressive part in civil wars and ethnic conflicts which have increased in recent

As the Security Council has the authority to consider actions as act of aggression, it is inferred that it has the authority to point out the aggressor (Naidu, 1974, p. 49). The Secretary General has also this authority according to Art. 99, but every case needs confirmation from the Security Council in order that the organisations are represented. Art. 51 gives the members either individually or collectively the right to self-defence as a response to aggression. Subsequently, the members have the authority to define aggression and point out the guilty party. In addition, Art. 106 and 107 open up for individual military actions. According to Naidu this individualization undermines the collective principles in Art. 39 and 99 when aggression is defined and the guilty party is identified. When individual states which are part of a conflict have the authority to point out the aggressive party, it is obvious that the judgement will be subjective. The right of self-defence can therefore be abused, in particular if one state's attack on an other is explained as self-defence.

In the Gulf crisis it was not difficult to point out Iraq's invasion as an act of aggression or to identify the attacker and the victim. Iraq could not find any plausible legal basis for the offence against Kuwaiti territorial integrity and political independence. Besides, the General Assembly has listed "invasion" as number one of the criteria for aggression.<sup>39</sup> This classification of Iraq's invasion was strengthened by the almost universal condemnation of the rest of the world after 2 August. Yemen was the only member in the Security Council, which did not participate in the voting on res. 660, as it had not received instructions from Sana. Nevertheless Ambassador Al Ashtal made the following comment which should indicate that Yemen did not disagree on the condemnation of Iraq:

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years. The definition is not adapted to the identification of aggression within a nation state.

<sup>39</sup> 3314 (XXIX) Definition of Aggression. Annex, art. 3. (a), 1974.

*The Republic of Yemen emphasizes its respect for the United Nations Charter and its principles and the right of all States, without exception, to enjoy their sovereignty and their territorial integrity and independence. That applies to Kuwait just as it applies to any other country (S/PV. 2932).*

When Yemen and Cuba voted against res. 678 which authorised the use of force against Iraq, it was not because they supported the Iraqi invasion but because they could not accept the means of stopping it.

## **8.7 Permanent and Institutionalised Rules**

*A collective system has permanent and institutionalised rules for when and how the system shall function.*

The UN Charter meets this criterion, but problems of cooperation between the permanent five during the Cold War resulted in a paralysed system. The Security Council was not able to maintain international peace and security and the potential of Chapter VII was never developed. The Military Staff Committee has never had any strong position and UN forces were not formed.

Was the UN handling of the Gulf crisis a revitalizing of the UN collective system from 1945? The answer must be both yes and no. On the one hand the members of the Security Council managed to avoid the veto in a decision which opened the way for the strongest measure in the Charter, the use of force. Such an agreement would have been unthinkable a few years ago. On the other hand, the organisation did not have the opportunity to accomplish a military action under own command and control. Res. 678 had its basis in Chapter VII, but did not specify any articles. This general reference gave room for interpretations and more flexibility for the implementation of the "necessary means". This vagueness was necessary both from a practical and a politi-

cal point of view. The reference to Chapter VII set the precedent for the resolution on humanitarian intervention in Somalia in December 1992, where the Security Council authorised the use of force under American leadership and where the UN should take over later on. This creates expectations for following up in other conflicts both in and between states.

When as an exception the Security Council has agreed on the use of force, the implementation has been organised on an ad hoc basis dependent on American initiative. The system which is described in Chapter VII is not worth much, as long as the assumptions for implementation are not present. Thus the UN system for collective security is not a permanent institutionalised set of rules which automatically apply when needed. But what is more important in this context is that the UN Charter from 1945 does not meet the new division of power and types of conflict. In this way it is perhaps more important to reform the system than to revitalise the old one. A permanent institutionalised set of regulations is important to prevent the abuse of the system. On the other hand such institutionalisation should not replace flexibility and creativity in meeting new challenges.

## 8.8 Concluding remarks

The discussion can be summarised in the following table:

**Table 8.1: *The UN system for collective security***

<i>Naidu's idealtype</i>	UN Charter theory	Practice in the SC	The Gulf crisis
Prohibition of force	i) yes	no	ii) yes
Collective guarantee	yes	no	no
Deterrence	yes	no	no
Automatics	no	no	no
Anonymity	yes	no	no
Question of guilt	no	no	yes
Permanent rules	yes	no	no

*i) and ii) With the exception of the right to self-defence or the use of force either authorised by or under the command and control of the Security Council.*

The table illustrates that the *UN handling of the Gulf crisis was closer to the idealtype for collective security than the general practice has been since 1945*. The first and the sixth criterion concurred with the idealtype for collective security. The Security Council reacted to the *Iraqi breach of Art. 2.4* by condemning the invasion, adopting sanctions and eventually authorizing military force. The sixth criterion, *the question of guilt* was not difficult as the *Iraqi invasion was an aggressive act which violated Kuwaiti*

independence. The UN Charter does not define aggression, but according to the definition of the General Assembly from 1974 invasion is one of the criteria which constitute an act of aggression. The members of the Security Council, including Yemen and Cuba, had no difficulties in placing the responsibility for this aggression on Iraq. The other criteria were not met in the Gulf crisis. There was no *guarantee* that the Security Council would do anything. The multinational force was an ad hoc coalition under American leadership. "Desert Storm" confirmed in a very convincing way its military superiority. However, its *detering* function in advance of the conflict was not sufficient as Iraq did not withdraw within the deadline. The UN handling of the crisis was not *automatic* even though the escalation to the use of force came rather promptly. The draft resolutions were discussed and compromises had to be found because there was disagreement on how the conflict should be handled. The Iraqi invasion of Kuwait was formally a good reason for the engagement of the Security Council, but it was probably not sufficient. The political will was decisive and in this way neither the aggressor nor the victim was *anonymous*. The measures taken by the Security Council had their legal basis in the Charter, but the system for collective security was not implemented. Even though the UN Charter has *permanent and institutionalised rules* for when and how the system shall function, it is impossible to follow these as long as the necessary preparations are not made.

The table is a simplification and as the discussion has indicated it is difficult to draw precise conclusions from Naidu's criteria. The problem according to the Charter is that it gives room for interpretations. But the veto is the main reason why none of the criteria has been present in practical terms. There are exceptions, but until the late 1980s the general problem was that the American and Soviet veto paralysed the system in many cases.

The changes in international affairs since the end of the 1980s showed that the permanent members of the Council were willing to cooperate. New methods of cooperation and willingness to take

measures within the UN framework led to a more authoritative and active Security Council in the Gulf crisis 1990-91. In this way the UN collective security system was strengthened even though it was not used in the way the founders of the UN Charter had anticipated. The discussion of Naidu's seven criteria indicated that the system did not satisfy the ideal type. However, this is not a well-nuanced conclusion since the problem during the Gulf crisis was not that the system did not work. The problem was that the UN involvement was an exception and such an exception is in itself a sign of the fact that there is no security guarantee. The veto was not used during the crisis, but since the members had the opportunity of using it, there was no guarantee against the selective use of the system. Subsequently, there was no guarantee for the automatics, the anonymity or the maintenance of rules and procedures. The veto is a challenge to all of Naidu's criteria as it primarily secures national interests and not the collective interests as a unit.<sup>40</sup> In the political reality self-interests have usually the highest priority and it is therefore doubtful if Naidu's ideal type can be more than a utopia.

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<sup>40</sup> In this context it is worth noting that during the cold war, the veto was perhaps as much a protection of small states since most of the conflicts concerning them also had had consequences for the relationship between the United States and the Soviet Union. This could be an advantage for the small states to the extent that the polarization between the two superpowers automatically resulted in the use of veto from the one superpower if the other went too far in the use of force.

## **Part IV**

### **Summary**

The two questions in this report were: A. Why were the members of the Security Council able to cooperate? B. How did the UN collective security system function qua system during the Gulf crisis?

The first question was discussed in part II, in the light of three factors. First, the Iraqi aggression was a clear-cut breach of Art. 2.4. Had there been uncertainty about that opinion the whole basis for further action would have been weak. But there were no votes against res. 660 (1990). If the Iraqi aggression was a formal motivation for the UN engagement, formalities alone were probably not sufficient.

Another factor was the changes in the international structure of power since the end of the 1980s. The rapprochement between the United States and the Soviet Union meant that greater efforts were made in finding solutions within the Security Council. The members did not only agree on finding a solution but also on the fact that the Security Council should play an active role in the handling of the crisis. Nevertheless the five veto-powers had different opinions on how the conflict should be handled. The United States and United Kingdom could be described as hard-liners, while the Soviet Union, China and France were more active in finding a peaceful solution. However the five were able to avoid the use of veto which so often before had put an end to further cooperation.

The third factor, which to a great extent is linked to the second, is national interests. To the extent such interests were illegitimate they could be covered by the respect for international law:

*To a certain extent, the Gulf war was about international law and order; or rather, it had the potential to be. But what actually happened was that the United States was far too hungry for power,*



*the Soviet Union too preoccupied with its internal conflicts, China too devious, and France and the rest of Europe simply too disorganized and cowardly to give the United Nations the space it needed to build on the opportunity created by the disintegration of the Soviet Union (Motchane, 1992, p. 139).*

However, this description is very simplified. The discussion indicated that national interests are complex and often composed of many domestic and foreign political considerations. For the United States the desire to confirm its position as a superpower and protection of its oil interests in the Middle East balanced against the budget deficit and domestic opposition to high military expenses. The Soviet Union and China had to consider the advantages of cooperation with the western world against their trade interests in Iraq. France's support of the American-led coalition contrasted with the traditional independent role France had played in international affairs. For the United Kingdom on the other hand, it seems like most interests pointed in the same direction.

The three factors contributed positively to understanding the cooperation in the Security Council during the Gulf crisis: a formal condition was that the Iraqi invasion was unacceptable on a legal basis. In addition there was a willingness to use the Security Council as an arena for handling the situation. Finally, concurring national interests had the most significance. For the United States which took the initiative and dominated the choice of measures on behalf of the Council, the Soviet Union represented the greatest diplomatic challenge. The coordination of the two countries undoubtedly strengthened the support of the other veto powers.

These factors explain a great deal, but they do not not exclude other factors. The personalities of the political leaders are un-

doubtably important (Childers 2.12.92)<sup>41</sup> However, a psycho-analytical approach to foreign affairs is outside the framework of this study in both methodological and empirical terms. As mentioned in chapter 5 it is difficult to identify the underlying motives and according to Tucker & Hendrickson they will

*...in crucial respects almost certainly remain so even when all the documents are opened for inspection in the distant future (Tucker & Hendrickson, 1992, p. 86).*

The cooperation in the Security Council was an important assumption for the functioning of the system. In this way the second question reinforces the first. How the system functioned was discussed in part III. Taking into account the different functions the Security Council can take when there is a threat to international peace and security, the Council reacted quickly and implemented relatively strong measures from the beginning. Sanctions were adopted after four days. After three and a half months the Security Council adopted res. 678 which authorised military force against Iraq. "Desert Storm" was carried out by a multinational force consisting of 28 countries under American leadership. The authorization of the use of force is not problematic according to the UN Charter, and res. 678 had its legal basis in Chapter VII. On the other hand the legal discussion indicated that the UN Charter gives room for interpretations and that the Security Council itself is sovereign in doing this. In this way legality is reduced to a question of the members' willingness and ability to cooperate.

The discussion about collective security indicated that the UN collective security system did not function satisfactorily. To some

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<sup>41</sup> Childers indicates the background of President Bush as UN ambassador in order to understand the rhetoric of the UN role in the "new world order". During the Gulf crisis it was important to channel the American policy through the UN system.

extent the Gulf crisis was a revitalization for the system as the Security Council was able to act against aggression with more authority than before. But the system did not function the way it was originally supposed to or as an ideal type. Only two of the seven criteria could be found. A general problem is that there is no guarantee that the UN system will function when needed and it is therefore difficult to discuss the other criteria. A basic assumption for such a guarantee is that self-interests are subordinated to common interests or at least that strong self-interests do not clash with common interests. The right of veto is a challenge to this assumption as it protects the interests of the great powers.

*...the veto rule symbolizes the renunciation of any effort to create a collective security system which might operate against major powers (Claude, 1962, p. 159).*

In recent years the UN has increased its role in conflict management both between and especially within nation states. New types of conflicts, new states and power constellations have at the same time raised the question of the organisation's role in the future. The Gulf crisis gave topical interest to the strengthening of the UN military capacity. The permanent members of the Security Council and the Secretary General have given positive signals. In the report, *Agenda for Peace*<sup>42</sup>, the Secretary General suggests revitalizing the Military Staff Committee and earmarking military forces at the disposition of the Security Council.

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<sup>42</sup> The *Agenda for Peace* contains proposals for strengthening diplomacy, peace-making and peace-keeping within the framework of the UN Charter. The Secretary General was invited to make this report at the Security Council summit in January 1992. The report was published in June 1992 and has become a central contribution to the discussion of the future of the UN.

However such a reform of the system would require more resources and new thinking by the contributors.

The proposal of strengthening the existing system is probably more realistic, in particular when it comes to preventive measures, diplomacy and peace-keeping operations. Sir Brian Urquhart has suggested that the peace-keeping forces should have a mechanism which would automatically be released if the parties in the conflict did not respect the claims of the organisation. Peace-keeping forces would then have a deterring effect (Urquhart, 1992, p. 316). But such reforms need resources and when the organisation has financial problems it is difficult to extend the activity. However, the consideration of what the organisation can afford or not is again a question of political will from the members. Urquhart points out that the expenses of two days of "Desert Storm" would cover the expenses of all UN peace keeping operations in one year (Urquhart, 1992, p. 317).

A fundamental problem for the future of the organisation is the composition of the Security Council. As long as the Security Council was paralysed by the East-West conflict this problem was not relevant. As the Security Council has become more active and gained more authority the problem of legitimacy has emerged more clearly. A change in the composition is necessary or the Council will be perceived as an instrument for the industrialised world. On the other hand such a reform could harm the efficiency and then the organisation has acquired a new problem of legitimacy. One can see this problem in the war in former Yugoslavia. The decisiveness and efficiency shown in the Gulf conflict has not been evident in this conflict. In this way the organisation loses credibility and has been accused of double standards. Whether this criticism is fair is disputable. There are several reasons why the organisation has not wanted to authorise the use of force in former Yugoslavia. From a military point of view such an action would have been far more difficult to implement and the chances of succeeding would have been smaller. The contributors would risk big losses in a protracted war. In this perspective it

might be an advantage that the automatics of the system do not work. But when there are no automatics in the system, the Council's considerations and responsibilities are even more crucial.

To the extent the Gulf crisis was a renaissance for the UN system for collective security it also demonstrated its weaknesses and the need for change. More important than focusing on the intentions from 1945 "back to the future", will in the coming years be to adapt the system to an international situation which is still in change. The "new world order" must be regarded as diffuse and unstable. The adjustment of the organisation can therefore be decisive for a stable future security system. But what this system will look like, how it will function in contrast to other security institutions and which conceptual label it will have, remains to be seen.

## Appendix

### Interviews In New York December 2 - 9, 1992

2.12.92: *Robert Gray*

Minister Counselor at the American UN Mission.

7.12.92: *Ian Cliff*

First Secretary at the British UN Mission.

3.12.92: *Christine Robichon*

Diplomat at the French UN Mission.

7.12.92: *Cheng Jing-Ye*

Second Secretary at the Chinese UN Mission.

7.12.92: *Abdullah Alsaidi*

First Secretary at the Yemeni UN Mission.

8.12.92: *Rolf Einar Fife*

First Secretary at the Norwegian UN Mission.

3.12.92: *Sir Brian Urquhart*

Worked for the UN Secretariat since 1945. Under Secretary General for the United Nations from 1945-1986. Today, advisor at the Ford Foundation.

2.12.92: *Erskine Childers*

Worked for the UN Secretariat since 1967, and has broad experience from his work in most of the organizations within the UN system at all levels and regions.

8.12.92: *James Ngobi*

Secretary for the Security Council Sanctions Committee.

9.12.92: *Giandomenico Picco*

Advisor, assistant and mediator for former Secretary General Perez de Cueller from 1976.

8.12.92: *Christopher C. Coleman*

Senior Advisor for Peacekeeping and Peacemaking Training Programmes. United Nations Institute for Training and Research (UNITAR).

4.12.92: *Jeffrey Laurenti*

Executive Director for Multilateral Studies. United Nations Association of the United States of America (UNA-USA).

7.12.92: *Oscar Schachter*

Professor in International Law from Columbia University.

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