

**THE POWERS AND FUNCTIONS
OF
THE UNITED NATIONS SECURITY COUNCIL**

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Ian Brownlie



Nigerian Institute of Advanced Legal Studies
Lagos

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Introduction **OF** *University of Lagos*
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Introduction

The standard *cliche* of political science has been that the United Nations is a weak system. There have always been two responses to this. The first is that it is the member States of the United Nations which determine its effectiveness or otherwise. Secondly, in institutional terms the system is not weak. The powers of the Security Council are very considerable and it has been a purely political contingency - the incidence of the veto during the Cold War especially - which has tended to mark the extent of those powers. Since 1990, the mask has been removed and numerous resolutions have been adopted relating to a wide range of situations.

An Outline of Its Role

The Council is one of the six principal organs of the United Nations and is effectively the principal political organ. Its 'functions and powers' are defined in the Charter as follows:

"Article 24

1. 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.
2. In discharging these duties, the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the

discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments."

The Council also has a key role in the enforcement of judgments of the International Court of Justice under the provisions of article 94 of the Charter.

The Security Council *vis-a-vis* the General Assembly

The relationship of the Council and the General Assembly is fairly complex. For many purposes the two organs function independently and the General Assembly is not subject to the veto. On certain occasions, with the assistance of a special procedure of empowerment created in 1950, the General Assembly acts as a substitute for the Security Council, and then meets in Emergency Special Session. Such emergency special sessions shall be called if requested by the Security Council on a vote of any nine members or by a majority of members of the United Nations. Such powers were used, for example, in relation to the situation in Afghanistan in 1980 and in relation to Namibia in 1981. However, the General Assembly does not have powers to take enforcement action except in the form of recommending action by the Security Council or

recommending the imposition of measures by way of sanctions by individual member States. The taking of mandatory enforcement action is within the exclusive competence of the Council.

Membership and the Veto

The Council consists of fifteen member States of the United Nations of whom five have the status of permanent members. Decisions on non-procedural matters require an affirmative vote of nine members *including the concurring votes* of the permanent members. This is the famous veto arrangement, which has been taken advantage of by all the permanent members when the occasion arose.

Perhaps some perspective is needed. In the first place the veto was seen as an improvement on the unanimity rule which prevailed in the organs of the League of Nations and, secondly the consideration of policy was that if collective measures against an aggressor did not involve all the major powers, there was a danger of a coalition war involving permanent members on each side. Indeed, the Korean War was approximate to this scenario.

The relative decline of the veto has created a paradox. Whilst the veto is often abused and is therefore seen as inimical to the Rule of law, the withholding of the veto, in face of sometimes highly problematical decisions by the Council, may also create tensions with the Rule of law.

The Functions and Powers - An Assessment

Against this background it is now possible to begin an assessment of the various functions and powers of the Council. In a legal perspective the definition of powers, of competence, should come first. These are defined very broadly in the provisions of Article 24 of the Charter. The basic concept is that of effective measures. The trigger is a determination, in accordance with the provisions of Article 39, of 'the existence of any threat to the peace, breach of the peace, or act of aggression...'

It is true that determinations of the existence of an 'act of aggression,' or of a breach of the peace have been relatively unusual. In contrast, determinations of 'a threat to the peace' are common and the concept has been applied ambitiously in practice. It is often applied to situations in