Soviet moves in Europe in the aftermath of the Second World War created apprehension among American policy makers about its design in Asia. Communist victory in China was construed by Washington as an event of far-reaching significance portending an extension of Soviet influence in that region. US policy of containment, designed initially to check perceived Soviet expansion in Europe was pursued in Asia too in the 1950s. The physical proximity of two giants communist powers to Korea, Japan, Taiwan and their offshore Islands, made American policy planners believed that these countries were vulnerable to communist attack. As a consequence, with the outbreak of the Korean war in June 1950 the policy of containment was extended to China as well. From then, American policy became one of the preserving a balance of power in East-Asia by supporting an independent Korea, free from the control of China or Russia.
Prior to the outbreak of hostilities Korea was considered as a strategic liability by the State Department. In a policy statement made before the National Press Club on 12 Jan, 1950, Secretary of State Dean Acheson excluded Taiwan and Korea from the American defence perimetre in the pacific.¹

Dealing more specifically with Korea, he stated:

"We have given that nation great help in getting itself established. We are asking the Congress to continue that help until it is firmly established, and that legislation is now pending before the Congress. The idea that we should scrap all of that we should stop half way through the achievement of the establishment of this country, seems to me to be the most utter defeatism and utter madness in our interest in Asia."²

². Ibid, p. 117
The Secretary's statement was in fact a plea to win support for a $60 million economic aid bill for South Korea which was held back by the lower House. The measure, however, was defeated, the same month as a reaction to the Administration's failure to aid the Nationalist Government of China.3

Clearly it was an indication of the low strategic importance accorded to Korea, for the US was concerned more in safeguarding its interests in Japan and Europe. The limited build up of the South-Korean Army trained by the US Military Advisory Group was designed essentially to maintain internal order than to fight a war. Again the $10.2 million committed to Korea for the year 1950 was not intended for rearmament rather it was for the maintenance of the equipment left behind by the US forces following their withdrawal from Korea in mid 1949.

United States' Initial Response:

Within a year of US troops withdrawal, Korea became an area of intense super power rivalry with war breaking out between the North and South. For, on June 1950, the North Korean Forces crossed the 38th parallel and advanced to the South, capturing Seoul within a few days.

North Korea action left the US with two alternatives - either to withdraw its military mission from South Korea or else, intervene, militarily to prevent communist takeover of the Peninsula. Under the circumstances, the US opted for the second and declared to intervene. And thus, the Administration reversed its early policy decisions that accorded low priority to Korea in its defence calculations. Both President Truman and Secretary, Acheson have remarked in their memories that the North Korean offensive was "insighted by the Soviet Union". According to President Truman

Korean offensive was launched by the Soviet Union to test US capacity to resist communist forces. Upon that premise he has argued that if communism was not checked in Korea, then Japan, Okinawa and Formose could have been the next targets of communist attack. In order to protect US interest,


6. Truman, n.4, p.335.
the defence of South Korea and Taiwan he says was imperative.

Some analysts argue that Russia's Premier, Joseph Stalin, Started the war in Korea with the object of engaging the US and the Peoples Republic of China in a long conflict, leaving him free in Europe. Yet, another hypothesis claims that it was South Korea that attacked first. Since establishment of the

7. John Gunther, The Riddle of MacArthur: Japan Korea and Far East (New York, 1957), P.172 For a contrary view see, Wilbur H. Hitech Cock, "North Korea Jumps the Gun" Current History, Vol.20, March, 1957, pp. 136-44, The writer is of the view that invasion of South Korea was planned by Premier Kin II Sung, not only without instructions from Moscow, but without its knowledge as well. The Korean war has also been characterised as a Civil War. See Robert R. Sumon, The Strained Alliance: Peking, P. Yonagyang; Moscow and the Politics of the Korean civil War, (New York, 1975).
Republic of Korea, President Syngman Rhee in his eagerness to attain a forcible unification of Korea resorted to an attack on North Korea.  

It appears that the US though aware probably of an attack from North Korea, failed to prepare South Korea to face such an eventuality.  

In Tokyo, General Douglas Mac Arthur's Chief of intelligence, Major General, Charles Wiloughby were convinced that Korean communists were engaged in a massive build up across the 38th parallel. He was sure that they would be prepared to strike by the beginning of the summer of 1950. His warnings however, were ignored both by his own headquarter and the authorities in Washington as well. Similarly Admiral Roscos H. Hillenkoetter, Director  

of Central Intelligence Agency told the press on the eve of the attack that the Agency was awarded that "Conditions existed in Korea that could have meant an invasion this week or next".¹¹

On 27 June, the Senate Appropriation Committee, called Hillenkoetter to hear his opinion regarding the North Korean attack. Prior to his hearings, he was summoned by President Truman. The statement he gave before the Committee was different from the one given to the press. He said that "the North Korean forces have had the capability of invading the South force year but that it had been impossible to predict the time table under which they would march if at all".¹²

Use of United Nations for Collective Action

The United States was successful in invoking the collective provisions of the Security Council under the Charter. It has been remarked by some

¹¹. As quoted in I.F Stone, The Hidden History of the Korean War (New York, 1952) p.50

that American support on behalf of South Korea in the United Nations was a part of a bolder conceptualization of US global geopolitics.

An emergency meeting was convened on the same day of the North Korean offensive, 25 June 1950, passed a resolution which condemned the North Korean attack and called for a ceasefire. On 27 June President Truman ordered the dispatch of Seventh Fleet to neutralize the Taiwan Strait. He declared that the Seventh Fleet would repel an attack of Taiwan and also instructed Chiang-Kai-Shek not to attack the mainland. He also declared the strengthening of American forces in the Philippines.

16. Ibid.
Thus, the Korean war set off series of defence measures by the US on its Far East outposts.

The same day of second resolution of the Security Council on the Korean Crisis, called on all members of the United Nations to help South Korea repel the attack.\textsuperscript{17}

Closely following the President Truman's orders, commanding US ground, air and naval forces into action in Korea, the Security Council adopted its third resolution on 7 July. It called for a Unified Military Command in the Korea, under the command of US\textsuperscript{18}. President Truman appointed General Douglasto move further, as the Commander in Chief of the UN forces.\textsuperscript{19}

One authoritative assessment had attributed the policy reversal to Washington's awareness of the political as against the strategic importance

\textsuperscript{17} UN Document, S/1541, 27 June, 1950.
\textsuperscript{18} Ibid, S/1588, 7 July, 1950.
of South Korea.\textsuperscript{20}

President Truman ordered General Mac Arthur to proceed north of the 38th parallels.\textsuperscript{21} On 1st October the South Korea Forces crossed the parallel. In the meantime Chou En-Lai issued his strongest Warning of the intention of the peoples Republic to enter the war if this UN forces other than the South Korean troops crossed into North Korea.\textsuperscript{22} These were apparently not taken seriously.

On 7 October, the General Assembly adopted a resolution endorsing President Trumon's proposal to cross the 38th parallel to achieve the unification of Korea.\textsuperscript{23} It also set up a new commission for the Unification and Rehabilitation of Korea (UNCURK) to carry out relief and reconstruction work in Korea.\textsuperscript{24}

\begin{addendum}
\item Truman, n.4, p.363.
\item Ibid, pp.363-64, Also See K.M.Panikar \textit{In Two China: Memoirs of a Diplomat}, (London 1955).
\item UNGAOR, Fifth Session, Resolution 376, 7 October, 1980, Supplement 20, pp.9 n.10.
\end{addendum}
On 9 October, General Mac Arthur in a radio broadcast called upon the North Korean troops to surrender and cooperate with the United Nations in setting up a Unified and democratic government in Korea. Receiving no response, the UN forces crossed the thirty-eight parallel into North Korea. Thus with the help of the United Nations, the United States mobilized world opinion in support of US "Police action" in Korea. It is significant to note that the UN resolutions became possible only because the Soviet delegate was boycotting all the meetings of the Security Council.

25. Also see articles by Arnold Wolfers, Collective Security and the war in Korea in young Hum Km, Twenty Years of Crisis: The Cold War Era (New Jersey, 1968), pp.78-81. The authors explanations showed American intervention in Korea through the UN served Washington's security interest.

On 15 October, President Truman conferred with General Mac Arthur on Wake Island in the Pacific, when asked about the possibility of Chinese or Soviet intervention in the war, Mac Arthur replied that there was very little chance of the two intervening at that stage. He may have been right about the Soviets but very wrong about the Chinese who struck with full force against the Eight Army of the US on 25 November.

According to the intelligence reports of the CIA, Central Intelligence Agency the Chinese communist troops popularly known as "volunteers" had moved into North Korea in mid-October. Towards the end of October the presence of Chinese communist troops on a large scale was reported among the North Koreans.

With the entry of the People's Republic of China, the Korean war assumed the shape of a Sino-American

27. Truman, n. 4, pp. 365-66.
28. Ibid. p. 372.
conflict. Earlier General Mac Authur had suggested an all out war with China, which included bombing Chinese bases on Yalu and elsewhere.²⁹

However, President Truman and the chief of Staff favoured in settlement of the question of Chinese intervention in Korea through political measures.³⁰ Washington apparently had to wish to reenter the Chinese civil war from which it had extricated itself after much difficulty. It favoured a limited war without appeasement and was opposed to carrying the war to the Chinese territory.

Some of the policy decisions gave the republicans in the Congress an opportunity to criticize the Truman Administration. They urged the President to adopt a tougher attitude towards peking and give more aid to Taiwan. The war also aided and abetted Senator Joseph Mc Carthy's attack on communism sympathizers within the Government.

Many important officials in the State Department

²⁹. For the text of this statement see, Department of State Bulletin, Vol. 23, October 1950, pp.643-44. Also see, Allen S.Whilting, China Crosses the Yalu; The Decision to Enter the Korean War, (N.Y., 1960).pp. 15-162.

³⁰. Truman, n.4, pp.378-79.
were dismissed from their jobs as bad security risks.\textsuperscript{31} Over and above the Congressional elections of November 1950 showed a marked decline in the number of Democrats in the Congress.

The European allies of the US also express their grave concern over the developments in Korea. Great Britain was alarmed over President Truman's press comments of 30 November on the possible use of the atom bombs\textsuperscript{32}. By that time the communists had recovered major parts of North Korea. It appears that this threat was used more to deter further Chinese Communist attack.

The US would not have used such a device without obtaining prior concurrence from its European allies. Their support was a considerable importance because of their help and effort in containing communism on global level. Priority was given to Great Britain and France because they held the second and third position in the NATO, on


account of the military and political status in Europe. They also controlled all the American bases from which attack could be launched at the Soviet Union and other places. As such it was decided that the war in Korea be localised and ended by means of a negotiated settlement.

US decision to abandon its objectives of Uniting Korea by force was largely influenced by the course of war itself. In a meeting of the material Security Council it was pointed out that an extension of the war to Manchuria as proposed by MacArthur might prompt the Soviet Union to intervene either in Korea or Europe and that would certainly be determinated to America interests. Moreover, public opinion at home was sufficiently alarmed over the extent of American involvement in the Korean war and heavy loss it caused on American lives. Again there was a general desire among the members of the UN to resolve the

33. Truman, n.4, pp. 385-88.
crisis peacefully. Thus in view of these factors, America policy shifted from a confrontation with the Chinese Communists and North Korea to that of stabilizing its line of military enforcement and from these negotiating for the cessation of hostilities.

Following the adoption of a resolution by the General Assembly on 14 December, 1950, a peace proposal was drafted. However, Peking turned it down and on 17 Jan 1951, but forth a ceasefire. Important among these were the expulsion of Nationalist China from the UN and the administration of Peoples Republic as well as evaluation of all American personnel from Taiwan. When initial attempts armstice failed, the US urged the UN to condemn peoples Republic as a aggressor on the place that it refused to come to terms with the UN and continued its attack on South Korea.

34. For details see, Department of State Bulletin, Vol. 24, 15 Jan. 1951, p.113.
On 1 February 1951, the General Assembly passed a resolution "branding the people's Republic as an aggressor." This precipitated a large-scale attack on Chinese Communist forces on the UN troops. They not only crossed the 38 parallel, but also recaptured Seoul. Through the UN forces recovered the capital of South Korea and pushed back the Chinese forces, the prospects of an armistice seemed rather bleak.

The dramatic dismissal of General MacArthur on 15 April, 1951, was a pointer to the fact that the US favoured a cautious approach to the settlement of the Korean question and wanted to localise the Korean war. Truce negotiation began again on 10 July 1951, first at Kaesong and later at Panmunjon. The UN command delegation was headed by Vice Admiral C. Turner Joy, while the North Korea side was led by Nam II. Agreement was reached...

37. UN, GAOR, Fifth Session, Resolution 498, 1 January, 1957, Supplement 20, A.

on the agenda on 26 July 1951.\footnote{Department States Bulletin, Vol.25, 6 August, 1951, pp.231-32.}

Negotiations soon got stalled over issues like determination of the demarcation line and the exchange of prisoners of war. The latter seemed to be the most different issue. The UN command took the position that personnel should not be forced to return to the communist side. While the communist side the stand that all Chinese and North Korean soldiers in UN custody be repatriated.

The period from July 1951, to 1952 was spent in fruitless negotiation over the issue. Proposals and counter proposals were presented but without any positive agreements. Meanwhile fighting continued throughout the remaining months of the Truman's Presidency.

The deadlock was finally broken with election of President Dwight D. Eisenhower to the White House. The new President and his Secretary of
State John Foster Dulles had commitment to bring the Korean War to an end and also to extend the containment policy to the Peoples Republic. Third policy with regard to Korea did not differ much from that of the previous administration. To get the truce talks moving against President Eisenhower threatened to use nuclear weapons. This policy later came to be known as the "massive retaliation" strategy. As a display of its intention the US dispatched nuclear weapons to Okinawa. Dulles informed Prime Minister Pandit Jawaharlal Nehru that the war would be extended to Chinese unless Korean armistice was signed. This information was duly passed to peking.

According to President Eisenhower, the threat to use nuclear weapons was largely response for the breakthrough in negotiation which finally resulted in the agreement of exchange of sick and wounded prisoners on 11 April 1955.


41. Ibid.
There were other strategic reasons apart from the one given above for a resumption of truce negotiation. The Death of Stalin, the leader of Communist world in March 1953, coupled with heavy losses incurred by Chinese Communists eventually led the later to recommend negotiations.

On 8 June 1953, the final agreement regarding the exchange of prisoners of war was reached. However, the signing of the armistice was blocked for sometime as a result of President Rhee's action in ordering the release of thousands of anti-communist prisoners on 18 June 1953. This was done despite President Eisenhower's assurance to arrange for a bilateral security pact with the Republic of Korea.

The crisis was resolved when President Eisenhower sent Walter Robertson, Assistant Secretary of State for Far Eastern Affairs to meet

43. See Care, Roeger, The Korean Knot, n.5, pp.166-67
44. Eisenhower, n.40 p.183.
who assured that he would not wreck the time talks and would give up his demand for the withdrawal of Chinese troops from North Korea. 45

The Armistice agreement that was finally signed on 27 July 1953, marked the end of the war in Korea. 46. The truce was to be followed by a peace conference within 3 months to deal with political problem of Korea.

The United States Urged the sixteen UN members who had contributed armed forces to the war in Korea to reaffirm their support in the bent of a recurrence of communist attack on South Korea. 47. At the same time it signed the mutual Defence Treaty on 1 Oct. 1953, with the Representation of Korea. Unlike other American treaties, such as with Australia, Newzealand and the philipiness designed primarily to restrain Japan the one with Korea aimed at containing communist expansion in East Asia. Article 3, which is the heart of the treaty

46. For text of truce See, Ind, PP.132-40.
stated that an armed attack on Rok would be considered by the US as "dangerous to its own peace and safety" and "that it would act to meet the common danger in accordance with its constitutional processes.\textsuperscript{48}

Unlike its treaty with Japan, this was no obligation to take part in the internal security of the Korean Republic or take any military measures in the event of a coup. A small US military force with supporting air and ground units was stationed in Korea after the treaty. An American Military Advisors Group supervised the training of the South Korea army.

It is often said that the workings of treaty were somewhat ambiguous. For instance the treaty envisaged that if any attempt to unify Korea by force was undertaken without the prior sanction of the UN, the US would be under no obligation to

\textsuperscript{48} Department of State, Bulletin, Vol.29,17 August, 1953, p.204.
support such initiative. However, if American interests were threatened in Korea, the US would force appropriate action, whatever the treaty obligation 49.

The political conference that was to follow the armistic was held in Geneva on 26 April 1954. It failed to produce a final settlement of the problem of Korean Unification. President Rhee's request to the US for a forcible unification of Korea was also ignored 50.

Thus, the Korean war gradually led to the globalisation of US containment policy. The Cold War in Europe beginning ever since the end of the Second World War had kept the US involved in that area. Moreover the constraints imposed by the Congress on defence expenditure also prevented Washington from extending military support to countries in Asia. Again as result of the imbalance between ideological commitment and military power

"as demonstrated in China up to 1949, Americas Asia policy pivoted around Japan. The Korean war in fact served to globalize civil war politics. It stimulated immediately a increase in military spending, signing for the defence treaties led to US deeper constraints in Asia in the 1950s. The conviction that the expansion of Commission in Asia was detrimental to its national security because the Keynote of American foreign policy and dominated Washington's Asian policy for years to come.

Objections on the Action

The United States submitted the "Korean Question" to the General Assembly on 17 September 1947 following the failure of its negotiation with the USSR in regard to the implementation of the Cairo, Potsdam, and Moscow agreements. The Communist group held that the actions of the General Assembly were contrary to the previsions of the Charter and were invalid and that the General
Assembly did not have the right to take action with regard to Korea as that matter had been covered by the Moscow agreement. Korea was clearly a subject which should have been dealt with by the Allied Governments concerned. The establishment of the Temporary Commission was illegal, and it was a violation of international agreements.  

The Soviet Objection was based on Article 107 of the Charter, according to which the governments primarily responsible for defeating an Axis power were to determine the terms of the peace settlement. Even at San Francisco a distinction had generally been accepted between the functions of peace-making and functions of peace maintenance, the former being regarded as the special responsibility of the powers primarily concerned with the defeat of the enemy states and the latter as the responsibility of the United Nations.  

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51. GAOR, Session 2, First Cttee, mtg. 87, pp.250-1.  
United Nations was asked to "candidate or preclude any action which members of the war-time coalition might take in their relations with the enemy states. The making of the peace following the Second World War was to proceed independently of the Charter, ie as if the Charter did not exist. The communist group, therefore, did not want the United Nations to deal with the disposition of the territories formerly occupied by the enemy states. A.M.Beranovasky of the USSR referred to a statement made by Senator Vandenberg at the San Francisco Conference, to the effect that the "General Assembly of the UN should make recommendations with regard to peace treaties and problems concerned therewith and to Article 107 of the Charter, which was fully applicable." This meant, he pointed out that the General Assembly should not make recommendations in such matters.

54. GAOR, Session 2, First Ctte mty, 89, pp.258-91.
Further, the Soviet bloc argued that the activities of the UNCOCK were contrary to the principles of the United Nations. Far from protecting Korea from possible foreign interference, the UNCOCK was intervening in the domestic affairs of Korea and perpetuating that interference. It was an "obedient foot of US Department of State". The Communists characterized the activities of the UNCOCK as a "brazen expression of the bandit colonization policy of the American imperialists in Korea". Their main objection was that it was a violation of Article 2, paragraph 7, of the Charter. Which dealt with non-intervention in the domestic affairs of any nation. The Soviet representative, Vyshinsky, told the General Assembly: The provisions of Charter VII were illegally applied to the civil war whereas these provisions do not relate to civil

55. GAOR, Session 8, First Cttee mtg. 92 p.290.
War, to internal conflicts that were between two sections of the people of one and the same state, of one and the same country, temporarily split into two hostile governmental camps but to war between states. 57.

The Korean war was a war fought between two sections of the Korean people.

Thus, the establishment of the UNCOOK and its functions were illegal, and besides, they violated international agreements.

Vyshinsky held that the unification of Korea and the establishment of a unified democratic state should be left to the Korean people themselves. He further stated that the General Assembly should have invited the representatives of both North and South Korea, so that they could express their view on the question. Any discussion without them would violate the provisions and principles of the Charter and in particular Article 32, which

57. Ibid, Session 5, Plen Mtg.293, p.219.

58. GAOR, Session 5, Plen.mtg.292, p.193.
provided for the participation of non-member states in any discussions held under the conditions laid down by the Council. This was accepted practice of the General Assembly and Secretary Council. The decision of the First Committee to hear the representative of the Syngman Rhee Government was one-sided and not impartial. It was in contravention of the principles of the Charter and the right of self determination of people. It would not help in working out a settlement of the "Korean Question".58

The Soviet representatives also made the charge that there was an American conspiracy to establish a puppet government in Korea. This, if permitted to take its course would be a gross injustice to the spirit and latter of the Charter. He warned the General Assembly that if any decision on Korea was taken without any participation of the Korea people, his country would not abide by that decision. He challenged the validity of the

58. GAOS, Session 5, Plen.mtg.292, p.193.
Security Council resolution of 27 June and 7 July 1950, on the ground that they were legally intenable. The resolution had been adopted by only six votes, the seventh being that of the Kuomintang representative, Tingfu F. Rsiang, who had no legal right to represent China. Article 27 of the UN Charter required that the decisions of the Security Council on all matters (not considered as procedural) should be made by an affirmative vote of seven members, including the concurring votes of the permanent members. The resolutions concerned had not secured the five concurring votes required by the Charter, as China had been represented by Taiwan and the Soviet representative had not voted. The representatives of Poland charged the government of the United States with undertaking a military adventure in Korea without waiting for the consideration of the matter by the

59. Ibid., Session 2, First cttee mtg.91,p.91.

60. Ibid, Plen, mtg.293,p.219.
lawful organ of the United Nations, the Security Council. He made it clear that the United States had undertaken a unilateral action contrary to the Charter.

Besides, the Charter provided that Member States should try to settle their disputes through negotiations, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. In Korea the steps taken to promote a peaceful settlement of the problem were contrary to this provision of the Charter. The Communists charged the United States and its allies with complying only with those provisions of the Charter that suited them and neglecting the other, proper Articles. The Security Council was bound by the provisions of the Charter.

63. GAOR, Session 5, Plen.mtg. 293, p.219.
to invite the interested parties to participate in the discussion of the questions affecting them. The whole thing was an American conspiracy against the Communist Russia. 64

The Minister of Foreign Affairs of the People's Democratic Republic of Korea declared that this government did not recognize the decision of the Security Council because it was not a party to it as legally binding on itself. Moreover, representatives of the USSR was absent from the Security Council, and the People's Republic of China was not represented. 65

The Communists took the position that the aggressive and imperialistic design of the United States against the People's Democracies constituted the root cause of the war in Korea. They challenged the constitutionality of the "United Action for Peace." "The UN was created as the Charter puts

64. Ibid.

65. UN Docs., S/1527 and S/1554,
it", to be centre for harmonizing the actions of the nations in the attainment of common ends.\textsuperscript{66} The unit for Peace" resolution was contrary to this basic principles of the United Nations. The real aim of that resolution was to shift the centre of gravity from the Security Council to the General Assembly and to subotage the principle of unanimity which was the cornerstone of the structure for peace.\textsuperscript{67}

The communists further maintained that the resolution would empower General Mac Arther, Commander of the UN forces in Korea, to occupy the whole territory of Korea with foreign troops on the pretext of establishing an independent democratic state in Korea.\textsuperscript{68}

According to the American representative, the Russian Veto was the root cause of the failure of the Security Council. But Vyshinsky pointed out

\textsuperscript{66} \textit{GAOR} Session 5, Plen.mtg.279, p.28.

\textsuperscript{67} Ibid, Plen.mtg. 293, p.219.

\textsuperscript{68} Ibid, First Cttee mtg.357,pp. 81-85.
that the veto was simply an instrument for attempting to settle differences. He asserted that the Security Council failed not because of the Russian Veto but due to the stand taken by the majority which allied itself with the United States. Again he claimed that in such a situation the minority needed the veto in order to defend itself against the hostile majority, and the Security Council was paralysed because in a number of cases the Anglo-American group could not force decisions favourable to its own interests and purposes on the Security Council.

The "Uniting for Peace", in the opinion of the USSR, was a device invented to make the veto meaningless. This was inconsistent with the spirit and letter of the Charter. It could hardly have any effect on the course of action for maintaining peace and Security. If there is no agreement among the Great powers on fundamental matters affecting

international peace, the threat to peace would remain whether the General Assembly considered these questions in the absence of the veto or whether the Security Council decided them with the veto. 70.

The Soviet representative insisted that all matters concerning the use of force were reserved exclusively for the Security Council. This view was based on Article 11(2), 24, 43 and 47 of the Charter. The General Assembly could not be a substitute for the Security Council because it lacked the competence of the Security Council. The Communists believed that the transfer of competence would place the armed forces at the disposal of the General Assembly and it would be in contravention of the provisions of chapter VI, VII, VIII, and XIII of the Charter and would amount to an amendment of the Charter. 71

Czechoslovakia asserted that the sanctions enforced against the peoples Republic of China and the Korean People's Democratic Republic constituted another attempt to violate the Charter of the United Nations, because what the UN action involved was not the application of the general principles of Article 2, paragraph 5 of the Charter but the actual imposition of sanctions under Article 41 of the Charter, which stated that the authority of the Security Council was beyond dispute. The Communists blow stressed that the United Nations was not legally entitled to authorize the use its flag, establish a UN command, or designate the United States as its agent. it held that the Actions of the General Assembly and the Security Council with regard to Korea were null and void according to UN Charter. This opinion was based on the belief that nothing was lawful unless expressly authorized by the Charter. The General Assembly had been used as an instrument for mobilizing political and psychological pressures of the world community on the Soviet Union.
Justification of the Action

The Anglo-American group rejected all the allegations made by the communist bloc against the validity of the UN action in Korea. It held that the actions taken by the General Assembly and the Security Council were valid and within their competence under the Charter.

Alexander Cadogan to the United Kingdom said that he could not agree with the Communist bloc that "Article 107 barred the General Assembly from making recommendations in regard to the problem of independence of Korea". This Article enabled the Allied Governments to deal with only the enemy states, but then Korea was not an enemy country; on the contrary, it was a victim of Japanese aggression. The US government had submitted its proposal to the General Assembly after two years when it was found that the Joint Soviet, American

72. GAOR, Session 2, First mtg. 88.p.256.
Commission could not reach any agreement. The only alternative left was that of referring it to the General Assembly which extended its cooperation to achieve Korean independence and unification as the Mosco agreement could not be materialized. And the UN commission on Korea was a legitimate organ of the General Assembly to achieve the said purpose. The Russian objection that the United Nations had not right to intervene in the domestic affairs of any state was baseless and it was "a clear-cut, preplanned attack of North Korea". These actions of the General Assembly were not in contravention of the provisions of Article 106. As lester Pearson of Canada put its "Article 106 had been intended to apply to the initial transitional period, prior to the creation of Security Council and the Military Staff Committee. Now the General Assembly is the principal force to consider such matters."  

73. Ibid, Session 5, Plen, mtg. 301. P.338.
The objections based on Article 32 were not secret as it was difficult to establish identity of the true representatives of the Korean people. The American representative, Dulles observed that his delegation was also in complete agreement with the USSR that the matter should have been settled only after consultation with true representatives of the Korean people. However, the USSR had failed to indicate the method of finding out the true representative of Korea. In fact, for eighteen months both the USSR and the United States had failed to agree as to who should be recognized as the true representative of divided Korea. It was impossible for the General Assembly in such a situation to make the choice. The Communist Government of North Korea had not allowed the UN Commission to operate its territory and refused even to recognize it. That was why the Interim Committee advised the Commission to hold elections

74. Ibid.
in South Korea and recognized the Rhee government as the only legal government of the whole of Korea.\textsuperscript{75}

Another objection was raised in the First Committee invited the representatives of North Korea. It would amount to granting recognition to that government. This would be contrary to the will of the Assembly.\textsuperscript{76}

The Anglo-American group tried to rebuild the communist argument on the validity of the actions of the Security Council in Korea. The representative of the United States, Ernest A. Gross, observed: "The absence of the Soviet Union's representative will not prevent us from conducting the business to which we are pledged". The absence of a permanent member from a meeting of the Security Council would in no way diminish its powers or its authority of act. The Charter

\textsuperscript{75} GA. Resolution 1195 (III)

\textsuperscript{76} GAOR, Session First Session, July-89, pp. 2601.
provides in Article 28 that the Security Council shall be so organized as to be able to function continuously 77.

It was further argued that the Soviet Representative, Malik, violated Article 27 of the Charter by remaining absent from the meetings of the council. A practice had already been adopted by the Security Council by 1980 whereby the abstention of a permanent member from voting was still deemed to be a concurring vote within the meaning of the said Article. It meant that a decision of the Security Council which received the support of at least seven members was not rendered legally ineffective by the abstention of a permanent member. The Soviet Union itself had clearly favoured this interpretation of the legal effects on abstention, and the practice had found favour with all the permanent members. 78 Thus, the absence

77. SCOR, yr.5, mtg, 461, p.14.
of the Russian representative should be regarded as deliberate abstention from the vote incapable of preventing the passage of a resolution within the terms of Article 27. The Anglo-american group stressed that it was not an intention of the Charter that the voluntary absence of a permanent member should stultify the role of the Security Council the essential structure of which was based on rapid and effective action for the maintenance of peace and security. Therefore, the opinion of their group, the accuration of illegality locked any legal foundation and could not be maintained. The rule of unanimity was not an end itself but simply a means to an end. It was only a hypothesis and not the fundamental basis of the United Nations, and it could not be allowed to stand in the way of smooth working of the Security Council.

80. GAOR, Session 5, Plenum mtg 292, p. 201.
The other important objection related to the representation of Communist China in place of Nationalist China. The Soviet delegate wanted to add a word to the list of the permanent members in Article 23 of the Charter. That one word "Peoples" before the words "Republic of China" was enough to show that the USSR was attempting to rewrite paragraph 1 of Article 23 of the Charter which would be a violation of the Charter. 81

The question of the representation of Communist China could only be decided by the vote of the General Assembly.

The Anglo-American group also challenged the allegations made by the Communist bloc against the validity of "Uniting for peace" as the Charter had provided for three basis security needs:

a) Prompt and dependable action;

b) reliable means of information; and

c) a backing of adequate power ready for action

In these three respects the Security Council had primary responsibility" as mentioned in the Charter. But if the Security Council was not able to act because of obstructive tactics of a permanent member, it did not mean that United Nations was important. The obligation of all Members to take action to maintain or restore peace did not disappear because of the veto. The Assembly should step in by invoking its residual power of recommendations^82.

The primary responsibility of the Security Council was not exclusive, and the General Assembly could, under the provisions of the Charter, more appropriate recommendations in case of any breach of peace, threat to the peace or act of aggression. This authority sprang from the broad power of the General Assembly under the Charter, from the inherent right of the United Nations to survival and from its supreme responsibility to the peoples

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82. GAOR, Session 5, Plen mtg. 292, p. 197.
of the world in the maintenance of peace. The Assembly was competent to deal with the maintenance of international peace and security. The "uniting for peace" resolution was within the framework of the basic rules adopted at San Francisco. The Security Council remained the sole organ in the event of a threat to peace and was empowered to take decisions legally binding on the members of the United Nations. However in their view the resolutions had not changed the basic principles of Charter. Only the General Assembly was given powers in a particular situation to preserve the principles and purposes of the United Nations in accordance with Articles 1 and 2, notwithstanding the powers conferred on the General Assembly by Article 10 to 15 and the provision laid down in paragraph 2 of Article 11. The jurisdiction of the General Assembly was complete in this respect under Article 11(2) and was limited only by Article 12, 83. Ibid.
which states that an issue on the agenda of the Security council could not be discussed by the Assembly simultaneously. If the Security Council was given primary responsibility for the maintenance of international peace and security under the Charter, the General Assembly had secondary responsibility in matter of this nature. The General Assembly had clear and direct responsibility in this sphere under Articles 10, 11, 13 and 15, and consequently it was fully competent to assert its authority or to delegate it so long as it limited itself to the functions described to it. Its authority was partly exclusive, partly parallel, partly residual and secondary.

It was further argued that Article 10, 11, and 14 empowered the General Assembly to recommend whatever measures it deemed necessary to connection

84. Ibid, plen. mtg.301. p. 322.

85. Repertory of Practice of UN organs, vol.1, p.300
with any matter within the scope of the Charter, including questions connected with the maintenance of international peace and security. The limitation in Article 11(2) did not in any way prevent the General Assembly from exercising powers to make recommendations conferred upon it by Article 10 since Article 11 (4) envisaged that the General Assembly's power of recommendation was not united by the provisions of Article 11. If the provision of the last sentence of Article 11(2) was to be reconciled with Article 10, the term "action" was not to be defined as recommendation. This was a reason for making the distinction between "action" and "enforcement action". The General Assembly was not empowered to order or to take direct enforcement action, but it could recommend action of a certain character including the use of armed force. For this reason, it would be justifiable to adopt the point of view that whenever the Security Council was unable to take action, the General Assembly had the responsibility to act under
Article 10. Obviously a recommendation by the General Assembly did not have the force of a decision of the Security council taken under the provisions of Chapter VII. Therefore the General Assembly could not have the power to make decisions which would automatically impose commitments or enforcement obligations or the members of the United Nations 86.

If the Security Council had implemented Article 43 of the Charter, there would have been no need to authorize the General Assembly to recommend action. The draft resolution did not divest the Security Council of its process, it only provided that whenever the five permanent members of the Security Council were not able to achieve unanimity on special agreements provided for in Article 43, member states could cause no delay in discharging their obligation to maintain with their natural armed forces contingents to be held available for

86. Ibid.p. 310.
the United Nations. The above provisions therefore might constitute a step towards implementing Article 43. The authority of the General Assembly in the matter of peace and security was not confined to Article 10 to 15, but it also included Articles 55, 56, 59 and 60, which referred to joint action under the authority of the General Assembly with a view to assuring friendly and peaceful relations in the field of economic and social cooperation, a question directly related to the maintenance of integrational peace and security. Article 73, 76, 85, and 87 also referred to action by the General Assembly for the maintenance of international peace and security in case of non-self governing and Trust Territories. Article 35 provided that the General Assembly might be seized of a dispute, and Article 51 dealt with the self-defence, individual or collective, until the Security Council has taken the measures needed to maintain peace. If, therefore, the Security Council
was prevented from exercising its functions and powers with regard to the maintenance of international peace and security, the General Assembly could very well adopt measures for collective self-defence 87.

The Communist bloc had claimed that the resolutions of the General Assembly amount to an amendment of the Charter without going through the procedure laid down for Charter amendments in Article 108. But in opinion of the majority of these resolutions did not amount to an amendment of the Charter at all. If the Security Council failed to fulfils its paramount responsibility for want of unanimity, the majority had only two courses open before it could either remain inactive and allow the world to rush headlong towards chaos and disaster or provide an alternative course of action. Through the "Uniting for Peace" resolution to General Assembly had only enabled itself to

87. Ibid. p. 318
peace and security, without violation any of the great principles of international law and the UN Charter. The International Court of Justice had also supported this view.³⁸

The majority held that the use of UN flag was not illegal as it had already been used in the Balkans and in Palestine by the UN Commission the United Nations had itself decided to use to flag thus the Anglo-American bloc maintained that UN action in Korea was valid and according to the demand of the situation and the Chartershould be flexible enough to meet the exigencies of any situation.