

*Lavrushyna V. R.,  
student,  
National University «Odesa Law Academy»*

**THE PROBLEM OF «DOUBLE» AND «HIDDEN»  
VETO POWER IN SECURITY COUNSEL  
DECISION-MAKING PROCESS**

The veto question is one of the most controversial problems facing the United Nations. The veto has always loomed over the work of the UN Security Council. The possibility of permanent members to use «hidden» veto and «double» veto is partly responsible for some of the most tragic failures in the sixty-year history of the United Nations.

The voting arrangements in the Security Council resulted from a compromise between the United States, the Soviet Union and the United Kingdom, at the conference of Yalta in February 1945. These proposals subjected voting in the Council to unanimity of the permanent members, with regard to both enforcement action and the peaceful settlement of disputes, although in the latter case States parties to the dispute could abstain. The Yalta formula, emerged from the Yalta Conference, introduced the prospect of the «**double**» veto, which meant that any «decision regarding the preliminary question must be taken by vote of 9 members of SC, including the concurring vote of the permanent members: USA, USSR, GB, China and France» [5, P. 8]. Therefore, the «double» veto was distinguished as device by which a permanent member of the Security Council may, by deploying two successive vetoes, prevent any substantive decision being taken.

During the negotiations at the San Francisco Conference (25 April – 26 June 1945), numerous small and medium-sized States protested against the privileged status of the five permanent members as a form of victors' justice and an unacceptable infringement on the sovereign equality of States. Nevertheless, the P-5 made it clear that the complete and unconditional acceptance of the permanent membership and the veto power was a condition sine qua non for their participation. The San Francisco Declaration states that the veto cannot be used to prevent the Council from considering and discussing a dispute or a situation. However, regarding the difference between procedural and non-procedural matters, there is a possibility, that a permanent member would ask for a preliminary vote on the nature of a question and consequently veto it. Thus, the Declaration will be unacceptable for the rest of the national delegations [6, P. 7]. The text was not incorporated in or attached to the UN Charter.

The veto power provided in Article 27, para. 3 of the Charter, can be exercised when a decision is not merely procedural but concerns a «substantive» issue. With regard to decisions of a procedural nature, Article 27, para 2, provides that they shall be made by affirmative vote of any nine members of the Council. The problem of «double» veto is whether a preliminary question according to the provision of para. 2 of Article 27, which excludes the right of veto, or according to the provision of para. 3, which allows it [1, P. 70]. On 14 April 1949, the General Assembly adopted a resolution giving its opinion on which

questions should be considered as procedural. The resolution states that procedural questions are:

- the submission to the GA of any question relating to the maintenance of peace;
- a request to the SG for the convocation of a special session of the GA;
- the approval of credentials;
- the establishment of subsidiary organs;
- decisions on the rules of procedure;
- questions concerning the agenda;
- invitations to states to participate in SC debates.

Notwithstanding these clarifications, disagreement may still arise as to whether or not a particular proposal is procedural [3, P. 560]. The controversy about the «double» veto is still unresolved today. Whereas the UN Charter itself suggests that the preliminary question on the procedural nature of a decision, which requires the concurring votes of the P-5, is only intended for cases of doubt, it's not clear. Theoretically, each can keep the council from even taking up a matter it finds objectionable [2, P. 129].

In practice, the «double» veto problem has mainly arisen with regard to proposals to establish subsidiary organs for carrying out studies or investigations, when it could be argued that such a decision might eventually require the Council to take enforcement action. It may be remarked, that every time Soviet Union exercised the «double» veto (the state, which exercised the veto power most frequently), it was supported by one or more of the permanent members in the vote on the preliminary question: in Spanish question, by France; in Albanian question, by China, France and Great Britain.

The «double» veto not only jeopardizes the systemic consistency of the Charter, but at the same time it is extremely detrimental to the universal acceptance, legitimacy and implementation of United Nations resolutions [7, P. 22]. It creates a situation that virtually offers the permanent members a total «immunity» when pursuing aggressive strategies. They enjoy special procedural protection by using the UN Charter for their own purposes. The «double» veto is a logical and, in a sense, inevitable consequence of the voting rule embodied in Article 27 of the Charter.

The use of the so-called «**hidden**» veto means that a permanent member threatens to use its veto if a certain measure or statement is put

to the vote. The «hidden» veto is used mainly in closed-door informal consultations, rather than in open meetings, which makes it extremely difficult to gain information on its use and assess its effect on the work of the Security Council [6, P. 8].

More importantly, the threat of permanent members to use the veto (the «hidden» veto) is partly responsible for some of the heavy mistakes in history of the United Nations. The most obvious example relates to the 1994 Rwandan genocide, which lasted for four months and left 800, 000 people dead. When the Security Council considered the possibility of intervening to halt the massacres, two permanent members, France and the United States (the latter partially motivated by the loss of 18 soldiers in Somalia in 1993) blocked the establishment of a robust intervention force. UN actions taken against Israel are one example on U. S. «hidden» vetoes constantly threatening to undermine the work of resolutions on the Arab-Israel conflict.

Because of the use or threat of the veto, the Security Council could at best have a limited role in certain wars and interventions in which its Permanent Members were involved – for example in Algeria (1954–62); Suez (1956), Hungary (1956), Vietnam (1946–75), the Sino-Vietnamese war (1979), Afghanistan (1979–88), Panama (1989), Iraq (2003), and Georgia (2008).

Since the threats are not issued formally, it is impossible to count the number of «hidden» vetoes used in order to block decisions against the will of other Council members. The will of achieving consensus means the hidden veto plays a highly strategic roll even among the permanent members. Before presenting an arrangement to the Council, they often consult each other on important matters and try to strike a deal beneficial to them all [4, P. 46].

In the history of the Security Council, almost half the vetoes were cast by the Soviet Union, with the vast majority of those being before 1965. United States has used the veto on 82 occasions between 1946 and 2007; and since 1972, it has used its veto power more than any other permanent member has. Sometimes working with veto power could be extremely inefficient to coming up with a resolution. P-5 nations provide their national interests in the first place. They see events in the world through exactly the prism of their own interests. When they apply veto, they think about themselves and their own power not of the international community. These mechanisms only simplify this task. So, the «double» veto and «hidden» veto power is not the cause but the

reflex of the pattern of international politics which has prevailed for centuries. Trying to get rid of the veto is like trying to get rid of politics, but United Nations should keep searching the tools to prevent such negative events, as they can be the serious obstruction for maintenance of the core function of United Nations – making peace and security.

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