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The United Nations Security Council and Climate Change: Mapping a Pragmatic Pathway to Intervention

Ash Murphy*

The possibility of the United Nations Security Council (UNSC) engaging climate change is not one new to academic discourse. Since at least 1992 the UNSC has been examined as a means in which to provide renewed impetus to the climate change response agenda. Despite this, there has been very little progress in terms of UNSC engagement. One reason for this advocated by Conca et al., is that when states and other interested parties argue for a climate change intervention they do so with a lack of clarity as to what form it should take and what benefits might follow. This paper intends to address this particular aspect of the debate and pose pragmatic answers to why the UNSC should engage, how it could engage, and what benefit it could bring to the climate change regime.

I. Introduction

Climate change is the global security challenge of the contemporary era and despite being aware of its significance since at least 1992 there has yet to be created a regime of international law capable of adequately addressing the problem.¹ In response, one school of thought has directed attention towards the United Nations Security Council (UNSC) as a means in which to address the deficit in successful climate regulation.² The UNSC assumes the role of executive of the United Nations, its scope is universal and binding, and it has access to a number of significant tools designed to facilitate the achievement of its central objective: the maintenance of international peace and security.³ Given its impacting and often destructive nature it is not hard to envisage climate change

as within the remit of a threat to international peace and security. Thus posing the question why has it yet to capture the full attention of the UNSC?

The answer to this question is not a simple matter of delineating a singular obstruction but is instead a complex multivariate set of factors relating not least to the political, institutional composition, and constitutional character of the UNSC.⁴ The composition of the UNSC as comprised of states, the permanency of five states, and the veto power afforded to the same five states all act as long-term impediments to the evolution of the UNSC and its agenda. In combination these institutional realities have thus far combined to prevent climate change becoming the threat to international peace and security before the UNSC that it so clearly is in reality.⁵ Addressing them holistically is challenging and beyond the scope of this pa-

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1 1992 is the year in which the first climate framework was created: United Nations Framework Convention On Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107.

2 C Tinker, 'Environmental Security in the United Nations: Not a Matter for the Security Council' (1992) 59 Tennessee Law Review 787; C K Penny, 'Greening the Security Council: climate change as an emerging 'threat to

international peace and security'' (2007) 7 International Environmental Agreements 35; C K Penny, 'Climate change as a 'threat to international peace and security'' in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

3 Charter of the United Nations (24 October 1945) 1 UNTS XVI, Art 39.

4 G Berridge and A Jennings, *Diplomacy at the UN* (Basingstoke MacMillan, 1985).

5 Small island developing states believe climate change is a Security Council matter, others like the G77 believe that it is not. Binder and Heupel discuss the contested role of the UNSC in the climate change arena: M Binder, M Heupel, 'Contested legitimacy: The UN Security Council and Climate Change' in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

per, but one particularly interesting assertion of recent times possibly linked to the complexity of the matter, is that those seeking to place climate change on the agenda of the UNSC do so with a lack of precision as to how this might manifest and what benefits might follow.⁶

This paper intends to focus on this assertion and provide practical redress to the lack of precision that accompanies those arguments that seek to bring climate change before the UNSC. By doing so it is hoped that those who argue for UNSC intervention will at least have a clearer idea of what they intend to achieve and how they might go about it. The paper will be structured according to three core questions: why should the UNSC intervene; how could the UNSC intervene; and what benefits could be achieved through UNSC intervention.

II. Why Should the Security Council Intervene in Climate Change?

Between 1880 and 2017 NASA data sets show the average earth temperature has risen by 0.9 degrees, inescapably evidencing a warming effect.⁷ Despite now understanding this phenomenon and its central cause as being an increased concentration of heat trapping CO₂ in the atmosphere, global heating and its anthropogenic causes show no sign of decelerating. The continued emission of CO₂ from anthropogenic activity equates to an atmospheric concentration now exceeding 400PPM.⁸ Exacerbating the

problem deforestation reduces natural CO₂ absorption, and it is estimated that 15 billion trees are lost globally every year, contributing to a cycle of increased CO₂ concentration in the atmosphere.⁹ The combination of these realities meant that June 2017 was the fourth warmest on record, with the three surpassing it all coming after 1998.¹⁰ As this heating continues a multitude of implications manifest. Drought seasons are prolonged;¹¹ icecaps are melting at unprecedented rates;¹² sea levels are rising and thermohaline currents are degrading.¹³ Climate change and its effects are tangible.¹⁴ Its causes are intricately woven into the fabric of human existence, presenting acute challenges that demand equally acute responses through international governance.

International climate governance does exist but should not be considered separate from the conventional tenets of the international legal domain.¹⁵ Conference negotiations, framework conventions, and subsequent protocols all occur specifically in regard to climate. Yet to distinguish them as anything other than treaty would be a failure to recognise that they are still created by states, between states, for states, with the core requirements of a treaty remaining in tact.¹⁶ Customary law develops by the usual manner of state practise and *opinio juris*, providing abstract environmental principles.¹⁷ Though its utility is limited due to a lack of specificity, it remains a valuable tool in providing guideline principles on matters that can conjure agreement.¹⁸ Some of which are even the subject of positive international judicial decisions.¹⁹ However it is difficult to identify a sin-

6 K Conca, J Thwaites, G Lee, 'Climate Change and the UN Security Council: Bully Pulpit or Bull in a China Shop?' (2017) 17 *Global Environmental Politics* 1.

7 H Shaftef (ed), 'Global Temperature' (NASA, 13 February 2018) <<https://climate.nasa.gov/vital-signs/global-temperature/>> accessed 28 February 2019.

8 Anonymous, 'Trends in Atmospheric Carbon Dioxide' (*Earth System Research Laboratory*, 6 November 2017) <<https://www.esrl.noaa.gov/gmd/ccgg/trends/>> accessed 28 February 2019.

9 UNEP, 'Towards a Land Degradation Neutral World: A Sustainable Development Priority' (2015).

10 H Shaftef (ed), 'June 2017 was the fourth warmest June on record' (*Nasa's Goddard Institute for Space Studies*, 14 June 2017) <<https://climate.nasa.gov/news/2607/june-2017-was-fourth-warmest-june-on-record/>> accessed 28 February 2019.

11 H Shaftef (ed), 'Study finds drought recoveries taking longer' (NASA, 14th August 2017) <<https://climate.nasa.gov/news/2617/study-finds-drought-recoveries-taking-longer/>> accessed 28 February 2019.

12 B Wouters et al., 'Early 21st-Century Mass loss of the North-Atlantic Glaciers and Ice Caps' (2016) 18 *Geophysical Research Abstracts* 1579.

13 UNEP, 'GEO 5: Environment for the future we want' (2012).

14 Although as Penny notes climate change implications can be both direct and indirect: C K Penny, 'Climate change as a 'threat to international peace and security'' in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

15 Past debate existed over the autonomy of international environmental governance but this has since dissipated: D Bodansky, 'Does One Need to be an International Lawyer to be an International Environmental lawyer?' (2006) 100 *American Society of International Law* 303.

16 Brunnee as recently as 2017 categorises environmental conventions firmly under the heading of treaties: J Brunnee, 'The Rule of International (Environmental) Law and Complex Problems' in H Krieger, G Nolte, A Zimmerman (eds), *The International Rule of Law: Rise of Decline?* (Forthcoming).

17 D Bodansky, 'Customary (And Not so Customary) International Environmental Law (1995) 3 *Indiana Journal of Global Legal Studies* 105.

18 The main problem with customary law is that such agreement is often absent

19 *Pulp Mills Case (Argentina V Uruguay)* (2010) 425 ICJ Rep 14.

gle customary principle relating directly to climate change and able to tackle the cause of the problem.

In addition to these traditional conduits of international law, the United Nations Environment Programme (UNEP) provides a permanent international institution designed to help instigate international environmental law and facilitate cooperation between states.²⁰ The UNEP is however limited in that it is confined to soft law. Although to criticise soft law as non-law has become more contentious in recent times, the reality remains that soft law lacks the character to bind states.²¹ It is also true that the proliferation of soft law has not seen the end of environmental harm or specifically climate change, and so over optimism concerning its utility is unconvincing. The phraseology of UNEP's mission, to facilitate cooperation between states, indicates the true nature of international climate governance: it reinforces the traditions of international law by situating the sovereign state as the principal actor.

This means that international climate law is the product of an entirely consent based system, premised on the enduring concept of state sovereignty.²² States maintain the sovereign autonomy to behave within their own territories as they wish; and they remain free to pick and choose which climate treaties to join or even to adhere to once joined.²³ Sovereignty may have utility in terms of regulating the conduct of interstate relations, but where a problem is of global span it becomes an obstacle to the type of cooperation that is necessitated. As long as this situation prevails the ability of international climate law to enact positive provisions with tangible results is curtailed. This point will now be demonstrated with reference to the Kyoto Protocol and Paris Agreement, which combined provide comparative examples of a top down and bottom up approach yet with little difference in terms of not solving the problem.

The Kyoto Protocol should be viewed as an attempt at the introduction of hard law to the climate problem.²⁴ The Protocol introduced quantitative targets for states to achieve within a set time frame.²⁵ In addition the Protocol provided that states must introduce emission-measuring systems and communicate their results periodically.²⁶ Building on the idea of common but differentiated responsibilities states were able to set a reduction target applicable to their individual circumstances. Even where states were able to negotiate an increase in their emissions this was capped to be better than if they were going to proceed without signing and without limitation.²⁷ On the face of it the Protocol appears to represent a positive step demanding actual action on the part of states that signed, while giving them the leeway to recognise their individual capacities.

Yet the success of the Protocol did not match up to its potential. Developing nations declined to sign because of perceived interference with their economic advancement.²⁸ This created a significant detraction on the grounds that some of the greatest emitters of CO₂ came from the developing world, with examples of non-signatories including both China and India.²⁹ As a consequence those that had signed began to question the utility of the agreement, as well as its equity. The USA although signing the Protocol did not ratify it, arguing observed inequity when compared to its global counterparts.³⁰ With the utility of the Protocol in question other states lost faith. New Zealand for example did not sign up for a second round of commitments.³¹ Thus, although the Protocol was able

20 L Mee, 'The Role of UNEP and UNDP in Multilateral Environmental Agreements' (2005) 5 *International Environmental Agreements* 227.

21 J Brunnee, 'The Rule of International (Environmental) Law and Complex Problems' in H Krieger, G Nolte, A Zimmerman (eds), *The International Rule of Law: Rise of Decline?* (Forthcoming).

22 Declaration of the United Nations Conference on the Human Environment, Stockholm (16 June 1972) UN Doc 11 ILM 1416, Principle 21.

23 A lack of enforcement in international law means environmental treaties are often breached without response; C Sunstein, 'Montreal versus Kyoto: A Tale of Two Protocols' (2006) Public Law and Legal Theory Working Papers No.136 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=913395#> accessed 28 February 2019.

24 Herein after 'the Protocol'.

25 Kyoto Protocol To The United Nations Framework Convention on Climate Change (adopted 11 Dec 1997, entered into force 16 Feb 2005) UN Doc FCCC/CP/1. 997/7/Add 1, Art 3.

26 *ibid* Art 5.

27 Australia was able to negotiate an emission reduction target of 110% of pre 1990 levels.

28 C Sunstein, 'Montreal versus Kyoto: A Tale of Two Protocols' (2006) Public Law and Legal Theory Working Papers No.136 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=913395#> accessed 28 February 2019.

29 At the time of the Protocol's introduction India emitted 2.1 gigatonnes of CO₂ annually, and China released 8.2 gigatonnes annually; Anonymous, 'Historical GHG Emissions' (*World Research Institute*, 2018) <<https://www.climatewatchdata.org/ghg-emissions?breakBy=location&filter=G77%2CIND&source=31&version=1>> accessed 10 October 2018.

30 George Bush, White House Archives (*The White House*, 16 April 2008) <<https://georgewbush-whitehouse.archives.gov/news/releases/2008/04/20080416-6.html>> accessed 10 October 2018.

31 G Palmer, 'New Zealand's Defective Law on Climate Change' (2015) 12 *New Zealand Journal of Public International Law* 115.

to attribute greater responsibility for climate change with the developed world, this created contemporary disagreement that frustrated the Protocol's chance of being successful. The hard law of Kyoto failed to attract a global consensus at creation stage and this fractured the Protocol's foundations beyond repair.

Learning from the hard approach of the Kyoto Protocol the Paris Agreement was premised on the avoidance of the same inherent problems. The Paris Climate Conference 2015 was one of the most anticipated conferences to date, with unrivalled participation and 197 signatories.³² Many state officials made public overtures of international cooperation towards meeting the climate change threat.³³ The subsequent text of the Paris Agreement however fails to reflect the commitment and hype espoused publically by political leaders.³⁴

If the Kyoto Protocol is to be considered hard law then the Paris Agreement must be considered soft law by comparison. The language is very much advisory as opposed to authoritative, again a response to the failings of the Kyoto Protocol and a desire to keep state parties in the negotiations.³⁵ Article 2 of the Agreement sets out the broad objective to prevent a temperature increase of 2 °C; yet Article 3 provides only reference to ambitious nationally determined contributions to achieve this.³⁶ The word ambitious is highly subjective and inherently ambiguous. To be clear, the official text of the Paris Agreement makes no mention of specific reduction targets. It is therefore unclear if the nationally determined contributions will when considered cumulatively be able to give effect to the 2 °C objective of the agreement.³⁷

Additionally, the text of the Paris Agreement completely fails to include any reference to fossil fuels, a core attribute of the emissions problem, highlighting a further deficiency and a likely indication that its overall objective will not be achieved.³⁸

The hype of political leaders when the cameras were rolling far exceeded their enthusiasm for binding provisions and the legality of the agreement has been questioned with some labelling it 'voluntary'.³⁹ Bodansky challenges this, asserting a distinction between legality and enforcement and finding an absence of the latter does not affect the former.⁴⁰ Yet while this position is sound and frankly a pillar of international law, it does nothing to address the reality that the Paris Agreement is voluntary in nature, albeit legally voluntary, and likely to encourage only minimal input from many states. The bottom up approach that was deemed so necessary to stimulate a high participation rate will be the undoing of the agreement. Pulling back the curtain on many nationally determined contribution documents will show they lack the requisite ambition to match the scale of the problem and the aspiration to prevent a 2 °C temperature rise.⁴¹

Consider as an example the UK, although at the time of writing its nationally determined contributions are submitted via the EU's cumulative targets, when it leaves the EU it will be responsible for its own contribution commitments. As yet the UK has provided no outline as to what these might look like and the Committee on Climate Change advised in 2016 that no further climate change aspirations should be sought in the immediate future.⁴² The UK

32 Anonymous, 'Paris Agreement – Status of Ratification' (*United Nations Climate Change*, 2018) <<https://unfccc.int/process/the-paris-agreement/status-of-ratification>> accessed 26 September 2018.

33 A Vaughan, E Howard, A Holpuch, 'World Leaders Call for Action at Paris Climate Talks' *The Guardian* (London, 30 November 2015) <<https://www.theguardian.com/environment/blog/live/2015/nov/30/paris-climate-summit-world-leaders-meet-for-opening-day-live>> accessed 28 February 2019.

34 Huang, 'International Environmental Law and Emotional Rational Choice' (2002) 31 (1) *The Journal of Legal Studies* 237.

35 The word 'should' appears throughout the Paris Agreement as opposed to the word 'shall', eg Art 4 (4) of the Paris Agreement to The United Nations Framework Convention on Climate Change (adopted 12 Dec 2015) UN Doc FCCC/CP/2015/L.9/Rev.1.

36 Paris Agreement to The United Nations Framework Convention on Climate Change (adopted 12 Dec 2015) UN Doc FCCC/CP/2015/L.9/Rev.1.

37 *ibid.*

38 J Dehm, 'Carbon Colonialism or Climate Justice? Interrogating the International Climate Regime from a TWAIL Perspective' (2016) 33 *Windsor Yearbook of Access to Justice* 129.

39 R Falk, 'Voluntary' International Law and the Paris Agreement' (Richard Falk, 16 January 2016) <<https://richardfalk.wordpress.com/2016/01/16/voluntary-international-law-and-the-paris-agreement/>> accessed 10 October 2018.

40 D Bodansky, 'The Legal Character of the Paris Agreement' (2016) *Review of European, Comparative and International Environmental Law* 1.

41 Australia, as one example, has set a nationally determined contribution target of 26 – 28% CO₂ reduction, but the Climate Tracker estimates this will be significantly overshoot: Anonymous, 'Australia' (*Climate Action Tracker*, 30 April 2018). <<https://climateactiontracker.org/countries/australia/>> accessed 10 October 2018.

42 Committee on Climate Change, 'UK Climate Action Following the Paris Agreement' (13 October 2016) <<https://www.theccc.org.uk/publication/uk-action-following-paris>> accessed 28 February 2019.

is at best unprepared to provide its own nationally determined contributions or at worst it intends to avoid making any commitments beyond the current capacity of its infrastructure, both are tied to the UK's current preoccupation with exiting the EU. The UK exemplifies the fact that internal state realities will always be able to block the pathway toward suitably robust nationally determined contributions and the Paris Agreement's voluntary nature is unable to challenge this.

Although we can only learn from our past mistakes, in this instance it feels very much that the failings of the Kyoto Protocol influenced too heavily the Paris Agreement negotiations. The premise appears to be that Kyoto was hard and failed and so Paris must be soft to succeed. While this has proved to attract a greater global consensus the substance of the agreement will likely prove to be ineffective. As we approach the next round of conference negotiations the 2 °C limit set at the Paris Conference is already appearing too ambitious for some states, accentuating the lack of binding character typically associated with climate law.⁴³ The Paris Agreement may have a high engagement rate but this means that it is significantly held back according to varying state interests, and the complete autonomy afforded to states does not project a positive picture of global climate action.⁴⁴

Thus it is the argument here that the Kyoto Protocol failed and the Paris Agreement will likely not suc-

ceed in preventing climate breakdown. We cannot wait for proof that the Paris Agreement will not result in a less than 2 °C temperature increase; instead we must prepare alternative options. Or to borrow from Sir Geoffrey Palmer we must find new ways to generate international climate action if we are to stave off the advance of this certain threat.⁴⁵ Why then consider the UNSC? This article will not delineate in any detail the positive attributes available to the UNSC, as they have been expounded many times before.⁴⁶ Suffice to list the UNSC can: pass binding mandates on all 193 UN members absent protracted negotiations;⁴⁷ it has access to a range of tools under Chapter VII to encourage the uptake of its mandate;⁴⁸ it also has access to capacity building apparatus that have in the past proved very useful;⁴⁹ and if able to agree, the UNSC can elevate concerns from the ordinary political agenda to the extraordinary security agenda.⁵⁰ The UNSC could in short take the problem of climate change and remove it from the political sphere of stagnation and place it in the security sphere, where, as will be shown, problems can get solved.

III. How Could the Security Council Intervene in Climate Change?

As noted in the introduction, there exists ambiguity among those who advocate for UNSC engagement over how it could intervene in a matter like climate change. This section aims to take a practical stance advocating how, given the UNSC's constitutional realities, it could be usefully mobilised in the climate change arena.⁵¹ The section will be broken into two parts. Part 1 will consider at what level the UNSC should engage climate change. Part 2 will consider the tone an intervention should adopt to avoid polarising the UNSC and resulting in the provocation of a veto vote.

1. The Level of Intervention

Scott introduced four levels of intervention: rejection of engagement; non-responses (meaning a response to climate change under the guise of a more traditional heading such as conflict resolution); measured non-binding responses under Chapter VI of the UN Charter (Charter); and extreme binding responses

43 E Hunt, 'Where next for the US and the Paris deal?' *The Guardian* (London 2nd June 2017) <<https://www.theguardian.com/environment/live/2017/jun/01/donald-trump-paris-climate-agreement-live-news>> accessed 11 October 2018.

44 D Bodansky, 'The Legal Character of the Paris Agreement' (2016) *Review of European, Comparative and International Environmental Law* 1.

45 G Palmer, 'New Ways to Make International Environmental Law' (1992) 86 *The American Journal of International Law* 259.

46 S Scott, 'Climate Change and Peak Oil as Threats to International Peace and Security: Is it Time for the Security Council to Legislate?' (2008) 9 *Melbourne Journal of International Law* 495.

47 Hulsroj, 'The Legal Function of the Security Council' (2002) 1 *Chinese Journal of International Law* 59.

48 S Cousins, 'UN Security Council: playing a role in the international climate change regime' (2013) 25 *Global Change, Peace and Security* 191

49 J Dhanapala, 'The United Nations Response to 9/11' (2007) 17 (1) *Terrorism and Political Violence* 17.

50 B Buzan, O Wæver, J de Wilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers, 1998).

51 S Scott, 'The attitude of the P5 towards a climate change role for the Council' in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

under Chapter VII of the Charter.⁵² Rejection is no longer a possibility. The introduction of Presidential Statement 2011/15 and 2018/3, combined with Resolutions 2349 and 2408 all containing the words ‘climate change’ indicate that the UNSC is starting its slow journey to engagement. Scott also identifies that we are already witnessing the non-response option as although not explicitly referenced the signature of climate change may sit underneath many UNSC interventions.⁵³

These non-response interventions of the UNSC in the climate change arena, albeit by the backdoor, are somewhat useful. They allow the UNSC to sidestep the stark divides that might occur if the words ‘climate change’ appeared in a resolution. They also mean that it is possible for climate change induced realities to meet with UN responses. The substantial problem however, is that the adoption of this approach means that the UNSC will remain reactive and unable to progress to the point of addressing the progenitor causes of climate change. Thus optimism over maintaining the non-response approach is misplaced. Further, the rate at which climate change is developing and causing consequences for human security, as highlighted by the IPCC Fifth Assessment Report, adds impetus to considering a more tangible role for the UNSC under Chapter VI or VII of the Charter that can engage the root causes of climate change.⁵⁴

Chapter VI of the Charter provides the UNSC authority to engage in dispute resolution and deliver guidance for the avoidance of a situation. This is of course useful if those involved are receptive to the UNSC’s intervention and prepared to abide by its recommendations. However the reality is that Chapter VI remains limited to recommendations. The significance of a UNSC recommendation might add global pressure to a persistent climate offender but the reality is recalcitrance could easily override a Chapter VI intervention, rendering UNSC engagement little more useful than the current model of international climate law. Chapter VI also comes with the inevitable reputation that it is the non-binding arm of the UNSC, and so it fails to have the same influence afforded to other attributes, that also have the benefit of being linked more closely to the concept of security.

By process of elimination we are left with what Scott believes is the more extreme end of the argument, an Article 39 intervention by the UNSC. The immediate benefit of an Article 39 intervention is the

potential for resolutions to be passed that are of clear binding legislative character.⁵⁵ The role of the UNSC appears not in fact to be legislative in nature, nowhere in the Charter is there mention of a power of the UNSC to introduce international law. The practical effect of the Charter however presents a scenario almost identical to that of a legislator. Article 24 casts the UNSC as having responsibility to maintain international peace and security. In achieving this objective, complete discretion is granted to the UNSC in the determination of threats and appropriate responses under Article 39. In combination with Article 25 and Article 48 (1), that bind UN members to carry out the decisions of the UNSC, the scenario manifests that it is the master of its own remit and its decisions are resolutely to be adhered to by the remaining UN members.⁵⁶ It is therefore difficult to differentiate between the role of the UNSC and that of a legislative institution.⁵⁷ It is also clear that a binding output is precisely what the climate change regime requires. If the UNSC is to enter the climate arena it must do so with the intent of providing redress to the problem of consent, it must pass resolutions with mandates that possess gravity and so inspire compliance, and for that a Chapter VII intervention is required.

2. Tone of Intervention

For the UNSC to be of benefit to the climate problem it must be through the manner of an Article 39 inter-

52 S Scott, ‘Implications of climate change for the UN Security Council: mapping the range of potential policy responses’ (2015) 91 *International Affairs* 1317.

53 J Selby, O Dahi, C Frohlich, M Hulme, ‘Climate change and the Syrian civil war revisited’ (2017) 60 *Political Geography* 232.

54 IPCC Fifth Assessment Report, ‘Climate Change 2014: Impacts, Adaptation, and Vulnerability’ (2014).

55 Although in theory all resolutions are binding, those taken under Chapter VII are granted a greater level of significance and consequent uptake: D Joyner, ‘Legal Bindingness of Security Council Resolutions Generally, and Resolution 2334 on the Israeli Settlements in Particular’ (EJIL: Talk, Jan 2017) <<https://www.ejiltalk.org/legal-bindingness-of-security-council-resolutions-generally-and-resolution-2334-on-the-israeli-settlements-in-particular/>> accessed 28 February 2019.

56 *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Arts 25 and 48 (1).

57 The only substantive restriction on this power to introduce binding decisions is that they must concern the purposes of the UN in the maintenance of international peace and security. A procedural restriction could be considered the need for agreement among the permanent members.

vention, anything else does not utilise the positive aspects of involving the UNSC. Delving into the UNSC's past, two prominent and very differently toned resolutions stand out as potential blueprints for the character of a climate change resolution. The first is Resolution 1373 that was passed in the weeks following the September 11th attacks in 2001. The second is Resolution 2177 that was passed in September 2014 in response to the West African Ebola outbreak. Both are viewed as very successful resolutions and both adopt very different tones. This section will examine both Resolutions 1373 and 2177 in an attempt to determine which is most useful to the climate problem but also which is most likely given the UNSC's character.

Resolution 1373 is based on the abstract threat of international terrorism, not absent factual justification but certainly not linked to a finite scenario.⁵⁸ All UN members were required to implement actions, including but not limited to criminalising terrorism, asset freezing, and preventing the commission of terrorism via information exchange.⁵⁹ The language of Resolution 1373 is reflective of the binding character with which it was passed, with examples including: 'states shall'; 'refrain from'; 'take the necessary steps'; and 'freeze without delay'.⁶⁰ This meant that Resolution 1373 did not contain any ambiguity as to how the UN community was to respond. Definite measures had to be adopted; in some cases these measures would have been intrusive to nation states, yet no deviation from the mandate of Resolution 1373 was permitted. In simple terms its character was reflective of hard law.⁶¹

58 J Dhanapala, 'The United Nations Response to 9/11' (2007) 17 *Terrorism and Political Violence* 17.

59 UNSC Res 1373 (28 September 2001) UN Doc S/Res/1373, Operative para 1.

60 *ibid* Operative para 1, 1 (c), 2 (a), and 2 (b).

61 A Boyle, J Hartmann, A Savaresi, 'The United Nations Security Council's legislative and enforcement powers and climate change' in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

62 UNSC Verbatim Record (28 September 2001) UN Doc/S/PV/4385.

63 Cortright notes that following Resolution 1373 there was a resounding uptake of international anti-terror conventions, signalling compliance with the UNSC's instructions: D Cortright, 'Can the UN battle terrorism effectively?' (2005) 133 *USA Today* 62.

64 UNSC Verbatim Record (12 September 2001) UN Doc/S/PV/4370.

65 UNSC Res 1269 (19 of October 1999) UN Doc/S/Res/1269, Operative para 1.

66 *ibid* Operative para 5.

The success of Resolution 1373 is first evident in its creation. Despite far reaching obligations it was able to pass through the UNSC without disagreement, although the lack of any content in the Verbatim Record means it is impossible to identify if any opposition was verbalised.⁶² But importantly it was a success in that it managed to avoid provoking a veto. The response from the UN community was also a resounding uptake of the obligations within Resolution 1373, adding a substantive element of success.⁶³

The triumph of Resolution 1373 provokes an immediate hope that the UNSC could introduce a resolution in regard to climate change with the same substantive obligations and a parallel level of uptake throughout the UN community. However the context to which Resolution 1373 was passed is explicitly relevant to the acceptance of such a wide-ranging resolution. The events of September 11th were able to stimulate a global unity of proportions similar to the founding of the UN. This unity was, as the Verbatim Record of Resolution 1368 shows, based on the permanent member's emotional response to the attacks.⁶⁴ Without the attacks taking place and provoking strong emotions amongst the UNSC it is unlikely Resolution 1373 would have come into existence. To substantiate this point consider Resolution 1269 that was a vague reflection of Resolution 1373. The UNSC through Resolution 1269 addressed terrorism, but it was not doing so in response to an emotive and catastrophic event. The language of the resolution reflects a tentative and hesitant UNSC, with examples including: 'in particular those which could threaten international peace and security';⁶⁵ 'the threat to international peace and security as a result of terrorist activities'.⁶⁶ The failure to explicitly activate Article 39 in Resolution 1269 accentuates the significance of the September 11th attacks in generating political unity and the securitising of terrorism through Chapter VII.

This means that for climate change to receive a UNSC resolution with a tantamount level of hard obligation it will likely have to be following a disaster at least equivalent to the events of September 11th 2001. The reality of climate change is however, as yet, not extreme enough in terms of provoking the requisite emotional reaction. Of course climate change is causing droughts, and heat waves, and resulting in mass migration and death, but it is not as yet reaching the level of displays seen on September 11th. A

global symbol of 'modern civilisation' was destroyed and the so-called leader of the free world saw its vulnerabilities exposed.⁶⁷ This meant that all states were vulnerable and led the permanent members of the UNSC to express that 'We must all respond globally';⁶⁸ and 'it is a time for unity and resolve' and 'a global strategy.'⁶⁹ Although the same is true of the climate threat the reality is the permanent members are not likely to pass a resolution tantamount to 1373 without an event capable of uniting their agendas. Therefore Resolution 1373 does not offer a suitable blueprint for a climate change resolution because we cannot afford to wait for such a catastrophic event.

This leads to the recognition that if a hard resolution with binding obligations is out of the question, what type of Article 39 resolution can be expected? The UNSC has in fact gifted the answer to this question through its practise. The 2014 Ebola virus disease (Ebola) outbreak in West Africa was able to attract the attention of the UNSC. The passing of Resolution 2177 was momentous not simply because it was the first time that a health crisis was able to activate Article 39, but because of the tone of the resolution and the subsequent responses it was able to generate from the international community.

The distinct nature of Resolution 2177 was immediately evident in the Preamble, where unlike its predecessor, Resolution 2176, it was able to identify Ebola as a threat to peace in its own right unrelated to other situational based realities. The fifth paragraph of the Preamble held without qualification that 'the unprecedented outbreak of the Ebola virus in Africa constitutes a threat to international peace and security.'⁷⁰ The lack of precision in regard to the geographic spread of the outbreak, only referencing Africa, importantly shows that the UNSC was not limiting the scope of its intervention. The basis for this recognition was likely the result of the expert briefings at the start of the meeting where the manner in which Ebola spreads was made clear to the UNSC, and its ability to cross borders was accentuated.⁷¹ The argument was that Ebola had to be addressed in a manner that reflected its specific characteristics, and not necessarily the traditional working methods of the UNSC. The UNSC was able to make this adjustment to its approach, though inclusion of the word 'unprecedented' did likely appease some of the UNSC members that wanted to ensure Ebola was not used to advance other previously discussed health issues, such as HIV.⁷² Despite this, the range of the UNSC's

ambition was clear when it called for the 'immediate and coordinated international response to the Ebola outbreak'.⁷³

The subsequent Operative paragraphs were careful to strike a balance between generating an international response and not provoking a vote of veto from one of the permanent members. Anything too similar to the conditions and rule-based approach of Resolution 1373 would likely have been too ambitious. The language of Resolution 2177 is therefore reflective of a desire not to encroach upon state autonomy but to ensure the international community understood what was required. Consequently the Operative paragraphs feature directives such as 'calls on' and 'urges', language that can easily be construed as diplomatic and not interfering.⁷⁴ In contrast to this the content of the Operative paragraphs was not tentative and instead provided clear instructions as to what was necessitated by the situation. The fifth Operative paragraph asked Member States to provide 'qualified, specialised and trained personnel and supplies'.⁷⁵ The seventh Operative paragraph called for the delivery of 'deployable medical capabilities such as field hospitals with qualified and sufficient expertise, staff and supplies, [and] laboratory services'.⁷⁶ Operative paragraph eight was concerned with capacity building and the 'training of health workers at the national and international level'.⁷⁷ This linguistic balance meant that Resolution 2177 was clear in its expectation, but able to avoid interfering with state sovereignty and so as not to attract a veto vote.

To surmise, the difference between the tone of Resolutions 1373 and 2177 is significant. Although the

67 UNSC Verbatim Record (12 September 2001) UN Doc/S/PV/4370, 2.

68 *ibid* 3, UK.

69 *ibid* 7, France.

70 UNSC Res 2177 (18 September 2014) UN Doc/S/Res/2177, Preamble para 5.

71 UNSC Verbatim Record (18 September 2014) UN Doc/S/PV/7268.

72 HIV/AIDS was discussed by the UNSC in 2000 but not granted Art 39 status: UNSC Res 1308 (17 July 2000) UN Doc S/Res/1308.

73 UNSC Res 2177 (18 of September 2014) UN Doc/S/Res/2177, Preamble para 13.

74 The directive 'calls on' features seven times in Resolution 2177; the directive 'urges' features twice.

75 UNSC Res 2177 (18 September 2014) UN Doc/S/Res/2177, Operative para 5.

76 *ibid* Operative para 7.

77 *ibid* Operative para 8.

former would satisfy the requirements of the climate problem its inability to avoid activating the veto power would preclude its character being replicated in regard to climate change, an issue that is unable to unite the UNSC's agenda. A much more suitably realistic alternative is to adopt a climate resolution that borrows from the tone of Resolution 2177. That is to argue a resolution that is clear in delineating the severity of the problem through its activation of Article 39; is clear in the general and practical steps required to engage the problem; but is not intrusive upon the fiercely protected sovereignty of states. The next section of this discussion will consider if such a balanced approach has any utility in solving problems.

IV. What Benefits Could the Security Council Achieve?

This paper has argued that for the UNSC to engage the climate change threat it must be through a balanced approach replicating the character of Resolution 2177. As a result of advocating this pathway it must be clear that the consequential impact of this resolution was significant in terms of solving the problem, thus meaning a paralleled approach in the climate change context could also be useful. This section will first showcase, using data found in the wider literature, what distributional benefits resulted from Resolution 2177. Following this, the final argument

of the paper will concern itself with what the UNSC could include in a climate change resolution reminiscent of Resolution 2177, but also with reflections from the support mechanisms established through Resolution 1373.

1. What did Resolution 2177 Achieve?

The extent to which Resolution 2177 is able to be classed a success must begin with an analysis of the situation prior to its inception. The World Health Organisation (WHO), responsible for coordinating international responses to health crises, was in the context of Ebola negligent from the start, right up until the point where then Director-General Chan decided to securitise the issue through appeal to the UNSC.⁷⁸ The WHO was late in identifying that the situation was in fact Ebola, taking nearly four months from the first case in late December 2013 to confirmed identification on the 23rd of March 2014.⁷⁹ Although this could be defended on the grounds that disease identification takes time, the follow up failing of the WHO to not declare a public health emergency of international concern until the 8th of August 2014 is indefensible.⁸⁰ Its sluggish handling of the situation meant that there was a lack of resources on the ground to stem the spread, consequently Ebola exacerbated in those states most affected, becoming an epidemic.⁸¹

The link between the UNSC passing Resolution 2177 and the up-scaled response on the ground is difficult to quantify with precision because the UNSC itself was not responsible for delivering the increase in resources. However given that the picture in July and August 2014 is consistently one of three states suffering a lack of resources and a consequent increasing threat of Ebola, the upsurge in resources and support these states received from September 2014 onwards can reasonably be attributed to the intervention from the UNSC, that was able to successfully galvanise international engagement and start slowing the epidemic. The WHO recognises this fact on its website and references how the 'international community responded to the appeals for help from the UN', thus lending support to the timeline comparison method adopted here.⁸²

Throughout most of 2014 the Guinea healthcare system was not equipped to respond with urgency to the suspected cases of Ebola.⁸³ However after heavy support and investment from the internation-

78 Dr. Chan appeared before the UNSC at Meeting 7268, UNSC Verbatim Record (18 September 2014) UN Doc/S/PV/7268.

79 WHO, 'Origins of the 2014 Ebola epidemic' (*Emergencies preparedness, response*, January 2015) <<http://www.who.int/csr/disease/Ebola/one-year-report/virus-origin/en/>> accessed 28 February 2019.

80 The WHO has the power to declare a Public Health Emergency of International Concern under Art 12 of the International Health Regulations; WHO, 'Statement on the 1st meeting of the IHR Emergency Committee on the 2014 Ebola outbreak in West Africa' (*Media Centre, WHO Statement*, 8 August 2014) <<http://www.who.int/mediacentre/news/statements/2014/Ebola-20140808/en/>> accessed 28 February 2019.

81 WHO, 'Ebola virus disease outbreak – West Africa' (*Emergencies preparedness, response*, 4 September 2014) <http://www.who.int/csr/don/2014_09_04_Ebola/en/> accessed 28 February 2019.

82 WHO, 'Partners in the Ebola Response' (*Emergencies preparedness, response*) <<http://www.who.int/csr/disease/Ebola/partnerships/en/>> accessed 11 October 2018; focus will be on a comparison of the timeline prior to and after the adoption of Resolution 2177.

83 WHO, 'Ground zero in Guinea: the Ebola outbreak smoulders – undetected – for more than 3 months' (*Emergencies preparedness, response*, June 2014) <<http://www.who.int/csr/disease/Ebola/Ebola-6-months/guinea/en/>> accessed 11 October 2018.

al community Guinea was able to introduce rapid detection and epidemiological investigation teams to operate and stem the spread.⁸⁴ In August 2014 Liberia was suffering a distinct lack of Ebola Treatment Unit's (ETUs) with only two in operation, holding a total of forty beds.⁸⁵ There was also a deficit of trained healthcare and hygiene professionals, as well as a lack of PPE and chlorine disinfectant, all of which contributed to Ebola spreading.⁸⁶ By November 8th 2014 there were nine fully equipped ETU's in Liberia and 697 beds available, representing a sharp incline in resources.⁸⁷ In Sierra Leone the number of beds introduced between September 2014 and January 2015 totalled 2,971 across twelve districts.⁸⁸ Kurcharski et al. estimate that this prevented 57,000 cases of Ebola resulting in the averting of 40,000 deaths based on a 70% mortality rate.⁸⁹ The introduction of these beds was a massive step towards reducing the spread of Ebola as those infected were contained to a single location and were less likely to spread infection through their communities and families. In terms of safe burial teams trained in handling bodies that were infected with Ebola the number went from less than ten in Liberia in August 2014, to more than fifty-four by the 6th of October 2014.⁹⁰ In regard to Laboratory testing of Ebola specimens, the number of weekly tests in July 2014 was less than fifty due to a lack of facilities and staff; but by late September this number had increased to seven-hundred weekly tests, indicating another sharp rise in the facilities and capacity to carry out such activities.⁹¹

These snap shot figures and their timing are used here to argue that the only reason for this clear up-scale in the response to Ebola in West Africa was because of a massive increase in WHO capability as a result of greater international support, and wider international assistance provided directly to the states suffering.⁹² Up until the point of the UNSC securitising the situation the international community had largely failed to respond. The increased resources and overall responses indicate that although Resolution 2177 was not based on hard obligations it was able to percolate through to the international community and stimulate action. Without this intervention it is doubtful whether Ebola would have been brought under control in the timeframe achieved, if at all. The UNSC's intervention through Resolution 2177 was therefore pivotal in generating the required international response, which then translated to a significant ground level fight back.

2. What Could a Climate Change Resolution Achieve?

To create the essential gravitas of UNSC engagement Article 39 would have to be activated in a climate resolution. This may seem like an aspirational hope, yet the activation of Article 39, as has been shown, does not have to be followed by a set of hard obligations. More to the point, the less obvious benefit of securitisation that comes from activating Article 39 remains even in the absence of hard obligations;⁹³ in other words it is not necessarily what is being asked, but who is doing the asking. Therefore it is argued here that a climate change resolution should begin by including a Preambular paragraph that pronounces: *'the Security Council determines that the threat of climate change and its consequences constitutes a threat to international peace and security'*. The remainder of such a resolution is however equally important in terms of tone, if it is to avoid a veto vote.

In the build up to the adoption of Resolution 2177 a number of experts provided briefings to the UNSC.⁹⁴ The purpose of these briefings was to inform the UNSC as to the extent of the problem and provide practical guidance as to the required re-

84 WHO, 'Liberia and Guinea discharge final Ebola patients in latest flare-up and begin 42 days of heightened surveillance' (News, 2nd May 2016) <<http://www.who.int/en/news-room/feature-stories/detail/liberia-and-guinea-discharge-final-Ebola-patients-in-latest-flare-up-and-begin-42-days-of-heightened-surveillance>> accessed 11 October 2018.

85 A Awardy, 'Evolution of Ebola Virus Disease from Exotic Infection to Global Health Priority, Liberia Mid-2014' (2015) 21 Emerging Infectious Diseases 578.

86 *ibid.*

87 T Nyenswah, et al, 'Ebola Epidemic – Liberia, March – October 2014' (2014) 63 MMWR 1082.

88 A Kurcharski et al, 'Measuring the impact of Ebola control measures in Sierra Leone' (2015) 112 PNAS 14366.

89 *Ibid.*

90 T Nyenswah et al, 'Ebola Epidemic – Liberia, March – October 2014' (2014) 63 MMWR 1082.

91 *ibid.*

92 For instance the UK provided Ebola treatment units directly to Sierra Leone: A Gulland, 'UK built Ebola treatment centre opens in Sierra Leone' (*The British Medical Journal*, 7 November 2014) <<https://www.bmj.com/content/349/bmj.g6704>> accessed 28 February 2019.

93 When using the phrase securitisation, reference is made to the idea of moving an object onto the security agenda: B Buzan, O Waever, J de Wilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers, 1998).

94 Dr Chan Director General of the WHO, Dr Nabarro Senior United Nations Systems Coordinator for Ebola, and Mr Niamah of Medecins Sans Frontieres all provided expert briefings.

sponse. Embracing a reflection of this model, the UNSC could be advised to adopt some of the recent expert findings released on the 8th of October 2018 by the Intergovernmental Panel on Climate Change (IPCC).⁹⁵ The IPCC Report has managed to attract significant global attention, appearing on the front pages of many newspapers and generating much discussion.⁹⁶ However, it has no means by which to stimulate uptake of its recommendations and is instead reliant on state parties heeding its message through implementation of their discretionary based Paris Agreement commitments. The UNSC could offer the IPCC a forum in which to give its findings an injection of vitality, and the IPCC could offer the UNSC a sound factual base to draw from when populating its Preambular and Operative paragraphs.

Taking straight from the IPCC Report the UNSC could make reference in its Preambular paragraphs to:

- The hotter temperatures, extreme heats, higher levels of precipitation, and longer droughts that will occur with greater intensity if temperature increases reach 2 °C;⁹⁷
- An extra 0.1 meters rise in sea levels will result in ten million more people suffering harm if temperature increases reach 2 °C as opposed to 1.5 °C;⁹⁸
- Ocean acidification will amplify at 2 °C as opposed to 1.5 °C causing harm to a range of species in terms of growth, health and survival;⁹⁹
- Several hundred million more people will be exposed to severe poverty and suffer further climate

related harms at a 2 °C increase compared to a 1.5 °C increase;¹⁰⁰

- Fewer reductions in maize, wheat, and other cereal crops will be experienced at 1.5 °C as opposed to a 2 °C temperature increase.¹⁰¹

These assertions from the IPCC, that each comes with a level of confidence attached, are constructed using the most up to date global scientific data and so could form the base level of justification for intervention by the UNSC. The report goes on to highlight that the average global temperature has risen since pre-industrial levels by 1.0 °C, and is continuing to rise at approximately 0.2 °C per decade, with the likelihood that global increases will reach 1.5 °C between 2030 and 2052.¹⁰² The UNSC could conclude its Preambular section by ‘recognising’ the need to prioritise international efforts at halting global temperature rises at 1.5 °C by 2030. This would broadly align the UNSC with the Paris Agreement, providing a level of institutional support from the security apparatus that has so far been lacking.¹⁰³

Within the Operative paragraphs a climate change resolution would have to be linguistically soft, or the activation of Article 39 would not be forthcoming. Directives such as ‘calls upon’, ‘encourages’, and ‘urges’ would be required at the start of each paragraph. The content of each paragraph however does not have to be vague. As was highlighted in regard to Resolution 2177, the UNSC was able to begin with a soft directive but provide very precise instruction based on the practical requirements of the unfolding situation. In the case of climate change the UNSC could advise some specific actions to address the problem of emissions. Examples could include: ‘the Security Council calls upon states to reduce their reliance on fossil fuels’; ‘the Security Council encourages the development of renewable energy sources’; ‘the Security Council urges states to find ways to reduce their carbon dependency’. If the UNSC was to adopt such Operative paragraph directions it is quite possible the international community would take more notice than is typically evident in relation to international climate law; again it is reinforced here that it is not what is being asked but who is doing the asking.¹⁰⁴

Importantly though, such directives should not encroach upon state autonomy if they are to be realised.

The IPCC Report ends by highlighting the importance of strengthening the capacities of all states, in particular the capacity of developing states at the na-

95 IPCC Report, ‘Global Warming of 1.5 °C: Summary for Policy Makers’ (8 October 2018).

96 J Watts, ‘We have 12 years to limit climate change catastrophe, warns UN’ *The Guardian* (8 October 2018) <<https://www.theguardian.com/environment/2018/oct/08/global-warming-must-not-exceed-15c-warns-landmark-un-report>> accessed 28 February 2018.

97 IPCC Report, ‘Global Warming of 1.5 °C: Summary for Policy Makers’ (8 October 2018) 8.

98 *ibid* 9.

99 *ibid* 10.

100 *ibid* 11.

101 *ibid* 11.

102 *ibid* 4.

103 Boyle, Hartmann and Savaresi make a similar claim by suggesting the UNSC could be used as a means to bolster existing international climate law: A Boyle, J Hartmann, A Savaresi, ‘The United Nations Security Council’s legislative and enforcement powers and climate change’ in S Scott, C Ku (eds) *Climate Change and the UN Security Council* (EE Publishing, 2018).

104 This is the key aspect of securitising a matter, B Buzan, O Waever, J de Wilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers, 1998).

tional and local levels.¹⁰⁵ The UNSC has in the past proven itself extremely adept in facilitating global cooperation and capacity development on an international concern. The Counter Terrorism Committee (CTC) and subsequent Counter Terrorism Executive Directive (CTED) have proven to be highly useful in helping to develop cooperation and capacity building among nation states. The CTED specifically has been responsible for sending expert officials to Member States to provide technical assistance in the achievement of Resolution 1373 obligations.¹⁰⁶ The CTC is further considered a success because of its transparent nature and ability to collect reports from all Member States in one place, creating what Cortright calls 'the largest body of information about worldwide counterterrorism'.¹⁰⁷ There is no reason why the UNSC cannot repeat this model and introduce a Counter Climate Change Committee charged with the exact same purpose.

Although it is possible to suggest such a committee would only be able to reflect the current UNFCCC structures, it is also distinctly possible that a committee of this nature chaired by the right person could achieve a more succinct set of targets pertaining to information sharing and technology transfer than the already encumbered UNFCCC mechanisms are able to accomplish. Sir Jeremy Greenstock of the UK, who chaired the CTC, has been personally commended for his 'effective and dynamic' leadership, indicating the power of selecting the right person to chair such a Committee.¹⁰⁸ Smaller bodies with a more precise mandate can in many instances achieve more than over populated dispersed institutions trying to balance multiple priorities. In the case of a Counter Climate Change Committee, chaired by the right person, it could be charged with the sole task of gathering capacity reports and sharing good practise. Such a committee might even have the affect of simplifying some of the overtly complex machinery of international climate law by focussing on a single task.¹⁰⁹ Again, nothing in the UNSC endeavouring to fulfil such a role would be offensive to those possessing the power of veto, and if past evidence is to be believed such a role could be highly useful to the climate change regime.

V. Conclusion

The current international legal machinery has proven itself unable to stem the climate change

threat. The current momentum of the Paris Agreement will, it is predicted here, fall woefully short of meeting the problem head on because of a lack of state engagement through the discretionary mechanisms provided. This status quo is not new to the climate change discourse and has long since been the reason for consideration of alternative means of international climate regulation. The Security Council offers a chance to securitise the issue of climate change, elevating it to the highest institution existing in the international realm.

The manner in which the Security Council could engage the threat of climate change would have to be reflective of the current geopolitical reality, and relative hesitance of states to create and impose binding climate obligations. A failure to draft a climate change resolution recognising this reality would probably provoke the veto from one or more of the permanent members. Though there is evidence, from the UNSC's engagement of the 2014 Ebola outbreak and subsequent UNSC response that binding obligations of the UNSC are not necessary to stimulate a strong current of international response. The simple fact of UNSC engagement of an issue can, if framed in the right way, act to address and rectify a developing threat. It was therefore argued here that a climate change resolution could be crafted in such a way to avoid the veto obstacle and still have a meaningful impact on the climate change threat.

In terms of benefit to the climate change regime the UNSC could pick up the recent IPCC Report and transplant some of its core findings into a resolution. This would give the IPCC findings a forum in which to have greater impact and would provide the UNSC a sound platform in which to draw from in the creation of its non-binding but precise directives. The IPCC Report was clear that the world has until 2030 to start reducing its emissions or face dire consequences. In the face of a ponderous and cumbersome

105 IPCC Report, 'Global Warming of 1.5 °C: Summary for Policy Makers' (8 October 2018), 30.

106 H Kramer, S Yetiv, 'The UN Security Council's Response to Terrorism: Before and after September 11 2001' (2007) 122 *Political Science Quarterly* 409

107 D Cortright, 'Can the UN battle terrorism effectively?' (2005) 133 *USA Today* 62, 62.

108 J Dhanapala, 'The United Nations Response to 9/11' (2007) 17 (1) *Terrorism and Political Violence* 17, 19.

109 R Keohane, D Victor, 'The Regime Complex for Climate Change' (2011) 9 (1) *Perspectives on Politics* 7.

international climate law, the UNSC is the only global institution that can galvanise the international community into action. Yet, only by following the

pragmatic steps set out here can it be brought into the climate change fight in time to make a difference.