Reform of the UN Security Council

SUMMARY   *The divergent responses of the United Nations Security Council (UNSC) to the crises in* Syria *and* Libya *– a veto on action in the former case contrasted with authorisation for action in the latter – have once again provided a reminder of the power of the UNSC's veto-wielding permanent members to determine when the UN's collective security system may come into action.*

The UNSC's composition and working methods were established in 1945, and the size of its non-permanent membership has been modified only once, in 1963. While all UN members appear to agree that the UNSC needs to reflect today's geopolitical realities, there is fundamental disagreement among them over how to accomplish this objective. A wide range of proposals have been made over time. But for more than two decades the entrenched positions of three main groups – the Group of Four (G4), the Uniting for Consensus (UfC) and the African Union (AU) groups – have dominated the debate, with one stalemate following another.

Several scholars have therefore suggested pursuing more attainable aims, such as reform of the UNSC's working methods, rather than its expansion. EU Member States are deeply split, both on UNSC reform and the concept of an EU seat in the UNSC, which has been strongly advocated by the European Parliament.

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The UNSC's mandate under the UN Charter

Function: The UNSC's primary responsibility is the maintenance of international peace and security (Art. 24).

Powers: In order to exercise its mandate, the UNSC may respond to disputes endangering peace by facilitating their pacific settlement (Art. 33-38). In case of threats to peace, breaches of the peace and acts of aggression, it may resort to enforcement action under Chapter VII (Art. 39-51). It provides for economic sanctions, arms embargoes, financial penalties and restrictions, and travel bans, the severance of diplomatic relations, a blockade or collective military action.

Reform procedure: Amendments to the UN Charter are legally valid only if they have been adopted by a vote of two thirds of the members of the UN General Assembly (UNGA) and ratified by two thirds of UN members, including all the permanent members of the UNSC (Art. 108).

Context

The UNSC's authority and credibility has been seriously undermined due to its failure to act in regional crises such as in Rwanda (1994), Kosovo (1998-99) and Darfur/Sudan (2003-06). It did not act as a result of political unwillingness, or due to the threat, or actual use, of the veto by one or two permanent members. The most recent case is Syria. In some cases the UNSC's inaction has led to unilateralism or *ad hoc* alliances operating outside the UNSC's framework, like the 2003

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intervention in Iraq, which received UNSC [approval](#) only *ex post*. These cases have posed the [question](#) as to whether the permanent members' right of veto can still be deemed compatible with a well-functioning collective security system, as well as the collective [Responsibility to Protect (R2P)](#), which was unanimously endorsed by UN member states as an emerging UN norm in the 2005 [World Summit Outcome](#). But they have also underlined the need for more comprehensive reform efforts aimed at improving the UNSC's representativeness, legitimacy and effectiveness. Such efforts have been ongoing without tangible results for more than two decades.

The current UNSC and its challenges

The composition of the UNSC

When the UN was founded in [1945](#), it had 51 members. Five – China (People's Republic since 1971), France, the Soviet Union (with Russia having taken over the seat in 1991), United Kingdom, and the United States of America – were chosen as permanent members (known as the **P-5**) of the UNSC. Six further states would be non-permanent members, elected by the General Assembly (GA) for two-year terms on the UNSC. Since then, UN membership has almost quadrupled, to 193 in 2013, but the UNSC's composition has been [modified](#) only once, in 1963. On this occasion, the non-permanent members were increased to ten, as UN membership had risen to 115, mainly as a result of decolonisation.

Since then, the UNSC has not been expanded in proportion to the growth in UN membership, with the UNSC's legitimacy increasingly questioned. In addition, an

> **UN regional groups**
>
> **Africa Group,** 54 members (28%), 3 non-permanent seats on UNSC
>
> **Asia-Pacific Group**, 53 members (27%), 2 seats
>
> **Eastern European Group**, 23 members (12%), 1 seat
>
> **Latin American and Caribbean Group** (GRULAC), 33 members (17%), 2 seats
>
> **Western European and Others Group** (WEOG), 28 members (15%), 2 seats
>
> 2 members, USA and Kiribati, not formally in any group

imbalance in terms of the UNSC's geographical representativeness both in respect of permanent and non-permanent members has evolved. Thus the complete absence of the African continent from the group of permanent members has widely been perceived as a ["historical injustice"](#). It is also at odds with the fact that the vast majority of issues on the UNSC agenda concern Africa. Latin America and the Caribbean have no permanent representation either. In contrast, Europe is represented by two permanent members (France and the UK).

The UN regional groups

The five [regional groups](#) which elect the non-permanent UNSC members were [created](#) in 1963 and still reflect the Cold War era. Australia, New Zealand and Israel make up the "Others" of the Western European Group (WEOG). The USA is not part of any regional group but votes in the WEOG. Turkey participates in both the Asia-Pacific Group and the WEOG (but votes only in the WEOG). Cyprus is a member of the Asia-Pacific Group, while other EU Member States are split between WEOG and the Eastern Europe group. Overall the balance is considerably tilted in favour of Europe. Furthermore, there is a wide [disparity](#) in the size of the regional groups, ranging from 23 to 54 states, as well as in terms of population.

[UN members](#) appear to agree that the UNSC must reflect today's geopolitical, military, economic, and demographic realities. And they would therefore welcome a more democratic and legitimate UNSC with a more representative constituency, as well as more effective, transparent working methods to increase its accountability. But

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there is fundamental disagreement among them on how to accomplish this task.

The main challenge is to strike the right balance between maximum representativeness and legitimacy, by increasing the number and diversity of the UNSC membership on the one hand, and the highest degree of effectiveness in terms of timely and efficient decision-making on collective security issues on the other hand.

Institutionalising reform efforts

After the end of the Cold War the UNSC rapidly gained relevance through its unprecedented activity, with an increase in interventions and authorised use of force. In parallel, the internal reform debate gathered momentum. In 1993, the GA institution-alised the reform process by establishing the "Open-ended working group on the question of equitable representation and increase in the membership of the Security Council and other Security Council matters" as a formal forum where UN members' proposals were discussed in search of consensus (A/RES/48/26).

In the 1990s, the reform debate focused on the UNSC's enlargement. Japan and Germany appeared to be the candidates best placed to obtain a permanent seat by virtue of their economic power, and as second and third-largest contributors to the UN budget respectively. The P-5 was prepared to admit these two as permanent members in what has been referred to as the "quick fix". But this initiative, based on economic weight and contributions to UN funding and UN-led interventions, was staunchly opposed by India as well as Brazil, who invoked population and territory as criteria to defend their own cases.

Groups involved in the debate

G4 group (Group of Four: Brazil, Germany, India and Japan),

UfC group (Uniting for Consensus group, composed *inter alia* of Argentina, Canada, Colombia, Italy, Malta, Mexico, Pakistan, South Korea, Spain, and Turkey),

L.69 group (41 countries from Africa, Latin America, and the Caribbean),

C-10 group (Committee of Ten African states/African Union: Algeria, DR Congo, Equatorial Guinea, Kenya, Libya, Namibia, Senegal, Sierra Leone, Uganda, and Zambia),

S-5 group (Small Five group: Costa Rica, Singapore, Jordan, Liechtenstein and Switzerland).

The reform debate caused regional rivalries to flare up, splitting the UN membership into three blocs with deeply entrenched positions: the **Group of Four (G4)**, the **Uniting for Consensus (UfC)** group, and the **African Union (AU)** group.

In the run-up to the 2005 World Summit, Secretary-General Kofi Annan established the "High-level panel on Threats, Challenges and Change" composed of 16 eminent persons to give new impetus to the reform. In its 2004 report, the panel suggested two different models for expanding UNSC membership. Both models would have led to a total membership of 24. Model A envisaged six new permanent seats with no veto power and three additional two-year non-renewable seats. Model B provided for no new permanent seats, but rather a new category of eight four-year renew-able seats as well as one extra two-year non-permanent seat.

The panel also proposed criteria for the selection of individual countries by virtue of their financial, military and diplomatic contribution to the UN, and suggested restruc-turing the regional groups.

Three groups made known their preferences based on these models. The groups were fairly close as regards the size of the UNSC, at 25 or 26. But they differed considerably regarding categories of membership and the exercise of veto power. All wanted to keep the regional groups unchanged.

The **G4** group aimed at an increase to a total of 25 members: six new permanent members (four for the G4 and two for African countries), with the possibility of a veto right after 15 years, and four additional non-permanent members.

The **African Union (AU)** group envisaged 26 members, with six new permanent members with the right of veto, two of them for Africa, and five extra non-permanent members. The African position built on the 2005 Ezulwini Consensus aiming at regional representation of the African continent rather than the representation of states based on their individual merits. The permanent seats would not be rotating but country-specific and chosen by the AU, with the main candidates being Egypt, Nigeria and South Africa.

The Italian-led **Uniting for Consensus (UfC)** group, the previous "Coffee Club", mainly composed of regional rivals of the G4, sought a total of 25 members with ten new non-permanent members with the possibility of immediate re-election after the end of their mandate. They intended to abolish the prohibition on re-election under Art. 23 rather than introduce a third category of seats as envisaged by model B. Recalling the principle of equal sovereignty, their argument was that the creation of more permanent seats would increase the disparity between the holders of different categories of seats and result in further privileges linked to permanent membership throughout the UN system (known as the "cascade effect").

Given the incompatibility of the proposals none of which would have been likely to gain the two-thirds majority in the GA necessary to amend the Charter, they were not put to the vote, and reform was postponed. New impetus for the cumbersome negotiations in the Open-ended working group was provided by a GA resolution of September 2008 (A/Res/-62/557) setting out the following five key issues to be discussed in intergovernmental negotiations:

- categories of membership
- right of veto
- regional representation
- size of an enlarged UNSC
- working methods.

Reform proposals currently discussed

Since 2010 the debate in the new institutional format, with an even broader list of issues, has been pursued based on the proposals of five groups (see box) incorporated into a single document.

The G4, L.69 and C-10 groups share the idea of creating six additional permanent seats, attributed to the G4 and to Africa. The C-10 and L.69 both insist on immediate veto power for the new permanent members, while the G4 continues to be flexible on the veto. While the G4 and L.69 wish to add four non-permanent members, the C-10 aims at five. As for the attribution of the seats, the C-10 would allocate two non-permanent seats to Africa while the L.69 and G4 would reserve only one for Africa. The G4 and the C-10 would give one non-permanent seat to Eastern Europe, while the L.69 reserves one seat for a small developing county.

The UfC is the only group which continues to reject the creation of permanent seats and to have modified its position regarding non-permanent seats. It suggests setting up 12 additional non-permanent seats, an increase of two compared to its previous proposal. It provides for a redistribution of non-permanent seats by region as well as semi-permanent seats with longer durations of either a three to five year term without the possibility of immediate re-election or a two-year term with the possibility of up to two immediate re-elections. The longer term seats would be allocated to the regional groups, while the regular non-permanent seats would be reserved for small and medium-sized states.

The S-5 group focuses on working methods only, underlining that these can be modified without amending the UN Charter and should be discussed separately. However, an S-5 resolution (see box below) was withdrawn on procedural grounds in May 2012, showing evidence of a stalemate even on the issue of working methods.

> **The S-5 resolution proposed** *inter alia*:
> - to introduce a P-5 commitment to voluntarily renounce the right of veto in cases of serious human rights violations as well as an obligation to justify the use of the veto;
> - to enhance the involvement of troop-contributing states and states making large financial contributions to peace-keeping missions;
> - to step up transparency among the P-5 and the elected members as well as in the overall governance system.

Even if the different groups achieved more convergence on their entrenched positions and garnered wide support in the GA for a single reform proposal, which at present appears highly unlikely considering the most recent failure of the G4 proposal to win the required support, it would also need the approval of the P-5.

What is the position of the P-5?
The United States has expressed its openness to a moderate expansion of the UNSC's permanent members based on country-specific admission, while insisting on its right of veto. Russia has articulated its acceptance of an increase in permanent membership, with the UNSC not exceeding a total of 20 members, but rules out any relinquishment of its veto.

> **The right of veto in practice**
> The P-5's actual use of the veto differs widely. There has been an overall downward trend in the use of the veto since the end of the Cold War. France and the UK have stopped resorting to it altogether, but reportedly have continued to employ it as a threat ("hidden veto"). The other three (China, Russia and the USA) veto-wielding powers together have cast it more often from 2000 to 2009 (14 vetoes) as compared to the 1990-99 period (9 vetoes).

China backs India and categorically excludes Japan as future permanent members, thus indirectly opposing the G4 proposal. It supports stronger representation of African countries and greater involvement of small and medium-sized countries on a rotational

basis. The United Kingdom and France have repeatedly endorsed permanent seats for the G4 and the African continent.

But there is strong scepticism among commentators as to the genuine preparedness of the P-5 to share their exclusive power.

An EU seat in the UNSC?

The concept of creating a single EU seat in the UNSC reportedly has its origin in Italy's ambition to prevent Germany from gaining a permanent seat. The idea of an EU seat was backed by the EU's High Representative for the Common Foreign and Security Policy (CFSP) Javier Solana in 1999 and by Commissioner for External Relations and European Neighbourhood Policy Ferrero-Waldner in 2007.

However, the most fervent and constant proponent of an EU seat in the UNSC has been the European Parliament (EP). In its September 2012 resolution on the Council's Annual Report on the CFSP, the EP expressed confidence that comprehensive reform of the UNSC could be launched by EU Member States (MS) if they demand a permanent seat for the EU in an enlarged and reformed UNSC. This would be in line with the objectives of the Treaty of Lisbon to enhance EU foreign policy and the EU's role in global peace and security. The EP called for a common position to be agreed by the MS and, until this is reached, for a rotation system in the UNSC to be agreed and enacted without delay, so as to secure an "EU seat in permanence".

Putting into practice the idea of an EU seat in the UNSC would require amending the UN Charter, since the EU, notwithstanding the legal personality it gained under the Treaty of Lisbon, could not assume the seat itself, because only states may become UN members (UN Charter Article 4).

What is the EU's current status at the UN?
From 1974, the European Economic Community had permanent observer status

in the GA, based on A/Res/3208(XXIX). This was enhanced under A/Res/65/276 of 3 May 2011, allowing EU representatives to speak. The status excludes the right to vote, co-sponsor draft resolutions or decisions, or put forward candidates.

Based on Rule 39 of the provisional rules of procedure of the UNSC the High Representative of the Union for Foreign Affairs and Security Policy may address the Security Council. Article 34 of the Treaty on European Union (TEU) requires EU MS which sit on the UNSC not only to request that the High Representative be invited to present the EU's position (when the EU has defined a position on a subject which is on the UNSC agenda) but also to defend the positions and interests of the EU, without prejudice to their responsibilities under the provisions of the UN Charter, and to keep other EU MS and the High Representative fully informed.

Stakeholders' views

The World Federalist Movement (WFM) argues that new permanent members with veto power would lead to greater inefficiency and less accountability of the UNSC. In contrast, limiting the use of the veto against large-scale human rights abuses would enhance its legitimacy and credibility. The WFM specifically supports the empowerment of the GA to act when the UNSC is either unwilling or blocked in humanitarian or security crises. It calls for a recognized primacy of the GA in order to overrule the UNSC, and for greater use of A/Res/377(V) of 1950 on "Uniting for peace".

The US movement Global Solutions posits that in order to operationalise the Responsibility to Protect (R2P) principle, UN members should embrace a responsibility not to veto when addressing situations of mass atrocities. Eduardo Vargas, of Inter-sections International, suggests that UNSC reform should focus on more realistic aims, such as reorganising the regional groups, reforming working methods, introducing qualified majority voting and restricting the

use of the veto rather than pursuing expansion. In the same vein Ambassador Richard Butler argues that in order to correct the geographical representativeness of the UNSC and to enhance its legitimacy, the number and composition of the regional groups should be updated.

Nico Schrijver, Professor of International Public Law, warns that an expanded UNSC will not necessarily be more democratic and representative unless the transparency, accountability and inclusiveness of its working methods have been enhanced. With a view to catalysing the reform process Daniel Deudney and Hanns Maull, research fellows of the Transatlantic Academy, have suggested consolidating the permanent EU presence in the UNSC in one seat, with France and the United Kingdom taking it in two-year turns. Michèle Roth, of the Development and Peace Foundation (SEF), in contrast, holds the view that the concept of an EU seat could pave the way towards regional representation in the UNSC, with other regional organisations following suit.

Further reading

Reforming the UN Security Council membership: the illusion of representativeness / S. Hassler, London 2013.

United Nations reform: heading north or south? / S. Zifcak, London 2009.

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