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The role of the United Nations Security Council in Non-Traditional Security Threats: Climate Change and Pandemics

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List of Abbreviations

CPSR = Climate-related Peace and Security Risks

COP = Conference of the Parties

COVID-19 = Corona Virus Disease 2019

CSEN = Climate Security Expert Network

CSM = Climate Security Mechanism

DPPA = United Nations Department of Political and Peace-building Affairs

EVD = Ebola Virus Disease

GHG = Greenhouse gases

GPA = The World Health Organization Global Programme on AIDS

HIV/AIDS = Human Immunodeficiency Virus/Acquired ImmunoDeficiency Syndrome

ICJ = International Court of Justice

IGN = Intergovernmental Negotiations

IHR = International Health Regulations

IPCC = Intergovernmental Panel on Climate Change

NUPI = Norwegian Institute of International Affairs

OEWG = Open-Ended Working Group

SCAD = Security Council Affairs Division

SG = Secretary-General of the United Nations

SIPRI = Stockholm International Peace Research Institute

UN = United Nations

UNAIDS = Joint United Nations Programme on HIV/AIDS

UNDP = United Nations Development Program

UNEP = United Nations Environment Program

UNFCCC = United Nations Framework Convention on Climate Change

UNGA/GA = General Assembly of the United Nations

UNSC/SC = Security Council of the United Nations

VTC = Video Teleconference

WHO = World Health Organization

WMD = Weapons of mass destruction

INTRODUCTION

'The United Nations was created in 1945 above all else "to save succeeding generations from the scourge of war" — to ensure that the horrors of the World Wars were never repeated. Sixty years later, we know all too well that the biggest security threats we face now, and in the decades ahead, go far beyond States waging aggressive war. They extend to poverty, infectious disease and environmental degradation; war and violence within States; the spread and possible use of nuclear, radiological, chemical and biological weapons; terrorism; and transnational organized crime. The threats are from non-State actors as well as States, and to human security as well as State security'[1].

As the world struggles with the global pandemic of Covid-19, debates over the notions of international security and international cooperation have gained new momentum, as scholars, policymakers, and the international community as a whole, come to terms with this new challenge to international stability and security. While the gravity and the urgency of global challenges such as climate change and environmental degradation or international health crises are certainly not groundbreaking news, national and international institutions, as well as forums of international cooperation, the United Nations with its stakeholders and specialized agencies above all, are under unprecedented scrutiny and global attention, as the world figures out how to deal with the Covid-19 crisis and develop new instruments and responses to an emergency with such strong social, developmental and economic impacts. As the organ charged with the primary responsibility of maintaining international peace and security[2], in line with the UN's purpose and principles, the UN Security Council has been called upon to address the crisis and assume a lead role, as its activity as an enforcer of international cooperation towards the attainment and the maintenance of international peace and security has significantly evolved since the establishment of the United Nations. Yet, the Council seems to have struggled to be up to the task. Born in a different world, and for different threats, the Council has significantly expanded the range of issues it has dealt with over the decades, undoubtably recording both successes and failures in carrying out its duties. Nevertheless, it is still

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[1] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565 (2 December 2004): 11.

[2] *Charter of the United Nations*, Article 24.

object of much criticism as it would fail to adapt to the evolving international context and promptly tackle the new 21st century challenges.

Thus the desire to delve into the role of the Security Council in dealing with non-traditional security threats, to assess whether it has intervened and how, unravel whether it has assumed a lead role or rather watched events unfold from the sidelines, and identify the main impediments to its action. Such investigation will be carried out through the lens of two specific non-traditional threats, namely climate change and international health crises, both widely addressed and analyzed over the years. Focusing the analysis on the two above mentioned cases stems from the urgency and topicality of both these global problems, as, at the time of writing, two years into the Covid-19 pandemic and less than year after the 26th Conference of the Parties to the United Nations Framework Convention on Climate Change[3], assessing the role of the Security Council is done from a new perspective. The engagement of the Security Council with both challenges goes back decades, at the beginning of the century, its first debates over the security implications of an international health crisis and over climate change taking place, respectively, in 2000 and 2007. Over the years, both topics have been addressed and debated within the UN security body, with strong disagreement emerging among states over the role to be assumed by the Council. Such disagreement is mirrored in the literature, where both arguments in favour and against the 'securitization' of the new threats are raised. Analyzing the role of the UNSC in dealing with Climate Change and international health crises entails a significant degree of complexity as delving into the evolution of such matters within the Council leads to grasping the interplay between elements of international law, international relations and political dynamics.

The analysis is thus structured as follows: the first section introduces to the United Nations Security Council, its structure, functions and procedure. It then goes on to summarize the evolution in the Council's interpretation of Article 39 of the United Nations Charter, on the basis of which the Council is charged with the power to determine whether a threat falls within its mandate as constituting a threat to international peace and security[4]. In addition, the main critique to the Security Council's action is delved into, together with the main attempts made to reform it, in light of the above reported critique. The introductory section concludes by introducing to the main topic of the thesis, thus the role of the United Nations Security Council in addressing non-traditional

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[3] UN Climate Change Conference UK (Web site). Available at: https://ukcop26.org/ (accessed 4 February 2022).
[4] *Charter of the United Nations*, Article 39.

security threats, given the strong criticism directed at the Council in being able to effectively tackle 21st century security challenges. This is done through a brief introduction to such non-traditional threats, followed by a presentation of the cases chosen for the analysis, namely climate change and international health crises, with a focus on the recent outbreak of the covid-19 pandemic. The two cases are then analyzed, respectively, in the following chapters. Each case is dealt with by taking into account its main security implications and the nexus with international security, as emerged both in the literature and in the international arena. The evolution of the Security Council's engagement with the challenge is then investigated, through its characterization, or absence thereof, of such challenge as a threat to international peace and security, and the main Security Council's debates and outcomes on the matter, presented and analyzed as to grasp whether the Council has actively intervened and to what extent. Finally, in the last section, such cases will be compared and blended in order to unravel, taking into account due differences, emerging patterns which allow for conclusions to be drawn over the Council's role, to this point, in addressing non-traditional threats to international peace and security. The analysis concludes by highlighting the main obstacles to the Council's action, as emerged from the analysis, and in light of the criticism to its action in tackling current international non-traditional security threats.

FIRST CHAPTER

The United Nations Security Council

1.1 The United Nations Security Council : The Charter Framework

Born in 1945 with the founding of the United Nations, in the aftermath of the Second World War, the United Nations Security Council (hereon-after referred to as the Security Council, UNSC or simply the Council) is one of the United Nations' six principal organs, specifically the one charged with the main responsibility of maintaining international peace and security, in line with the UN's primary function, purposes and principles, enshrined in the first chapter of its Constitutional Treaty (UN Charter or simply the Charter)[5]. The Security Council meets throughout the year to address armed conflicts and other situations where the maintenance of international peace and security is at stake and is in charge of ordering sanctions, calling for ceasefires, authorizing military action on behalf of the United Nations and, together with the General Assembly (GA), admitting new UN members, appointing the Secretary-General and electing judges to the International Court of Justice (ICJ)[6]. The Council's structure, composition, powers and procedures are enshrined in the United Nations' Constitutional Treaty and, as will be later more thoroughly addressed, slightly different but largely consistent with the organ envisaged by the United Nations' founders. The following section provides with a brief presentation to the Security Council which, necessarily, departs from and shapes itself around the UN Charter, thus the rules by which the UNSC operates. This introduction is intendedly schematic, formulated with the auspice of giving the necessary basic tools to orient oneself in the vast discourse over the role of the Security Council in dealing with international non-traditional security threats, more than seventy year after its foundation.

First and foremost, the Security Council is charged by the UN members, on whose behalf it acts, with the "primary responsibility for the maintenance of international peace and security", under

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[5] *Charter of the United Nations*, Articles 1-2.

[6] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 1.

which it carries out its duties "in accordance with the Purposes and Principles of the United Nations" (Article 24 UN Charter), set out in the first chapter of the Constitutional Treaty (Articles 1 and 2)[7]. Chapters V to VIII of the Charter are then specifically dedicated to the Council; its composition, functions, procedures and powers (Chapter V, Articles 23-32); the pacific settlement of disputes (Chapter VI, Articles 33-38); Action with respect to threats to peace, breaches of peace, and acts of aggression (Chapter VII, Articles 39-51); regional security arrangements (Chapter VIII, Articles 52-54)[8].

1.1.1 Chapter V: structure, function and procedure

As for the Security Council's composition and rules of voting, these are to be found, respectively, in Articles 23 and 27 of the Charter. Since said articles' amendments in 1965[9], which expanded the Council's membership, the UNSC consists of fifteen members, five of which are permanent (China, France, Russia, The United Kingdom, the United States of America) and colloquially referred to as P5, and ten non-permanent members which shall be elected by the General Assembly for a term of two years[10]. Article 27, also amended in 1965, provides with the rules of voting and includes the provision according to which each of the permanent members holds a veto power, object of much controversy and, as will be best addressed later, crucial point of criticism directed at the Security Council. According to Article 27, each member of the Council shall in fact have one vote; decisions on procedural matter require an affirmative vote of nine members, while decisions on all other matters require an affirmative more of nine members including the concurring votes of the permanent members[11]. Article 25 of the Charter, paramount in a brief summary of the Council, includes the binding nature of the Council's decisions, whereby the UN members "agree to accept and carry out the decisions of the Security Council", in accordance with the UN Charter[12].

The provisions regarding the Security Council's procedure and inner workings are to be found in Articles 28 to 32 of the Charter. The Council shall be able to function continuously and hold

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[7] *Charter of the United Nations*, Article 24 and Articles. 1-2 on Purposes and Principles of the United Nations.

[8] *Charter of the United Nations*, Chapters V-VIII.

[9] United Nations (Web Page), "United Nations Charter: Amendments to Articles 23, 27, 61, 109". Available at: https://www.un.org/en/about-us/un-charter/amendments (accessed 28 November 2021).

[10] *Charter of the United Nations*, art. 23.

[11] Ibid., art. 27.

[12] Ibid., art. 25.

periodic meetings (Article 28), it may establish subsidiary organs did performing its functions make it necessary (Article 29) and it shall adopt its own rules of procedure, namely all those rules regulating, to mention a few, how and where it holds its meetings, the agenda, the presidency, the Council's conduct of business, its relations with other United Nations' organs (Article 30)[13]. In 1946, the Council adopted the provisional Rules of Procedure (S/96) which were later modified several times, for the last time in 1982 (S/96/Rev.7)[14]. Rule 18 and 19 of the provisional Rules of Procedure establish that "the Presidency of the Security Council shall be held in turn by the members of the Security Council" in alphabetical order, and the President, under the authority of the Council, shall represent it in its capacity as an organ of the United Nations, holding office for one month[15]. Regarding the Council's meetings, with the exception of those held twice a year as called for in Article 28 (2) of the Charter, shall be held at the the the call of the Council's President, at any time deemed by them necessary, with intervals not exceeding fourteen days[16]. More over, the President shall call a meeting at the request of any Council's member and under any of the following occurrences: if a dispute or situation is brought to the Council's attention under Article 35 or under Article 11 (3) of the Charter; if the GA makes recommendations or refers any matter to the Council under Article 11(2) of the Charter; if the Secretary-General brings any matter to the attention of the Council under Article 99 of the Charter[17].

The provisional Rules of Procedure do not account for the different typologies and formats of Security Council's meetings and outcome documents. The Note by the President of the Security Council (S/2017/507), incorporating and further developing previous Notes on the matter, provides with this information[18]. Given that the provisional Rules of Procedure and their own practice allows for considerable flexibility in choosing how to best structure their meetings, the members of the SC select the one best suited to advance the resolution of a matter under consideration, among the following formats: (1) public meetings to take action and/or hold, inter alia, briefings and debates; (2) private meetings to conduct discussion and/or take actions, for example, recommendation regarding the appointment of the Secretary-General, without the attendance of the public or the

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[13] Ibid., artt. 28-30.

[14] Provisional Rules of Procedure of the Security Council (S/96) and the last revision (S/96/Rev.7) are available at: https://undocs.org/en/S/96/Rev.7/https://www.un.org/securitycouncil/content/provisional-rules-procedure.

[15] Provisional Rules of Procedure (S/96/Rev.7), rules 18, 19

[16] Ibid., rules 1,4

[17] Ibid., rules 2,3

[18] Note by the President of the Security Council, UN Doc. S/2017/507. For a comprehensive guide on the Council's working methods also see: 'Handbook on the Working Methods of the Security Council', available at: https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/handbook_on_the_working_methods_of_the_security_council.pdf (accessed 3 December 2021)

press[19]. In addition to the above, the Note includes (3) Informal Consultations; (4) Dialogue with non-Council Members and bodies; (5) "Arria-Formula" Meetings[20]. The last format, not included in the UN Charter nor in the provisional Rules of Procedure, are named after Representative of Venezuela on the Council (1992-1993) Diego Arria, initiator of such practice, differ from consultations as they are very informal and confidential gatherings, they do not constitute an activity of the Council, they are convened upon the initiative of one or more Security Council's members and participation is voluntary and for individual members to decide upon[21]. They enable Security Council members to have a frank and private exchange of views with individuals, Member States or relevant organization, whom the inviting member or members wish to hear from and/or deliver a message[22]. Concerning the Security Councils' outcome documents, the major types include: (1) Resolutions, to be adopted with an affirmative vote of nine members including the concurring votes of the P5, pursuant to Article 27 of the Charter; (2) Statements by the President of the Council; (3) Notes by the President of the Council; (4) Letters from the President; and (5) Press Statements[23]. In addition, the Council, as prescribed by Article 24(3) of the Charter, "shall submit annual and, when necessary, special reports to the General Assembly for its consideration"[24].

Chapter V, wholly dedicated to the Security Council, and in great part assessed above, concludes with Articles 31 and 32 which deal with the circumstances under which any UN member, although not a member of the Council, may take part (with no voting rights) in its discussions. Namely, whenever the Council considers that UN member's interests "specially affected" by the question under discussion (Article 31) and when that Member is a party to a dispute brought before the Council (Article 32)[25]. The latter provisions applies, furthermore, to any state, although not part of the United Nations.

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[19] Note by the President of the Security Council (S/2017/507), supra note 18, para. 21.

[20] Ibid., para. 45-55, 92, 98.

[21] Handbook on the Working Methods of the Security Council, supra note 18: 74-75. Available at:https://www.un.org/securitycouncil/content/working-methods-handbook

[22] Ibid.,

[23] Ibid., 77

[24] *Charter of the United Nations*, art. 24[3]

[25] Ibid., artt. 31, 32.

1.1.2 Chapters VI, VII, VIII of the Charter: Security Council's Powers

The specific powers of the Security Council for carrying out its duties and upholding its responsibility for the maintenance of international peace and security are laid down in Chapters VI, VII and VIII of the UN Charter[26]. Chapter VI of the Charter (Articles 33-38) provides with a system for the pacific settlement of any dispute "the continuance of which is likely to endanger the maintenance of international peace and security", assigning the Council with the power to call upon the parties to settle their disputes peacefully (article 33); investigate any dispute or situation which might lead to international friction in order to determine if its continuation is likely to put at risk the maintenance of international peace and security (Article 34); have any dispute or situation brought to it by states (Article 35), recommend appropriate procedures or methods of adjustment (Article 36), and recommend the terms of a settlement or make other recommendations to the parties (Articles 37 and 38)[27]. Chapter VI of the Charter, if sometimes seen as simply the "non-forceful part" of the Council's powers to act and often over-shadowed by the later addressed Chapter VII's collective security mechanism, is actually the basis for many of the Council's actions of preventing incipient or actual conflict as well as the basis for most of the United Nations' peacekeeping operations[28].

Chapter VII (Articles 39-51) deals with actions with respects to threats to the peace, breaches of the peace and acts of aggression and identifies the Security Council as the primary actor responsible of determining the existence of such situations and adopting the necessary measures to restore international peace and security[29]. Article 39, among the most debated provisions when it comes to the Security Council, especially in the part relating to 'threats to peace' (which will in fact be the focus from now on) and reported here in full, confers such responsibility, by providing that:

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security[30].

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[26] Ibid, art. 24.

[27] *Charter of the United Nations*, Chap. VI.

[28] Vaughan Lowe, Adam Roberts et al.*, The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), Introduction.

[29] *Charter of the United Nations*, Chap. VII.

[30] *Ibid.*, art. 39.

As has been extensively noted, and will be later more thoroughly addressed, Article 39 leaves the Council with much room for discretion regarding which situations constitute a threat to international peace and security, as well as what measures are to be taken accordingly[31]. This freedom has enabled an evolution of the array of situations and disputes characterized as threats to international peace and security, going beyond the sole interstate military conflict. Said evolution, and "pronouncements not exactly amounting to a formal determination under article 39", practice the Council has increasingly resorted to, has led to the dividing lines between Chapter VI and Chapter VII of the Charter being less clear than envisaged by its drafters[32]. The measures referred to in Article 39 are enshrined in Articles 41 and 42, which provide with the concrete measures the Council may adopt to give effect to its decisions: those non involving the use of armed forces, such as the complete or partial interruption of economic relations or the severance of diplomatic relations (Article 41), and, were these regarded inadequate, actions which require the use of armed forces, by air, sea, or land (Article 42)[33]. Such actions are rendered feasible by the contributions of all Members of the United Nations, who, "in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security" (Article 43 (1))[34]. As for the practical operations the Council sets up, these are not included in the Charter, yet fit squarely in this brief presentation of the Security Council given that the different types of UN forces and missions with a security function's creation and mandate-setting falls under the Security Council's activity[35]. Such operations have been, for the sake of analysis, divided into the three, sometimes overlapping, categories: (1) UN Peace keeping operations, (2) UN institutions, missions, and forces not classified as peacekeeping operations, and (3) UN-authorized military operations[36].

Chapter VIII of the Charter (Articles 52-54) deals with the relations between the Council and Regional Arrangements or agencies that deal with matters related to the maintenance of

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[31] Vaughan Lowe, Adam Roberts et al.*, The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 14.

[32] Karel Wellens, "The UN Security Council and new threats to the peace: back to the future", *Journal of Conflict & Security Law* 8, no. 1 (2003):53.

[33] *Charter of the United Nations*, artt. 41-42.

[34] Ibid., art. 43.

[35] Vaughan Lowe, Adam Roberts et al.*, The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 21-25.

[36] Ibid.

international peace and security. Allowing for their existence, the Charter establishes that the Council "shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies"; furthermore, the Council shall, if it deems appropriate, make use of such regional arrangements and agencies for enforcement action under its authority[37].

1.1.2.1 The evolution of the Security Council's interpretation of Article 39

As above mentioned, Article 39 of the Charter, opening to Chapter VII on Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, charges the Security Council with the responsibility/power to determine what situation constitutes a threat to international peace and security, thus falling under its purview and activating the system envisaged by Chapter VII. It seems widely accepted and established, as well as widely discussed and analyzed in its wider consequences on international law, that the Council holds a wide power of discretion when it comes to the interpretation of this provision, given that no indication as to how the Council should do so, is included in the Charter[38]. Two limits to the Council's action have nonetheless been identified and underlined: firstly, it is bound by international law and by ius cogens norms, thus in determining if a situation constitutes a threat to the peace, it has to abide by the general rules of interpretation enshrined in the Vienna Convention on the Law of Treaties[39]; secondly, the Council must respect and act in conformity with the principles and purposes of the United Nations[40]. As will be briefly addressed, Article 39, or rather its use and interpretation, has undergone significant evolution over the years, as the Council has come to include new threats and challenges to international security. After the end of the Cold War, the Council has in fact been developing a broader notion of a 'threat to the peace' by adopting several resolutions under its Chapter VII powers, covering the proliferation of weapons of mass destruction, civil wars, human rights violations and terrorism, to

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[37] *Charter of the United Nations*, artt. 52-53. In addition, art. 54 states that "The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security".

[38] Robert Cryer, "The Security Council and Article 39: A Threat to Coherence?", *Journal of Armed Conflict Law* 1, no. 2 (1996): 165.

[39] Articles 31 and 32 of the Vienna Convention on the Law of Treaties (1969), available at: https://www.refworld.org/docid/3ae6b3a10.html (accessed 17 December 2021). It must be noted that, although the UN Charter preceded the Vienna Convention, its rules are seen as evidence of customary international law between States thus to be taken into account in order to establish the powers of the Security Council while determining a threat to the peace.

[40] Mónica Lourdes de la Serna Galvan, "Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council", *Anuario Mexicano de Derecho International* XI (2011):159,181. Available at: http://www.scielo.org.mx/pdf/amdi/v11/v11a6.pdf (accessed 17 December 2021)

mention a few[41]. At the time the Constitutional Treaty was drafted, the United Nations faced 'threats to peace' which amounted to interstate military threats, but the circumstances radically changed and, in the post Cold War era, the UNSC increased its activity by adopting resolutions that recognize, as above mentioned, civil wars, lack of democracy and violations of international human rights law, as threats to international peace and security[42].

This change and increase in activity is recognized by the 1992 Presidential Statement (S/23500) of the Security Council, paramount step in the process of evolution in interpretation of what constitutes a 'threat to peace' and first intention to recognize "new favorable international circumstances under which the Security Council has begun to fulfill more effectively its primary responsibility for the maintenance of international peace and security"[43]. In the Presidential Statement, the radical change, and expansion, in the peace-keeping tasks to be handled by the United Nations is expressed in clear-cult terms[44]. Most importantly, the Statement is considered crucial in the evolution from a negative concept of peace to a positive one[45]. As expressed in the Statement, "the absence of war and military conflicts amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security" and "the proliferation of all weapons of mass destruction constitutes a threat to international peace and security"[46]. Further crucial steps in the widening of what constitutes a 'threat to international peace and security', have then been identified in Security Council Resolutions 1373 of 2001 and 1540 of 2004 dealing, respectively, with international terrorist acts and the proliferation of weapons of mass destruction[47]. Said resolutions have differed from previous resolutions adopted in the post-Cold War years - briefly referred to above - which (i) acted in response to a situation that had arisen in international relations; (ii) referred to actions as enforcing international law; (iii) targeted a specific country; (iv)

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[41] Karel Wellens, "The UN Security Council and new threats to the peace: back to the future", *Journal of Conflict & Security Law* 8, no. 1 (2003):15.

[42] For examples of such Resolutions see Mónica Lourdes de la Serna Galvan, 'Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council', *Anuario Mexicano de Derecho International* XI (2011): 164-174.

[43] Note by the President of the Security Council, UN Doc. S/23500 (1992), 2.

[44] Ibid.

[45] Mónica Lourdes de la Serna Galvan, supra note 40, at 175.

[46] See UN Doc. S/23500 (1992), supra note 43, at 3-4.

[47] Security Council Resolution 1373 (2001), UN Doc. S/RES/1373; and Security Council Resolution 1540 (2004), UN Doc. S/RES/1540.

their binding applicability was of a temporary duration[48]. On the contrary, Resolutions 1373 and 1540 have been identified as opening up to a new era in the Council's characterization of situations under the notion of 'threat to peace', as they (i) do not consider any specific situation, (i) do not determine a time limit, and (iii) do not apply to any individual or specific State[49].

1.2 The critique to the Security Council

The United Nations stands at a crossroads. Unlike its predecessor, the League of Nations, it has endured, and in its seventy-five years as the largest and most representative global multilateral institution, it has recorded many successes. Today, however, it is bedeviled by a litany of challenges, including gross underfunding, bloated bureaucracy, disunity, and geopolitical rivalry among the permanent members of the Security Council. These and other issues both weaken its effectiveness and undermine its relevance[50].

Finding one's way through the wide scolarship and critique dedicated to an evaluation of the Security Council's work, its merits and shortcomings, is a rather daunting task. Since its creation, a stunningly rich amount of literature has in fact been produced over the Security Council's actions and its role, both in the United Nations' multilateral system and, more generally, in the wider international context. Even more complex is the task of attempting at summarizing such literature, given the long time-frame under consideration, and the fact that several of the issues raised are complex in nature, dynamic, and intertwined. Providing with such a summary, and an exhaustive one at that, would go far beyond the scope of this work. Therefore, the goal will rather be that of including some of the main points raised in the vast critique addressed at the UNSC over the course of its history. Unsurprisingly, when analyzing the Security Council, both strengths and weaknesses are to be found. While, on the one hand, there seems to be wide acceptance of the Council's vital importance, it being the operational arm in the United Nations' mission of maintaining international peace and security, and having succeeded in this mission on several occasions, it has nevertheless been the object of stark criticism, sometimes as so as to affirm that "with virtually unlimited powers

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[48] Mónica Lourdes de la Serna Galvan, "Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council", *Anuario Mexicano de Derecho International* XI (2011): 180. Available at: http://www.scielo.org.mx/pdf/amdi/v11/v11a6.pdf (accessed 17 December 2021)

[49] Mónica Lourdes de la Serna Galvan, "Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council", *Anuario Mexicano de Derecho International* XI (2011): 180. Available at: http://www.scielo.org.mx/pdf/amdi/v11/v11a6.pdf (accessed 17 December 2021)

[50] Council on Foreign Relations, "The UN at Seventy-Five: How to Make It Relevant Again" (2020): 3. Available at: http://www.jstor.org/stable/resrep29988 (accessed 14 December 2021)

for the maintenance of international peace and security, the Council has shown the biggest gap between promise and performance"[51], or, along the same lines, it has been said that the Council "seems tired, out of step and increasingly unfit for purpose"[52]. Crucial to the present work, is that the Council has often been deemed unable, on the basis of its shortcomings, briefly analyzed in this section, to deal with the new security threats and challenges faced by the international community. If, on the one hand, the Council's successes in intervening in security crises have been recognized, on the other harsh criticism, both in and outside the United Nations, has been directed at the Council's inability to adapt to and evolve with the new global context. As expressed in the 2004 report of the High level Panel on Threats, Challenges and Change, "Since the Council was formed the threats and challenges to international peace and security have changed, as has the distribution of power among members, but the Security Council has been slow to change"[53]. Over the last century, and since the birth of the United Nations, the actors in world affairs have radically changed in nature and grown in number, as have the interactions between them[54]. The range of security threats to be faced by the world, and tackled by the Council, is far broader than envisioned by the UN founders, who were determined to shape an instrument that could prevent the outbreak of a third world war[55]. When the system of collective security was created, security was intended in the traditional military sense, thus, as stated by Secretary-General Kofi Annan, the organization 'was build for a different era'[56].

A thorough review of the critique around the Council's work reveals some, most often overlapping, points, revolving around the broader concepts of effectiveness, legitimacy, representativeness, and accountability. Such a distinction must, of course, be understood in its context, namely as purely driven by its function of helping in the analysis, given that, all of these concepts and their ramifications are inextricably intertwined. For instance, the effectiveness of the Council, intended as its ability to intervene in a given situation, necessarily rests on its legitimacy, an evaluation of

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[51] Ramesh Thakur, *The United Nations, Peace and Security: from collective security to the responsibility to protect*, (Cambridge: Cambridge University Press, 2017), 33.

[52] Amnesty International, "Report 2012: No Longer Business as Usual for Tyranny And Injustice," Press Release, 24 May 2012, https://www.amnesty.org/en/press-releases/2012/05/report-2012-no-longer-business-usual-tyranny-and-injustice/.

[53] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565, para. 245.

[54] Ramesh Thakur, *The United Nations, Peace and Security: from collective security to the responsibility to protect*, (Cambridge: Cambridge University Press, 2017), 15.

[55] Edward C. Luck, "A Council for All Seasons: The Creation of the Security Council and Its Relevance Today", in *The United Nations Security Council and War: The Evolution of Thought and practice since 1945* (2008), 62.

[56] Report of the Secretary General, "Larger Freedom: towards Security, Development and Human rights for all", UN doc. A/59/2005 of 2 March 2005, para. 154.

which, in turn, depends upon the definition - or better perspective - of legitimacy one decides to adopt.

1.2.1 Legitimacy

The issue of legitimacy, and lack there of, plays a prominent role in the critique to the Security Council. Many scholars have in fact pointed out the crisis of legitimacy the Council has gone through over the course of its history, often regarding it as one of its major weaknesses. As for the need for legitimacy itself as an unmissable ingredient for the Council's effectiveness, that is another point of heated discussion. Nevertheless, such discussion notwithstanding, often too conceptual and theoretical, there seems to be much agreement on the basic assumption that the Security Council' s power, as Hurd puts it, "is a function of the esteem in which the body is held by the membership of the United Nations in general" since "the foundation of this power is the legitimacy that actors confer on the organization"[57]. Such an assumption seems to be shared by Binder and Heupel who, examining the Council's perceived legitimacy among UN member states, through the analysis of evaluative statements made by states' representatives in UNGA debates on the UNSC, conclude that the Council "suffers from a legitimacy deficit in the eyes of member states" as "negative evaluations of the Council far outweigh positive ones"[58]. Significant in this analysis, and example of the complexity referred to in the introduction to this section, is that several different forms of legitimacy are described: one that is based on the Council's compliance with its mandate (legal legitimacy), one that is based on the quality of its decisions-making procedures (procedural legitimacy), one that judges its effectiveness (performance legitimacy)[59].

David Caron, back in 1993, exploring the impacts of legitimacy on the Council's effectiveness, thus focusing on performance legitimacy, to stand by Binder and Heupel's distinction, identifies five key examples where perceptions of illegitimacy may hamper the Council's effectiveness, by (1) impeding the adoption of a resolution although its underlying object not being questioned, (2) leading to the refusal of adopting a resolution, (3) making it difficult for states to build the necessary internal support to act under a resolution, (4) making states move slowly in supporting a resolution,

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[57] Ian Hurd, "Legitimacy, Power, and the Symbolic Life of the UN Security Council", *Global Governance* 8, no. 1 (2002): 47.

[58] Martin Binder and Monika Heupel, "The Legitimacy of the UN Security Council: Evidence from Recent General Assembly Debates", *International Studies Quarterly* 59, no. 2 (2015): 238-239.

[59] Ibid., 239.

(5) leading to actions and strategies which, whether voluntary or not, weaken the Council[60]. As for the origins of such perceptions of illegitimacy, Caron, having already uncovered what he refers to as the ironic reality of the Council's legitimacy going under question when, after the Cold War, it finally started functioning as it had been hoped, states that they may come both from its actions and from the absence of action[61]. Such a point is but one among many that explain the difficult task of finding a univocal answer to the question of the Council's legitimacy.

Challenges to the legitimacy of the Security Council nevertheless seem to be revolving around some key points. Langmore and Thakur define the erosion of the Security Council's legitimacy as the "authoritative validator of international security" in a quadruple manner: (i) performance, (ii) representation, (iii) procedure, and (iv) accountability[62]. The first one, in line with Caron and Binder and Heupel, assesses the Council's legitimacy in the light of its record of interventions and results in dealing with crises, while the following highlight other key points in the wide critique addressed at the Council and in the wide literature on the Council's reform[63]. As this distinction (performance, representation, procedure, accountability) shows, legitimacy seems to be an overarching theme, deriving from, and at times causing, the Council's poor performance, unequal representation, outdated and unsuitable procedure, lack of accountability.

1.2.2 Performance

As far as the Council's performance is concerned, thus its effectiveness in acting in situations where the maintenance of international peace and security is threatened or at stake, several scholars have noted that the Council has played a crucial role in reducing the incidence of international war, establishing peacekeeping operations which have helped in stabilizing situations, preventing larger conflict and fostering great power cooperation[64]. There also seems to be substantial agreement on the fact that the Council has accelerated its pace over the years, by adopting more resolutions (685 during its first 46 years compared to the 1650 from 1991 to 2016) the vast majority of which are

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[60]David D. Caron, "The Legitimacy of the Collective Authority of the Security Council", *The American Journal of International Law* 87, no. 4 (1993): 558.

[61] David D. Caron, "The Legitimacy of the Collective Authority of the Security Council", *The American Journal of International Law* 87, no. 4 (1993).

[62] John Langmore and Ramesh Thakur, "The Elected but Neglected Security Council Members", *The Washington Quarterly* 39, no. 2 (2016): 101-102.

[63] Ibid., 102.

[64] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 49-55.

adopted, with the percentage of resolutions vetoed significantly dropping, thus, on the whole, fulfilling its responsibility, notwithstanding its often denied ability to do so[65]. To this rather optimistic view over the Council's work, another seems equally, if not more, widespread. It is often put forward that, in many situations, the Council has been inactive or unable to reach decisions, or has done so with unnecessary haste[66]. Furthermore, among its greatest shortcomings would feature the inability to deal effectively with nuclear weapons, prevent mass atrocities and, more generally, failing to come to decisions at crucial times[67]. Both these perspectives seem confirmed by the High Level Panels' report where it is recognized that "since the end of the Cold War, the effectiveness of the Council has improved, as has its willingness to act", but "it has not always been equitable in its actions, nor has it acted consistently or effectively in the face of genocide or other atrocities"[68]. Therefore, the state of things, as far as the Council's ability and willingness to act in the face of threats is concerned, seems to be one where things are simultaneously better, and in urgent need of improvement.

In this view, the Council's effectiveness is intended, most logically, as its ability to tackle security threats and crises. This perspective seems the most adopted when assessing the Council's performance. In another perspective to evaluate the Council's action though, Bosco, referring to the increase in the Council's activity, shifts from this approach by adopting a dual perspective, whereby the Council can be judged on the basis of its ability to confront external challenges (referred to as the 'governance approach') but also on the basis of its ability to foster cooperation between major powers, namely for its impact on relations between its permanent members[69]. Adopting such an approach would uncover a most often hidden reality about the Council's utility, in that, seeing the body from a political perspective rather than a legal one, helps understanding it as "a politically driven consensus body, the value of which extends beyond its ability (or inability) to consistently enforce international law or even respond promptly to many security crises"[70].

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[65]John Trent and Laura Schnurr, "Peace and Security: Fixing the Security Council", in *A United Nations Renaissance: What the UN is, and what it could be*, 1st ed. Verlag Barbara Budrich (2018), 58-60.

[66]Vaughan Lowe, Adam Roberts et al*., The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 49-55.

[67]John Trent and Laura Schnurr, "Peace and Security: Fixing the Security Council", in *A United Nations Renaissance: What the UN is, and what it could be*, 1st ed. Verlag Barbara Budrich (2018), 61-63.

[68] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565, para. 246, 248.

[69] David Bosco, "Assessing the UN Security Council: A concert perspective", *Global Governance* 20, No. 4 (2014): 545-546.

[70] Ibid., 557

1.2.3 Accountability

Among the Security Council points of evaluation, features the 'accountability issue', often referred to as a crucial deficit and widely analyzed, both by the scolarship and, increasingly, by the Council itself. The concept of accountability is a multifaceted and complex one by nature and, when applied to international organizations, and specifically the Security Council, the question scales up to a higher degree of complexity. This complexity derives, first of all, from the fact that separating the organization itself from the states it is composed by, beyond the abstract legal level, is rather difficult[71]. Furthermore, simply put, being the SC a 'principal organ' of the United Nations, to whom it reports to/by whom it is held accountable, is less than straightforward.

Article 24 of the Charter is clear in providing that UN member states 'confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf'[72]. Consequently, the Council is ultimately only accountable to the UN members. Henderson notes that, by acting on its behalf, the Council is thus accountable to the UN's general membership[73]. While there may not be much controversy over the Council being accountable to the UN members, as provided by the Constitutional Treaty, of which the Council itself is a creation, going further and identifying a system of accountability in the UNSC-UNGA relationship, is more debated. Henderson states that being the UN's general membership represented by the plenary organ of the General Assembly, it follows that, the absence of a hierarchy among the six UN principal organs notwithstanding[74], the Council is accountable to the GA[75]. Furthermore, identifying in the ICJ's advisory function and in the GA's powers of discussion and recommendation the two institutional mechanisms thanks to which the Council is held accountable, Henderson supports that, by making greater use of them, the Council could make sure not being perceived as holding authority but lacking accountability[76]. Following this logic, although the GA not holding any power to discipline

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[71] Vaughan Lowe, Adam Roberts et al.*, The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 39.

[72] *Charter of the United Nations*, art. 24.

[73] Christian Henderson, "Authority without Accountability? The UN Security Council's Authorization Method and Institutional Mechanisms of Accountability", *Journal of Conflict & Security Law* 19, No. 3 (2014): 502.

[74] No hierarchy is provided by Art 7 of the UN Charter.

[75] Christian Henderson, "Authority without Accountability? The UN Security Council's Authorization Method and Institutional Mechanisms of Accountability", *Journal of Conflict & Security Law* 19, No. 3 (2014): 502.

[76] Ibid., 508-509.

over the Council's action, apart from the budgetary power provided by Article 17(1)[77], the UNSC would be accountable to the General Assembly. This opinion though is not shared by all those who, for instance, notice that while the annual report submitted by the Council to the GA[78] may be seen as a system whereby the Council is held accountable, it is in fact more of a gesture than a substantial system, given that, once received, there is nothing the General Assembly can do beyond debating it[79].

Leaving aside the 'who is the Council accountable to' debacle, the Council's lack of accountability, as defined by Webb and Michaelsen, would mainly come down to the Council functioning behind closed doors, with little transparency to the United Nations' general membership or to the broader public, with working methods that are mysterious and statements and resolutions which often leave room for interpretation[80]. This view of the Council's accountability deficit, formulates accountability in terms of the Council's procedure/working methods, stressing the importance of transparency and clarity. Since the end of the Cold War, the use of the term 'accountability' has radically increased in Security Council's decisions[81], specifically, to date, in 350 Resolutions and 90 Presidential Statements[82]. Furthermore, increasing the Councils' accountability through a reform in procedures and working methods, has been at the core of the Security Council's discourse of reform.

Furthermore, alongside reforming the Council's procedures and working methods, although with much less success and prospect of feasibility, feature, as will be better addressed later, reforming the council composition and distribution of power. Simply put, the Council's unrepresentativeness would derive from the United Nations' increased membership. Namely, the United Nations' member states, today almost four times the amount at the time the UN was founded, would be inadequately represented in a 15-member body. Furthermore, representativeness would be gravely

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[77] *Charter of the United Nations*, art. 17(1) states that '[t]he General Assembly shall consider and approve the budget of the Organization'.

[78] *Charter of the United Nations*, art. 24(3).

[79] Vaughan Lowe, Adam Roberts et al.*, The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 39.

[80] Philippa Webb and Christopher Michaelsen, "Strengthening the Accountability of the UN Security Council", *Journal of Conflict & Security Law* 19, No. 3 (2014): 385.

[81] Jeremy M. Farrall, "Rule of Accountability or Rule of Law? Regulating the UN Security Council's Accountability Deficits", *Journal of Conflict & Security Law* 19, No. 3 (2014): 398.

[82] These figures are taken from a full-text 'Find this phrase' search for 'accountability' in resolutions (symbol 'S/RES') and presidential statements ('S/PRST/'), respectively, on the United Nations Official Documents System: https://documents.un.org/prod/ods.nsf/xpSearchResultsE.xsp?sort=ADS&dir=ascending (accessed 5 December 2021). Such approach is the same as the one used by Farrall, with data updated at the time of writing.

undermined by the unequal distribution of power between the permanent (veto-holders) and the non-permanent members. Contained in Article 27 of the Charter[83], the permanent members' right of veto has been central in the critique directed at the Council. Addressed by virtually all reform proposals, the right of veto raises issues of both equality and representativeness[84]. The system of veto and its use (or threat of) has been in fact pointed to as severely detrimental to the Council's legitimacy and accountability, as well as a crucial cause for stall in the Council's negotiations and paralysis in its ability to act in the face of mass atrocities[85]. It has been widely recognized that, during the Cold War years, P5's interests and influence became "so pervasive" that " the veto effectively debarred the Security Council from taking action or recommending measures of any sort in many areas of the globe"[86]. Although drastically decreased in its use in the aftermath of the Cold War, the veto power held by the permanent members still plays a central role in the controversy surrounding the Security Council's legitimacy and effectiveness. More generally, the veto power has been pointed to as the main source of the Council's inequity, since, although formed under the auspice of equity, the Council would be equitable only to the P5, those coming out the Second World War victorious and charged with the power to stop the Council's action[87].

1.3 Security Council's Reform

The main points of criticism directed at the Security Council, briefly analyzed in previous section, go hand in hand with the attempts made to reform it. Reforming the Security Council has been a recurring theme, the first attempts and proposals going a long way back. Reforming the Council's composition and procedures has in fact been seen as one possible way to enhance its role and its legitimacy[88]. Providing with en exhaustive summary of the process of the Security Council's

[83] *Charter of The United Nations*, art. 27

[84] Bardo Fassbender, *UN Security Council Reform and the Right of Veto: A Constitutional Perspective*, (The Hague: Kluwer Law International, 1998), 8-9.

[85] Philippa Webb, "Deadlock or Restraint? The Security Council Veto and the Use of Force in Syria", *Journal of Conflict & Security Law* 19, No. 3 (2014): 471.

[86]N.D. White, *Keeping the peace: The United Nations and the maintenance of international peace and security*, (Manchester: Manchester University Press, 1997), 10.

[87] Adam Luper and Lauri Mälksoo, "Obstacles and Opportunities for Small States on the Security Council", *International Peace Institute* (2019), at 6, citing the Charter of the United Nations, Art. 2(1).

[88] Vaughan Lowe, Adam Roberts et al*., The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 32.

reform, and attempts thereof, would require its own work[89], thus, the following section will only briefly address the main steps made to reform the Council, which have revolved around the following core issues: the number of Permanent and Non-permanent members; the existence and scope of the veto power; the Council's working methods[90].

To date, the sole reform of the Security Council goes back to the above mentioned enlargement of its non-permanent membership (from 6 to 10) under Resolution 1991-XVIII, adopted in the General Assembly in 1963 and entered into force in 1965[91]. Recognizing the composition of the Security Council as "inequitable and unbalanced", the increase in the SC's non-permanent membership was deemed necessary due to the increase in the membership of the United Nations itself, gone from the 50 members at the moment of its founding to a total membership of 115[92]. Furthermore, the still now valid geographical distribution criterion was introduced, according to which

> *the ten non-permanent members shall be elected according to the geographical dimension:*
>
> *(a)   Five from African and Asian States;*
>
> *(b)   One from Eastern European State;s*
>
> *(c)   Two from Latin American States;*
>
> *(d)   Two from Western European and other States[93]*

Another important step followed when, with Resolution of the General Assembly 48/26 of 3 December 1993, the "Open-ended working group" (OEWG) was created, "to consider all aspects of the question of increase in the membership of the Security Council, and other matters related to the Security Council"[94]. The OEWG began its discussions in 1994 and, in the following years, the GA adopted annual resolutions proposing to continue the Open-ended working group's work, which consisted of several formal and informal meetings, alongside consultations with individual Member

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[89] For a more detailed recollection of all the steps in the history of the Security Council reform (and attempts at reform), see the 'Handbook on Security Council Reform: 25 years of deliberation', available at: https://pminewyork.gov.in/pdf/menu/pdf/L69InteractiveHandBook_11feb.pdf

[90] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 32.

[91] UN Doc. A/RES/1991 (XVIII). Available at: https://www.securitycouncilreport.org/un-documents/document/wmp-a-res-1991a-xviii.php (accessed 13 December 2021).

[92] Ibid., PART A.

[93] Ibid.

[94] Resolution of the General Assembly 48/26 of 3 December 1993. Available at: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WMP%20A%20RES%2048%2026.pdf (accessed 16 December 2021).

States and groups of Member States[95]. Over the years, the matters under the OEWG's discussions took the from of two clusters, the former regarding the issue of membership (and any membership related matter) and the latter, encompassing the Council's working methods, the transparency of its work and the nature of its communications with non-Council members[96]. Important changes were brought about only regarding the second cluster[97]. The OEWG's work led, in 1997, to a Report by the President of the General Assembly (PGA) Razali Ismail of Malaysia, Chairman of the Open-ended Working Group, which, taking the form of a GA Draft Resolution, proposed changes in the Council's membership and procedures and, although not decisive, it sparked and revitalized further discussions over the SC's reforms[98]. The uneven progress of the two clusters, and the lack thereof regarding the Council's membership, was also recognized by the 2000 OEWG's 54th session report which addressed the need "to continue exerting efforts during the fifty-fifth session, to achieve progress in the consideration of all issues relevant to the question of equitable representation[99]".

In 2004, similar efforts were recorded by the "High-level Panel on threats, challenges and change", created the previous year by the at the time Secretary-General Kofi Annan to study global security threats, provide an analysis of future challenges to international peace and security and recommend necessary changes[100]. The High-level Panel, an international panel composed of 16 eminent members, ranging from diplomats to politicians and experts, produced a report ("A more secure world: our shared responsibility"), in which it addresses, in clearcut terms, the unsatisfying progress made in reforming the SC[101]. Although recognizing the improved effectiveness of the Council since the end of the cold war, as well as admitting its increased willingness to act in the face of threats, the report points to its shortcomings when it comes to being "equitable in its actions" and addresses the consequences in terms of the Council's credibility and effectiveness[102]. In this regard, the report

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[95] "Handbook on Security Council reform: 25 years of deliberations", supra note 89, at 16.

[96] Ibid., 16. See also Lowe, *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, supra note 90, at 32.

[97] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 32.

[98] Interactive handbook on Security Council reform: 25 years of deliberations, supra note 89, at 16. For the full text text of the draft resolution see the handbook at 69.

[99] Report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council, GA Official Records Fifty-fourth session Supplement No. 47, UN Doc. A/54/47, 5.

[100] "Secretary-General names High-Level Panel to study Global Security Threats, and recommend necessary changes", Press Release, UN Doc SG/A/857 (2003).

[101] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565.

[102] Ibid**.,** para. 245-246.

points to an enlargement of the Council as necessary, to increase both its effectiveness and credibility, and proposes two models for reform, both involving an enlargement in the Council's membership to 24 members and a distribution of seats between four major regional ares, respectively "Africa", "Asia and Pacific", "Europe" and "Americas"[103]. None of the two models, referred to as A and B and described below, involve any expansion of the veto nor any modification to the UN Charter with regards to the Security Council's existing power:

- Model A: provides for six new permanent seats, with no veto being created, and three new two-year term non-permanent seats, divided among the major regional areas.
- Model B: provides for no new permanent seats but creates a new category of eight four-year renewable-term seats and one new two-year non-permanent (and non-renewable) seat, divided among the major regional areas[104].

The proposals for reform included in the report were not limited to the composition of the Council, meant to be challengeable and to be reviewed in 2020, but likewise referred to the Council's processes to improve its transparency and accountability and recommended that the several previous informal improvements made in the SC's deliberative and decision-making procedures be formalized in the Council's rules of procedure[105]. The report itself mentioned the divisive nature of the matter, by admitting that "the members of the Panel disagree about the models put forth for Security Council expansion and the method for determining criteria for Security Council membership"[106]. No agreement was in fact ever reached on how to amend the Council's membership, element viewable as symptomatic of deeper political tensions and underlying dynamics, crucial and yet often under-addressed when it comes to investigating the Council's efficacy and the ways to enhance it.

In 2005, crucial year in the history of the Security Council's reform, UN Secretary General (SG) Kofi Annan produced a report in which the absolute necessity of reforming the Security Council was confirmed and the two above mentioned models A and B over the enlargement of the Council's membership were endorsed and supported[107]. Later that year, the 2005 World Summit Outcome

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[103] Ibid., para. 250-254.

[104] Ibid.

[105] Ibid., para. 258.

[106] Ibid., 6.

[107] UN Secretary General, "In Larger Freedom. Towards Development, Security and Human Rights for All", UN Doc A/59/2005 (2 march 2005), para 169. Available at http://www.un.org/largerfreedom/contents.htm.

Document said little over the Council's reform and, although reform was supported as considered necessary to make the Council "more broadly representative, efficient and transparent, thus to further enhance its effectiveness and the legitimacy and implementation of its decisions", no effective stance was taken[108]. In the meantime, over the years, the issue was also addressed outside of the UN's doors, which led to the development of countries' position on the matter; inter alia, at the G4 (Brazil, Germany, India and Japan), CARICOM, the African Union, the 'Uniting for Consensus' group (UfC)[109]. By the end of 2005, said positions featured several different proposals regarding the Council's membership, with the G4 pushing for an increase to 25 members, the AU opting for 26, and the UfC holding the position according to which there should be no new permanent members, but solely ten new non-permanent members[110]. None of the propositions was put to the vote.

Critical in the process of the Council's reform was then, in 2008, the Decision by the General Assembly to begin a process of intergovernmental negotiations (IGN)[111]. Already emerged in the GA's 61st session, the previous years' OEWG's report had introduced the idea of such process, as a means of achieving concrete results on the issue of Security Council's reform[112]. With its 2008 Decision, the GA thus decided to commence negotiations which, based on "the positions and proposals of Member States, regional groups and other groupings of Member States", would consider five key issues, namely: (1) categories of membership, (2) the question of the veto, (3) regional representation, (4) size of an enlarged Council and working methods, (5) the relationship between the Council and the General Assembly[113]. The IGN began in February 2009, and, since the beginning of this process, no further meetings of the OEWG were convened, although the proposal of continuing the Open-ended Working Group's meetings was included (under the condition that Member States would want so) in all subsequent GA Decisions on the Security Council's

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[108] 2005 World Summit Outcome (16 September 2005), UN Doc A/Res/60/1, para. 152-154.

[109] Interactive handbook on Security Council reform: 25 years of deliberations, 17.

[110] Natalino Ronzitti, "The reform of the UN security council" in *Documenti IAI* 10 13 (Roma: Istituto affari internazionali, 2010), 9. Available at: https://www.iai.it/en/pubblicazioni/reform-un-security-council (accessed 12 December 2021)

[111] General Assembly Decision 62/557, 62nd session, 'Question of equitable representation and increase in the membership of the Security Council and related matters', UN Doc A/DEC/62/557 (15 September 2008).

[112] Report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council, GA Official Records Sixty-first Session Supplement No. 47, UN. Doc. A/61/47.

[113] General Assembly Decision 62/557 of September 2008, supra note 111, point (e) i and ii.

Reform[114]. Furthermore, the intergovernmental Negotiations did not lead to relevant changes in the states' positions and their related proposals[115].

As a brief review of the Council's process of reform shows, and confirmed by the literature, the recognition of the need of change, and the attention devoted to it, has not been matched by effective action. While the same does not apply with the Council's working methods, when it comes to its membership and the veto power, things are now as they were when the Council was first created, with the exception of the 1965 enlargement. With regards to the power of veto, divisive matter when the UN Charter was drafted and still controversial to this day, prospects of change are regarded so unfeasible to the extent that it has been said that "it would probably be easier to dissolve the UN than to amend the veto power under the Charter"[116]. While informal change of the Council's powers and working methods through practice has happened, prospects for reforming the Council's membership and veto power are extremely limited at best[117].

Debate over the Security Council's reform is ongoing, and while there may be much agreement on the need to change, division is still strong when it comes to the feasibility of reform. As observed by Webb, back in 2005, commenting on the OEWG's work, the reform process "continues to debate much and agree on little"[118]. Furthermore, it has also been put forward that placing excessive blame on the Council's composition and distribution of power, may eventually lead off track. While in fact reform proposals have often put the membership and the veto system at the core of the Council's ineffectiveness, the issue may lie somewhere else, in the more general differences among regional groups of states and the broader UN membership, or the complexity of the problems faced, for instance[119]. It has also been noted that making representativeness a proxy of legitimacy, may not be the right way to go considering that the UNSC was created, first and foremost, to be responsive and effective[120]. When it comes to the Council's effectiveness in dealing with the new challenges to international peace and security, it being gravely under question is clear, but whether enlarging the Council would ensure increased legitimacy and, in turn, make it more effective in tackling current

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[114] Interactive handbook on Security Council reform: 25 years of deliberations, at 146.

[115] Natalino Ronzitti, 'The reform of the UN security council', supra note 110, at 10.

[116] Philippa Webb, "Deadlock or Restraint? The Security Council Veto and the Use of Force in Syria", *Journal of Conflict & Security Law* 19, No. 3 (2014): 473,481.

[117] Ibid., 471,481-482.

[118] Thomas G. Weiss and Karen E. Young, "Compromise and Credibility: Security Council Reform?", *Security Dialogue* 36, No. 2 (2005): 140.

[119] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 33.

[120] Ibid.

threats, that is not straightforward[121]. It has also been pointed to the fact that, too often, calls for equity, by focusing on the asymmetry between the total number of states and SC's membership, end up leaving aside another significant elements, such as the imbalance between seats at the table and actual states' military capacity[122]. More in general, the scholarship focusing on the Council as a political organ and its diplomatic balances, reaches different conclusions when it comes to reforming the Council, if not on the necessity to do so, on the reality of the consequences that doing so would lead to.

Having taken into account the established critique according to which the Council has too often failed in dealing with the evolving international security threats, and delving into the literature over the Security Council's process of reform has uncovered how complex and multifaceted the matter is. Whether it is an issue of size in membership, the inequity deriving from the veto system, or a matter of procedures, is yet to be established. Also, the answer may change by throwing other fundamental elements into the mix, the specific security threat at stake for instance. Given the nearly impossible task of unequivocally figuring out where the obstacle lies, the approach will be that observing what elements emerge by investigating how the Security Council has dealt with selected non-traditional international security threats.

1.4 The Security Council and non-traditional Security Threats

> *In a very messy and interconnected world, a longer perspective requires us to ask hard questions about which issues and choices will be most consequential in the decades ahead– even if they don't necessarily generate the biggest headlines. A longer view also is essential because issues like terrorism, cyberattacks, biotechnology, and climate change invoke high stakes and will require sustained collaboration to address[123].*

As a brief summary of the critique to the Security Council and the process of reform the Council has gone through have shown, the debate is still very much ongoing over its role, shortcomings and the necessary changes to be adopted for it to fully fulfill its mission of maintaining international peace and security, in the twenty-first century. Whether it is a lack of transparency, accountability,

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[121] Ibid. See also Bosco, supra note 69, at 559.

[122] Thomas G. Weiss, "The illusion of UN Security Council reform", *The Washington Quarterly* 26, No. 4 (2003): 149.

[123]National Intelligence Council Report, "Global trends: paradox of progress", vi. Available https://www.dni.gov/files/documents/nic/GT-Full-Report.pdf (accessed 10 December 2021).

legitimacy or whether the Council's ability/inability to deal with current international security threats is determined by the underlying political dynamics between countries, is hard to establish. First of all, to analyze the role of the Security Council in dealing with current non-traditional international security threats, and identify the main obstacles it faces, a definition of such threats is necessarily due. Quite often, non-traditional security threats are dealt by providing examples or suggestions as to how they should be tackled. Unsurprisingly, an established and unique definition is often lacking, or, sometimes given by taking into account the perspective of a specific state or geographical area. Some common elements emerge, of course. First of all, non-traditional security threats are defined by what they are not. Traditionally in fact, security threats were observed "through the prism of state survival and conceived mainly in terms of interstate military conflict"[124]. State security was the main concern for the creators of the United Nations, thus the idea of a system of collective security was one where "States join together and pledge that aggression against one is aggression against all, and commit themselves in that event to react collectively"[125]. While it is clear that era of interstate military conflict as the main security threat is long gone, defining non-traditional security threats as purely non-military threats would nevertheless lead to an incomplete characterization.

The absence of an official and universally adopted definition notwithstanding, several elements emerge which allow for a few key criteria to be outlined. Langmore and Thakur, mentioning some of the most pressing challenges the world is facing, among which feature climate change and pandemics which will be part of the main analysis, state that they are "international in origin and nature, global in scope and effects, and require concerted multilateral action led by the major powers"[126]. Along the same lines, almost a decade earlier, the High Level Panel's report mentioned twenty-first century threats as being beyond national boundaries, connected, and to be addressed at the regional, national and global level[127]. Interesting, and crucial to a thorough understanding, is also another element included in the report, which is that of the difficulty in reaching agreement when it comes to regarding such challenges as threats to international peace and security, paramount in dealing with them, given that, as the report clearly states, "no State,

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[124] Shahar Hameiri and Lee Jones, "The Politics and Governance of Non-Traditional Security", *International Studies Quarterly* 57, No. 3 (2013): 462.

[125] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565, 11.

[126] John Langmore and Ramesh Thakur, "The Elected but Neglected Security Council Members", *The Washington Quarterly* 39, no. 2 (2016): 99.

[127] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565, 11.

no matter how powerful, can by its own efforts alone make itself invulnerable to today's threats"[128]. Taking these characterizations into account, throughout this work, non-traditional security threats (among which climate change and international health crises in particular have been chosen for the analysis) will be intended as:

A. Non-military

B. Connected

C. International - thus beyond national boundaries - both in nature and consequences.

D. To be addressed at the regional, national and global level

E. Not easily characterized as threats to international peace and security

1.4.1 The cases: Climate Change and International Health Crises

In light of the vast critique put forward according to which the Security Council would have failed to adapt to the changing international context and the nature of international threats and challenges to peace and security, specific cases have been chosen to evaluate the Council's role in dealing with international non-traditional security threats. Namely, Climate Change (Chapter 2) and International Health Crises, with a focus on the recent global pandemic of Covid19 (Chapter 3).

The above challenges have been chosen, first of all, on the basis of their urgency. As the report of the High Level Panel, above mentioned, has shown, the gravity of environmental degradation and health crises is all but new. They have been part of national as well as international security agendas for quite a long time now. The 2017 National Intelligence Council's report, identifies climate change, infectious diseases, with their related security implications, among the most pressing global trends transforming the global landscape[129]. In different extents, in fact, these topics emerge among the main non-traditional security threats to be addressed and tackled by the international community. Along the same lines in fact, Trent and Schnurr, addressing the Security Council's strengths and weaknesses, mention climate change and pandemics, among others like terrorism and mass migrations, as the main global challenges leading to 'insecurity'[130]. The outbreak of the Covid19 pandemic has, furthermore, given new momentum to the security discourse, given its farfetched implications on every other aspects of security. Although, understandably, included in the

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[128] Ibid.

[129] National Intelligence Council Report, "Global trends: paradox of progress", 5-6. Available https://www.dni.gov/files/documents/nic/GT-Full-Report.pdf (accessed 10 December 2021).

[130] John Trent and Laura Schnurr, "Peace and Security: Fixing the Security Council", in *A United Nations Renaissance: What the UN is, and what it could be*, 1st ed. Verlag Barbara Budrich (2018), 56-57.

analysis of the role of the Security Council in dealing with international health crises and infectious diseases, Covid19 has had an impact on every aspect of life and, thus, entered the wider security discourse and opened new perspectives in climate change and cyber warfare as well.

For each topic, the following methodology for analysis will be adopted: First of all, the issue will be presented, in order to assess its principal international security implications, as emerged both in the literature and in official international institutions' records. The analysis will then move on to evaluate whether the matter has been dealt within the Security Council. The goal will be to see if the matter has been recognized as a threat to international peace and security, directly or indirectly, implicitly or explicitly. Secondly, as far as the Council's action is concerned, this will then be evaluated by juxtaposing to the substantive characterization of the issue as a threat to international peace and security, the procedural aspects, namely the different Council's outcomes in terms of Resolutions, Presidential Statement, Notes, relevant meetings. In other words, a more extensive summary of the Council's practice and outputs will be provided. All the above material will be presented and investigated as to assess the involvement of the Council in the matter, its role and, were they identified, the main obstacles to its effective action in dealing with the chosen threats. The findings of such analysis will be evaluated and compared as to observe emerging patterns and asymmetries.

Climate Change: what role for the United Nations Security Council?

2.1 The Climate Change challenge: main international security implications

The awareness on the disastrous impacts of climate change has grown over the years, gaining significant momentum in the last decades, as the international community has been faced with the ugly truth that some of its consequences on the environment and human lives may be irreversible. The need for global action to stop or slow the process has been recognized and addressed, both nationally and internationally, to the point that bringing about the necessary changes in infrastructure and lifestyles has been regarded as the global governance challenge of our era[131]. According to the 2020 report published by the United in Science organization, a multi-organization high-level compilation of the latest climate science information, in spite of the global pandemic of Covid-19, the warming of the world has not stopped and it has reached unprecedented records as "concentrations of the major greenhouse gases, CO_2, CH_4, and N_2O continued to increase in 2019 and 2020" and "overall emissions reductions in 2020 will lead to a small reduction in the annual increase of the atmospheric concentrations of long-lived greenhouse gases"[132].

The climate emergency being far from groundbreaking news, concern has increasingly grown over the years as the international climate governance regime and the complex national and international architecture of organizations, initiatives and institutions set up to tackle the climate challenge, don't seem to have been enough to stop this disruptive process and the future appears rather frightening. This is true, in spite of the important steps taken by the international community within the international climate governance regime, embodied in the United Nations Framework Convention

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[131] Shirley V. Scott and Roberta C.D. Andrade, "The Global Response to Climate Change: Can the Security Council Assume a Lead Role?", *Brown Journal of World Affairs* 18, no. 2 (2012): 218.

[132] United in Science report (2020): 2. Available at: https://www.unep.org/resources/report/united-science-report-climate-change-has-not-stopped-covid-19 (accessed 15 January 2022).

on Climate Change (UNFCCC) and the 2015 Paris Agreement, its role and evolution further assessed below. As the United in Science report shows, global emissions, caused by human activities, have kept on growing and "current emissions of both CO2 and CH4 are not compatible with emissions pathways consistent with limiting global warming at 1.5 °C or well below 2 °C above pre-industrial levels, the goal of the Paris Agreement"[133]. This glaring and terrifying scenario is confirmed and thoroughly assessed in its technical scientific details by the Intergovernmental Panel on Climate Change (IPCC) whose latest Report as been referred to as a 'Code Red for Humanity'[134].

Together with the environmental impacts of rising sea levels and extreme weather events, climate change has been increasingly identified as an issue of global security as it has been said to be a contributing reason for conflict, forced migration, and a threat to food and human security[135]. The direct and visible consequences of climate change in terms of weather patterns, such as the melting Arctic, the frequent episodes of unprecedented droughts and extreme weather events of excessive and uncontrollable flooding and wildfires, have in fact been said to pose an even bigger challenge as climate change "will challenge the world's security architecture to prepare for and adapt to new security challenges, like disaster response, food security, and water availability"[136]. More over, widespread consensus has been reached over climate change acting as a 'threat multiplier', thus exacerbating existing threats, vulnerabilities and tensions and accelerating instability by multiplying issues like food and water scarcity and overpopulation, especially in 'hot zones' such as Sub-Saharian Africa, the Middle East, the Arctic, South Asia[137]. The interlinkages between climate and security have been increasingly recognized and addressed and with such recognition gaining ground, both within the literature and the international community, and the climate regime being,

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[133] United in Science report (2020): 2. Available at: https://www.unep.org/resources/report/united-science-report-climate-change-has-not-stopped-covid-19 (accessed 12 January 2022).

[134] Secretary-General Calls Latest IPCC Climate Report 'Code Red for Humanity', Stressing 'Irrefutable' Evidence of Human Influence, UN Doc. SG/SM/20847 (9 August 2021). Available at: https://www.un.org/press/en/2021/sgsm20847.doc.htm. For the full IPCC report, see https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf.

[135] Shirley V. Scott and Roberta C.D. Andrade, 'The Global Response to Climate Change: Can the Security Council Assume a Lead Role?', *Brown Journal of World Affairs* 18, no. 2 (2012): 216.

[136] American Security Project, "PART ONE:: CLIMATE CHANGE & SECURITY" (2012):1. Available at: (accessed 12 January 2022).

[137] American security project, "PART TWO: CLIMATE CHANGE & GLOBAL SECURITY" (2012): 11. Also see: Letter dated 9 September 2021 from the Permanent Representative of Ireland to the United Nations addressed to the Secretary-General, UN Doc. S/2021/782 (9 September 2021): 2. It is said that: "Climate change is not the only, or even the main, driver of conflict. Nonetheless, there is increasing evidence that climate change is a vector which increases the risk of violent conflict in many contexts".

until now at least, regarded insufficient to block it, calls have continuously grown for climate change to be addressed within the United Nations body charged with the maintenance of international peace and security. A greater involvement of the United Nations Security Council has in fact been proposed and debated and a strong controversy has shaped and grown, over the years, over whether it would be legitimate for the Security Council to act and whether its intervention would be effective. While the agreement over climate change having security implications has in fact been strong, an equally strong accord over it being a security issue deserving of the Security Council's attention, and intervention, has not yet been reached. The controversy over the Council assuming a lead role in climate change has sparked intense debates, assessed in this chapter, both in the literature and within the Council itself, reaching the highest peak in the last couple of years. For the Security Council to act, climate change would have to be included among "threats to international peace and security" and several arguments have been advanced for and against the Council's legitimacy to do so. On the one hand, several scholars support the legitimacy of the Council to act given its practice to adopt a dynamic interpretation of what constitutes a "threat to peace and international security", which would rightfully justify the inclusion of climate change under its mandate.

In contrast, arguments against the Council's intervention have been advanced on the grounds of it lacking the necessary expertise and ultimately being the inadequate forum to deal with the climate issue. The matter has also been debated within the Council itself, where, for the first time in 2007, intense disagreement has emerged among countries. Although the Council has not yet taken full charge of the climate issue, the climate-related security risks have been recognized and addressed within the UNSC. Yet, while the Council's action may seem, understandably, to inevitably stem out from such recognition, the matter is far more complex. Such complexity derives, first and foremost, by the complexity of the climate challenge. Climate change is in fact a multifaceted issue, its effects are ultimately global but also geographically diverse and not equal in intensity on all populations and countries, yet effective measures to face them requires strong and coordinated international effort. Furthermore, any action to deal with climate change necessarily must derive from, has impacts on, and intertwines with, complex national and international political dynamics. As the analysis of the evolution of the climate and security discourse within the Security Council shows, the effectiveness of any Security Council's action, as it assuming a role in the first place, rests on states' support. Thus, any Security Council's intervention, the vital importance of the climate-related security risks being widely recognized notwithstanding, ultimately comes down to the

Council's legitimacy to do so under its charter-mandated powers, sufficient States' support, political dynamics among its members and the broader international community.

2.1.1 The international climate governance regime: the evolution of the UNFCCC

Although highly contested in both its design and effectiveness, an international climate governance regime has been developed to foster the cooperation between countries in addressing the climate threat. Such regime has undergone significant evolution over the years, revolving around The United Nations Framework Convention on Climate Change (UNFCCC), adopted in Rio de Janeiro in 1992 and entered into force in 1994. Said Convention, which can currently count on a near-universal membership, defined climate change as "a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods"[138]. Based on such definition of the phenomenon, the Parties to the Convention agreed to adopt an instrument with the primary objective of achieving the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system"[139]. The Convention also stated that "such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner"[140].The UNFCCC, adopting the convention-protocol approach, laid out the institutional framework by specifying its architecture and establishing a process to reach its primary goal, the subsequent step of agreeing upon specific commitments being intendedly left to following protocols[141]. The Conference of the Parties (COP) - the Convention's supreme body composed by all the parties to the UNFCCC - is where decisions and new agreements are adopted[142], the last Conference (COP26) being held in Glasgow just at the end of last year (October-November 2021).

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[138] United Nations, 1992. *United Nations Framework Convention on Climate Change (UNFCCC)*, Article 1. Available at:https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf (accessed 10 February 2022)

[139] Ibid., Article 2.

[140] Ibid.

[141] Jonathan Kuyper, Heike Schroeder and Björn-Ola Linnér, "The Evolution of the UNFCCC", *Annual Review of Environment and Resources* 43, no. 1 (2018):345.

[142] Ibid., 346.

Major steps in the evolution and change of the climate regime under the UNFCCC are to be found in the 1997 Kyoto Protocol and the 2015 Paris Agreement. In short, the two instruments established systems of Greenhouse gases (GHG) emissions' reduction, although through very different mechanisms. Adopted in 1997, and entered into force almost a decade later in 2005, the Kyoto Protocol, following the division of countries into two Annexes I-II established by the Convention[143], set up a system whereby industrialized countries (listed in Annex I of the Convention) were meant to play the greatest role in reducing GHG emissions. Namely, the Protocol, placed heavier burden on industrialized countries, as those mainly responsible for the high level of GHG emissions, under the principle of "common but differentiated responsibility and respective capabilities"[144]. The Kyoto system, which focused on mitigation and ascribed emission reductions to industrialized countries, was later superseded by the 2015 Paris Agreement, adopted at COP21, which brought about a global system based on countries' voluntary contributions to mitigation and adaptation goals[145]. The evolution from the Kyoto Protocol to the Paris Agreement marked some major shifts in the climate governance regime: the system of legally binding emissions targets for industrialized countries was substituted by a system of voluntary contributions, thus the Annex system initially established by the Convention was abandoned; the top-down Kyoto architecture was displaced by a hybrid top-down and bottom-up system whereby both state and non-state actors are included as contributors to the Agreement; a triple goal of adaptation, mitigation and finance was added to the sole focus on mitigation established by the Kyoto Protocol[146].

While the international effort to build a system of climate governance has been significant, many have pointed to its shortcomings. Said regime has in fact been widely considered inadequate in tackling the climate change issue and reaching its audacious goals. In spite of the massive work put into COP negotiations and the significant advancements in the orientation, architecture and operational settings of the UNFCCC, emissions have continued to rise and the international efforts made to mitigate climate change don't seem to have been matched by adequate outcomes in terms

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[143] *United Nations Framework Convention on Climate Change*, supra note 137, Annex I,II .

[144] United Nations, 1997. *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, Article 10. https://unfccc.int/process-and-meetings/the-kyoto-protocol/history-of-the-kyoto-protocol/text-of-the-kyoto-protocol (accessed 10 February 2022).

[145] Jonathan Kuyper, Heike Schroeder and Björn-Ola Linnér, "The Evolution of the UNFCCC", *Annual Review of Environment and Resources* 43, no. 1 (2018): 345-346.

[146] Jonathan Kuyper, Heike Schroeder and Björn-Ola Linnér, "The Evolution of the UNFCCC", *Annual Review of Environment and Resources* 43, no. 1 (2018).

of mitigation and adaptation[147]. More than half a decade after the adoption of the Paris Agreement, its goals seem far from being reached. At the last Conference of the Parties COP26, held in Glasgow towards the end of 2021, both important successes and failures were registered. The Conference led to the adoption of the Glasgow Climate Pact[148], consisting of a set of decisions over building resilience to climate change, curb GHG emissions and providing required finance for both[149]. The major successes of the Conference were that countries "reaffirmed their duty to fulfill the pledge of providing 100 billion dollars annually from developed to developing countries and they collectively agreed to work to reduce the gap between existing emission reduction plans and what is required to reduce emissions, so that the rise in the global average temperature can be limited to 1.5 degrees"[150]. In addition, further relevant steps were taken in terms of transparency and future commitments. Crucial progress was also made in relation to the Paris Agreement since countries agreed to provide, by the end of 2022, with new commitments for emissions reductions and they managed to resolve previous disagreements by completing the Agreement's rulebook in its section concerning voluntary cooperation, a new carbon crediting mechanism, and non-market approaches, thus marking an important step to fully operationalize the Agreement[151]. The vital importance of the Conference and the resulting Climate Pact notwithstanding, several points of equal importance over its shortcomings have been raised. The disappointment over the outcome reached in Glasgow is well summarized in an Article published by the New York Times over the Security Council's failed attempt to adopt a resolution to include climate change in the Council's agenda in December 2021. The Article stated that "despite progress made to counter greenhouse gas emissions with an agreement reached at the U.N.-sponsored climate summit in Glasgow last month, that accord fell far short of what many scientists say will be required to curb rising temperatures and disastrous changes in weather patterns from a warming planet"[152]. In sum, the conclusion reached in Glasgow, the importance of its achievements in terms of mitigation, adaptation and finance

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[147] Jonathan Kuyper, Heike Schroeder and Björn-Ola Linnér, "The Evolution of the UNFCCC", Annual Review of Environment and Resources 43, no. 1 (2018):344,360.

[148] UNFCCC, *Glasgow Climate Pact*, 13 November 2021.

[149] UNFCCC, "The Glasgow Climate Pact – Key Outcomes from COP26". Available at: https://unfccc.int/process-and-meetings/the-paris-agreement/the-glasgow-climate-pact-key-outcomes-from-cop26 (accessed 16 January 2022).

[150] UNFCCC, "The Glasgow Climate Pact – Key Outcomes from COP26". Available at: https://unfccc.int/process-and-meetings/the-paris-agreement/the-glasgow-climate-pact-key-outcomes-from-cop26 (accessed 16 January 2022)

[151] See "COP 26 Outcomes", available at https://ukcop26.org/wp-content/uploads/2021/11/COP26-Presidency-Outcomes-The-Climate-Pact.pdf (accessed 10 January 2022).

[152] Rick Gladstone, "Russia Blocks U.N. Move to Treat Climate as Security Threat", *The New York Times*, 13 December 2021. Available at: https://www.nytimes.com/2021/12/13/world/americas/un-climate-change-russia.html (accessed 12 January 2022).

notwithstanding, seems to be that what had been done so far is not yet enough given the urgency of the climate threat.

While the international climate governance regime under the UNFCCC and the Paris Agreement remains of vital importance as the cornerstone of a wider system of international cooperation between state and non-state actors and networks all over the world, and it shall be regarded as a major achievement in fostering and coordinating efforts towards addressing the climate threat, its shortcomings should likewise not be undermined. The regime's inability to timely reach its goals and act at an adequate pace, along that of the deterioration of the planet due to environmental degradation and climate change, has been regarded as a key point as to why new solutions are necessary. The necessity for alternative solutions of global action has in fact increasingly been raised as the awareness of climate change's disastrous consequences on the environment and humankind continue to grow.

2.2 Climate Change and Security: the controversy over Security Council action

In order to better grasp the key arguments raised in the literature for and against the intervention of the Security Council in Climate Change, the issue shall be faced from a dual perspective. Such distinction, purely operated for analytical purposes, helps finding one's way through this complex matter. On the one hand, the topic can be looked through the climate-security lens, thus the heart of the matter being whether climate change does in fact cause security implications. On the other, inextricably linked to the former perspective, the question is rather whether the Security Council can and should, and if so, how, take responsibility and act on climate change. Both questions are highly debated. If, in fact, the security risks posed by climate change have been widely recognized, both by the literature and within the Council itself through several meetings, the nexus between climate and security is still subject of much controversy, especially when it comes to the link between climate change and violent conflicts, matter conventional notions of peace and security primarily focus on[153]. Such link has been object of vast research and analysis, from which the

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[153] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 2. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022)

difficulty of assessing the exact role climate plays in violent conflict has clearly emerged[154]. The complexity of pinning down how climate change impacts conflicts and assessing the causal relationship between the two has of course policy implications, which in part explains the difficulties the Security Council faces in adopting concrete measures to deal with the security implications of climate change[155]. Nevertheless, as already mentioned, consensus seems to have been reached, both in the scholarship and by the Security Council itself, on the recognition of climate change as a multiplier of threats. Namely, together with the direct impact of rising sea levels, extreme weather events and other environmental consequences, climate change acts as a "threat multiplier" in that it can exacerbate existing tensions[156]. Climate-related conflicts, the Darfur conflict a prominent example, would fall under the latter category of indirect impacts of climate change on security. This is confirmed by the 2007 post-conflict environmental assessment of Sudan, carried out by the United Nations Environment Program (UNEP), in which environmental factors, intertwined with a range of other social, political and economic issues, are identified as causative in the Sudan conflict[157].

Moving from the controversy over the climate-security nexus to the latter perspective of Security Council's action in addressing climate change, opens up to a wide range of additional questions. The debate, as emerged in the literature and in meetings held by the Council, revolves around several key interrelated issues: the Council's mandate (can climate change be included among 'threats to international peace and security' thus opening up the space for Council's action?), the effectiveness of the international climate governance regime put in place to deal with the climate emergency (is such regime effective? is its ineffectiveness solid ground to justify an intervention of the Council?), the appropriateness of the Council to intervene (would the Council be overstepping

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[154] Ibid., 3. For a thorough review of Empirical Analyses on the Links between Climate Change and Violent Conflict see: Kendra Sakaguchi, Anil Varughese, and Graeme Auld, 'Climate wars? A systematic review of empirical analyses on the links between climate change and violent conflict', *International Studies Review* 19, no. 4 (2017).

[155] Kendra Sakaguchi, Anil Varughese, and Graeme Auld, 'Climate wars? A systematic review of empirical analyses on the links between climate change and violent conflict', *International Studies Review* 19, no. 4 (2017): 641.

[156] Shirley V. Scott and Roberta C.D. Andrade, "The Global Response to Climate Change: Can the Security Council Assume a Lead Role?", *Brown Journal of World Affairs* 18, no. 2 (2012): 216.

[157] United Nations Environment Programme (UNEP), 'Sudan: Post-Conflict Environmental Assessment' (Nairobi, Kenya: UNEP, 2007), 8.

the role of other UN bodies? does the Council possess the appropriate tool to take up such responsibility), and the effectiveness of such action (does the Council rest on a sufficiently strong base of legitimacy to act on climate change? were it to act, would its action lead to the desired outcomes?). In the literature over climate change and security, several arguments for and against the Security Council's intervention, revolving around and elaborating on the above points, have been raised.

A widespread argument in favour of Council's action rests on the inefficacy of the current regime for climate governance. The need for a greater role of the Security Council has in fact been presented as inevitably necessary given the inadequacy, or better the limitations, of the current instruments of international environmental governance in tackling the issue of climate change. Such position is taken for instance by Cousins in stating that poor compliance and enforcement of the UNFCCC/Kyoto Protocol system, coupled with the lack of political will of States to agree on binding emissions reduction targets cause of the increasingly intense calls for other multilateral bodies to tackle the issue of climate change[158]. Another raisable argument, along the lines of regarding the current climate governance regime as inadequate, would be advocating for the Council' to intervene given its superior authority. Given the widespread recognition of the climate regime's shortcomings, and the urgency of the climate change threat, the Council would have to intervene given that although this body derives its authority from the United Nations constitutional treaty, thus a multilateral agreement between states, the UN Security Council goes beyond the multilateral treaty model as its decision under Article 39 would result in obligations upon countries that supersede any other obligation by other multilateral treaties[159].

Nonetheless, advocating for an intervention of the Security Council on these grounds, and more generally on the inefficacy of previous international instruments' in stopping the climate change disruptive tried, does not entail the legal legitimacy of the Council to intervene. The question, furthermore, is not whether the Council could intervene on climate change indirectly, as it already

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[158] Stephanie Cousins, "UN Security Council: playing a role in the international climate change regime?", *Global Change, Peace & Security* 25, no.2 (2013): 193, 209.

[159] *Charter of the United Nations*, art. 103: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail".

has by adopting resolutions over conflicts the causes of which are traced back to climate change. The question is rather whether it is legitimate for the Council to intervene directly, by acting under the framework on collective security provided by the UN Constitutional Treaty. Recognizing climate change as a matter of security, does not automatically entail an inclusion of climate change under the scope of the Security Council's powers. As enshrined by Article 24.1 of the UN Charter, the Security Council's primary responsibility is "the maintenance of international peace and security"; said responsibility, under which the Council carries out its duties, is conferred by the UN members on whose behalf the Council acts[160]. Given the responsibility it has been charged with, the Council can act in order to maintain or restore international peace and security against a threat. As far as the range of actions to be taken by the Council in fulfilling its mandate as defined in Chapters VI-VIII of the UN Charter is concerned, that is contingent upon the determination of "the existence of any threat to the peace, breach of the peace, or act of aggression"[161]. Thus, for the Security Council to take action with respect to climate change, climate-related impacts would have to fall under the normative framework on collective security of Article 39. The link between climate change and Article 39 has been, and so will be here from now on, established in relation to "threats to peace" only. This given the Security Council's practice to deal with non-traditional threats as "threats to peace"[162].

Voigt argues that the inclusion of climate change under the scope of Article 39 stems from three main legal arguments: (i) a dynamic interpretation of the provision, (ii) the commitment of the United Nations to the promotion of universal respect for human rights[163], and (iii) the breach of an essential international environmental obligation[164]. The broad interpretation and the margin of discretion the Council has in determining a threat to international peace and security, the purpose of the UN to promote universal respect for human rights, and States' breach of their environmental obligations set by the 1992 United Nations Framework Convention on Climate Change (UNFCCC), would thus provide the Council with the clear legal authority to adopt measures to prevent climate

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[160] *Charter of the United Nations*, art. 24[1].

[161] *Charter of the United Nations*, art. 39.

[162] Trina Ng, "Safeguarding Peace and Security in our Warming World: A role for the Security Council", *Journal of Conflict & Security Law* 15, no. 2 (2010): 283.

[163] *Charter of the United Nations*, art. 55(c).

[164] Christina Voigt, "Security in a "Warming World: Competences of the UN Security Council for Preventing Dangerous Climate Change", in *Security: A Multidisciplinary Normative Approach*, ed. Cecilia M. Bailliet (Leiden: Martinus Nijhof, 2009), 298-306.

change[165]. The argument according to which the legal authority of the Council would lie in its discretion to determine what qualifies as a threat to peace, thus the 'broad interpretation of Article 39' argument, is shared by several scholars. Scott and Andrade, along the same lines, justify the legal basis of climate change as a threat to international peace and security on the argument of the Council's past practice. Referring to the UNSC's previous resolutions 1373 and 1540 on terrorism and weapons of mass destruction (WMDs), they admit that the Council developed a model applicable to the threat posed by climate change, which is, as terrorism and WMDs, a global challenge with no clear temporal limitation for which no single state is uniquely responsible[166]. In the same vein, Penny states that article 39, while placing the determination of what amounts to a threat to international peace within the discretion of the Council, does not provide with further definition of the concept, which has instead expanded and evolved with practice to include non-traditional threats to human security[167]. He argues that a response to climate change under the Chapter VII framework, although not consistent with the original definition of a 'threat to international peace and security', would fit squarely within the Council's mandate in light of its past practice of applying Chapter VII not solely to interstate conflicts, but to internal conflicts, massive human rights catastrophes and other non-traditional threats[168]. Voigt's arguments (ii) and (iii) seem to be widely shared as well. Among the main purposes of the United Nations, as included in its constitutional treaty, there is that of promoting and safeguarding respect for fundamental human rights[169]. Being some fundamental human rights impacted by climate change, both directly and indirectly, an intervention of the Council would therefore be justified. The Intergovernmental Panel on Climate change (IPCC), the United Nations body for assessing the implications of climate change, in its 2014 report, provides with an extensive evaluation of the climate-related risks to the environment and to human systems. The physical effects of rising temperatures and rainfall, increased variability and extreme weather events are assessed together with their impact on human, socioeconomic and biological systems[170]. In addressing the main climate-related threats to human

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[165] Ibid.

[166] Shirley V. Scott and Roberta C.D. Andrade, "The Global Response to Climate Change: Can the Security Council Assume a Lead Role?", *Brown Journal of World Affairs* 18, no. 2 (2012): 220-221.

[167] Christopher K. Penny, "Greening the Security Council: Climate Change as an Emerging Threat to International Peace and Security", *International Environmental Agreements* 7 (2007): 48,57.

[168] Ibid., 57.

[169] *Charter of the United Nations*, art. 1[3].

[170] Michael Oppenheimer et al., "Emergent risks and key vulnerabilities", in *Climate Change 2014 Impacts, Adaptation and Vulnerability: Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessments Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press, 2014), 1039-1099. Available at: https://www.ipcc.ch/site/ assets/uploads/2018/02/WGIIAR5-Chap19_FINAL.pdf (accessed 10 January 2022).

security, the report states that "Climate change threatens human security because it undermines livelihoods, compromises culture and individual identity, increases migration that people would rather have avoided, and because it can undermine the ability of states to provide the conditions necessary for human security"[171]. In addition, a strong argument has been made for the Council acting within its powers of conflict prevention as assigned by the UN Charter. Namely, it has been stated that given the failing mitigation efforts to curb global emissions and the scientific evidence that the risks of conflict due to climate change are to become even greater in the future, "the Council has a Charter-mandated conflict prevention role that supports addressing climate risks before they deteriorate into violence"[172].

In contrast with the above mentioned views, the intervention of the Council in dealing with climate change has been questioned on several grounds. The debate has in fact also been shaped by the widespread mistrust of the Council's hierarchical procedures, objections to its unrepresentative composition and its lack of expertise to deal with the climate issue[173]. Conca, Thwaites and Lee state that the climate challenge fits poorly with the way the Security Council operates, given that its actions are mostly reactive, hierarchical, poorly informed and followed by weak monitoring and follow-through[174]. Nevertheless, most of the critique to the Council's involvement doesn't seem to be underpinned by the rejection of climate change as having security implications, or the denial of the Council's legal legitimacy to act under its mandate. Rather, the discourse revolves around the appropriateness of the Security Council as a forum to deal with climate change, given the high politicization of the climate change issue and the effectiveness that any measure taken by the Council would have, given the divides within the international community. Said divides are best understood by taking into account the occasions in which climate change had been dealt with, whether directly or indirectly, within the Security Council. The controversy in the scolarship over climate change as a threat to international peace and security and the possible role of the Security

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[171] W. Neil Adger et al., "Human Security", in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press, 2014), 762. Available at: https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5- Chap12_FINAL.pdf. (accessed 11 January 2022).

[172] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 3. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

[173] Ken Conca, Joe Thwaites, and Goueun Lee, "Climate change and the UN Security Council: Bully pulpit or bull in a china shop?", *Global Environmental Politics* 17, no. 2 (2017): 1.

[174] Ibid., 2.

Council is addressing the climate threat is in fact mirrored in the Security Council's discussions and outcomes, where both strong support and strong opposition, as will be later addressed, has emerged.

2.3 Climate Change within the Security Council

The scholarly debate between those who advocate for a greater role of the Security Council in climate change and those who reject it, is mirrored in the international community. In fact, if the nexus between climate change and the broader matter of international security has been accepted and straightforward for some, it has certainly not been fully agreed upon by States. This is best understood by taking into account how, to date, the Security Council has engaged with climate change, thus it will be the goal to provide with an exhaustive summary of the more relevant steps made by the council over the years through an analysis of its practice and outputs.

The debates held within the Security Council over climate change and its implications on international security, the first being in 2007, are reported below. The security implications of climate change, and the extent to which it is legitimate for the Council to assume a lead role in relation to such issue, were raised and debated and, over the course of the discussions, several different views emerged. These allow for a better understanding of the positions of countries on the matter and how the controversy has evolved over time. Over the last 15 years, since the Security Council held its first ever debate, the environmental/security discourse has grown and, although no dedicated resolution has yet been passed, to date, the Council's involvement has significantly evolved. The UNSC's engagement with climate change has in fact greatly accelerated in the last years and, in addition to the above mentioned thematic debates, several Arria formula meetings have been held on the security implications of climate change. These are also reported below, together with UNSC relevant meetings not regarding specifically climate change and security but topics closely related to the matter. Furthermore, the language on climate change and security is increasingly being used and it has continuously evolved in the Security Council's outcomes, such evolution being embodied in a wide array of country- and region-specific Presidential Statements and Resolutions[175].

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[175] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 5. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

Reporting and investigating such a rich body of material in a systematic and well-structured manner is a rather challenging task. For the sake of the analysis and for the evolution of the climate-security discourse within the Security Council to be better understood, the outcomes have therefore been organized as follows: firstly, thematic debates over climate change and security will be reported, together with Arria formula meetings, in a chronological order since the first debate held in 2007. Along the way, other outcomes are included, such as the GA Resolution A/RES/63/281, GA Report A/64/350 and the only UNSC Presidential statement, to date, specifically referring to climate change as a threat to international peace and security[176], as relevant to the analysis. Secondly, the evolution of the Climate-Security discourse within Security Council outcomes will also be addressed referencing: the meetings held within the Council on topics related to climate change and security; Resolutions and Presidential Statements on the impacts of climate change on specific countries and regions. Finally, the most relevant institutional and research initiatives are included.

2.3.1 Thematics Debates and Arria Formula meetings

Called by the United Kingdom and chaired by then-British Foreign Secretary Margareth Beckett, the Security Council held its first-ever debate on climate change and international peace and security in 2007, where it discussed the interlinkages between energy, climate, and security[177]. With the participation of more than 50 delegations, although not followed by concrete actions, the 2007 debate was crucial in that it raised awareness on the consequences of climate change and provided a forum for sharp oppositions over a greater role of the Council in the international response to climate change to emerge[178]. In sum, two general views came out. A first group of nations, including European states, small island states and some of the developing countries most affected by climate change, referring to a broad interpretation of the concept of security, argued in favor of having the Council deal with climate change as the issue would fall within its mandate[179]. On the

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[176] Statement by the President of the Security Council, UN Doc S/PRST/2011/15 (20 July 2011).

[177] UN Document released by the UN Department of Public Information, News and Media Division, 'Security Council Holds First- ever Debate on Impact of Climate Change on Peace and Security'. UN Doc SC/9000, 17 April 2007. Available at: https:// www.un.org/press/en/2007/sc9000.doc.htm (accessed 18 December 2020). For the full transcript of debate see U.N. Doc. S/PV.5663 (17 April 2007).

[178] Christina Voigt, "Security in a "Warming World": Competences of the UN Security Council for Preventing Dangerous Climate Change", in *Security: A Multidisciplinary Normative Approach*, ed. Cecilia M. Bailliet (Leiden: Martinus Nijhof, 2009), 292.

[179] Francesco Sindico, "Climate Change: A Security (Council) Issue?", *Carbon & Climate Law Review* 1, no. 1 (2007): 32.

contrary, several countries (among which most of the leading developing countries such as China, Brazil, India and South Africa) opposed such views, regarding climate change as a sustainable development question rather than a security issue, the Council being the inadequate forum to deal with climate change[180]. On behalf of China and the group 77, the Permanent Representative of Pakistan to the United Nations wrote to the President of the UNSC, days before the debate was scheduled to take place. In the letter, the Representative stated in clear-cut terms that the issue of climate change was a matter of sustainable development, thus to be addressed by the relevant bodies of the United Nations; a role for the Security Council was simply not envisaged as it would represent yet another encroachment by the Council on the roles and responsibilities of other principal organs and a distortion of the principles and purposes of the Charter[181]. This argument was then raised during the debate as well. Writing in the aftermath of the 2007 meeting, Sindico argues that the highly contrasting views on the matter notwithstanding, by bringing the issue of climate change as a security issue before the Council, the discussion elevated climate change to a new level[182]. Namely, rather than the outcome, the success has mainly been found in that the issue reached the Council, thus in the debate itself.

In 2011, Germany organized a second debate focusing on the security implications of climate change[183]. In between the two debates, extremely relevant on the road to the recognition of climate change as an issue of security, The United Nations General Assembly (GA) adopted resolution 63/281 in which it recognized the possible security implications of climate change[184]. Two months later, in September 2009, a Report of the Secretary General (A/64/350) was published over the possible security implications of climate change[185]. The report, highlighting climate change as a 'threat multiplier', thus exacerbating existing threats to international peace and security, points to "a set of emerging climate change-related threats which merit the focused attention and increased preparedness of the international community, namely, those that appear highly likely, are large in

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[180] Ibid., 33.

[181] Permanent Representative of Pakistan to the UN, Letter dated 16 April 2007 from the Permanent Representative of Pakistan to the President of the Security Council, UN Doc S/2007/211 (16 April 2007).

[182] Francesco Sindico, "Climate Change: A Security (Council) Issue?", *Carbon & Climate Law Review* 1, no. 1 (2007): 33.

[183] Permanent Representative of Germany to the UN, Letter dated 1 July 2011 from the Permanent Representative of Germany to the United Nations addressed to the Secretary-General, U.N. Doc. S/2011/408 (1 July 2011). Available at: https://www.un.org/en/ga/ search/view_doc.asp?symbol=S/2011/408.

[184] G.A. Res. 63/281, 'Climate Change and its Possible Security Implications', UN Doc A/RES/63/281 (11 June 2009).

[185] Report of the Secretary-General, "Climate change and its possible security implications", UN Doc A/64/350 (11 September 2009).

magnitude, may unfold relatively swiftly, and are unprecedented in nature, including: loss of territory, statelessness and increased numbers of displaced persons; stress on shared international water resources, for example, with the melting of glaciers; and disputes surrounding the opening of the Arctic region to resource exploitation and trade"[186]. Despite the GA's resolution and the following report, strong opposition remained during the 2011 Security Council's debate from China, Russia and the group 77, among which Brazil is illustrative as the Representative regarded security tools inadequate to address complex and multidimensional issues such as climate change[187]. Nevertheless, some notable shifts occurred between 2007 and 2011. Secretary-General Ban Ki-moon, opening the Council debate in 2011, pointing to the devastating impact of extreme weather and rising seas, recognized climate change as both an indirect and direct security threat, by stating that "not only (climate change) exacerbates threats to international peace and security; it is a threat to international peace and security[188]". More over, the United States, neutral in 2007, supported Security Council's action in 2011[189] and some members of the group 77 broke from the group's overall view and recognized a limited role for the Security Council in addressing climate change[190]. Most importantly, unlike its 2007 predecessor, the 2011 debate produced a Presidential Statement[191]. In the Statement, climate change is once again identified as a threat multiplier, but the appropriate forum for addressing it is to be found in the key instrument of the UNFCCC[192].

The 2007/2011 debates were, understandably, seen as key steps in the process of recognizing the security threats posed by climate change. The presidential statement, in particular, although not legally binding, was seen as an important signal of the Council moving in the direction of assuming a lead role in the global response to the climate issue[193]. The relevance of the debates notwithstanding, the possibility of the Council playing a greater role in addressing climate change

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[186] Ibid., 2

[187] Statement of the Brazilian Delegation, UN Doc S/PV.6587 (July 20, 2011): 8.

[188] "Security Council, in Statement, Says 'Contextual Information' on Possible Security Implications of Climate Change Important When Climate Impacts Drive Conflict", UN Doc SC/10332 (July 20, 2011).

[189] UN Doc S/PV.6587, at 6. Statement of the United States of America Delegation: "Climate change has very real implications for peace and security. Its effects are as powerful as they are complex, and many of them are already upon us."

[190] Dane Warren, "Climate change and international peace and security: Possible roles for the U.N. Security Council in addressing climate change", *Columbia Law School, Sabin Center for Climate Change* (2015): 2-3.

[191] Statement by the President of the Security Council, UN Doc S/PRST/2011/15 (July, 20, 2011).

[192] Ibid., 1.

[193] Shirley V. Scott and Roberta C.D. Andrade, "The Global Response to Climate Change: Can the Security Council Assume a Lead Role?", *Brown Journal of World Affairs* 18, no. 2 (2012): 215,217.

emerged, on both occasions, as strongly opposed. Binder and Heupel, after a thorough investigation of the countries' statements during the debates, concluded that, although marginally grown over time, the Council could not draw on a sufficient reservoir of legitimacy given that those who conferred such legitimacy only slightly outnumbered those who denied it[194].

Two other debates, in 2018 and 2019, under the presidency respectively of Sweden and the Dominican Republic, were held within Security Council in order to assess the impact of climate change on international security[195]. Further relevant steps were taken. China, while not coming to a full acceptance of climate change as a security issue, significantly moved from its initial positions, recognizing its indirect effect in "inducing natural disasters and posing threats to food security, water resources, the ecological environment, energy, human life and property"[196]. Russia, on the other hand, reiterated its firm opposition to a link between climate change and security, expressing in the 2018 meeting its refusal "to be reconciled to the fact that today's meeting is yet another attempt to link the issue of preserving the environment to threats to international peace and security[197]. Hanna Söderbäck, in a thesis specifically dedicated to the process of "securitization" of climate change within the UNSC, assessing in detail the debates which have been here very briefly recounted, regards the attempts of those advocating for such recognition to have come to a partial success. In her view, the attempt at securitizing climate change was partially successful as the issue gained recognition, even though not from the whole audience[198]. While this may be true, strong opposition still persisted, leading to the inevitable conclusion that the Council would require far more support from its members for it to intervene and for any intervention to be effective.

In the years preceding the 2018 debate, as well as after the 2019 discussion, several Arria Formula meetings were held on the topic of the security implications of climate change. Specifically, one in 2013 on the initiative of Council members Pakistan and the UK, one in 2015 on the initiative of Spain and Malaysia, and two in 2017, on the initiative, respectively: of Council member Ukraine (with cooperation from non-Council member Germany) and France, Italy, Japan, Sweden; of the

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[194] Martin Binder and Monika Heupel, "Contested legitimacy: The UN Security Council and climate change", in *Climate Change and the UN Security Council* (Edward Elgar Publishing, 2018), 2-3, 19.

[195] For the full transcripts of the debates see UN Doc S/PV.8307 (11 July 2018) and UN Doc S/PV.8451 (25 January 2019).

[196] Statement of the Chinese Delegation, UN Doc S/PV.8451, at 15.

[197] Statement of the Russian Delegation, UN Doc S/PV.8307, at 16.

[198] Hanna Söderbäck, "The "warming war": Securitizing climate change at the UN Security Council" (2020): 53. Available at: https:// www.diva-portal.org/smash/record.jsf?pid=diva2%3A1415678&dswid=-5445 (accessed 8 January 2022).

UK (with cooperation of the Netherlands, Peru, Germany, the Maldives and Morocco)[199]. Once again, in April 2020, an Arria formula meeting over the role of the Security Council, and the United Nations as a whole, in preventing climate-related security risks was organized by Council members Belgium, France, the Dominican Republic, Estonia, Germany, Niger, Saint Vincent and the Grenadines, Tunisia, the United Kingdom, and Viet Nam[200]. In a Letter from the Permanent Representative of France to the United Nations addressed to the President of the Security Council, this Arria Formula meeting is summarized, so to allow for the main ideas and arguments emerged in the debate to be understood and shared[201]. In the meeting, the consequences of climate change on international peace and security are recognized and mentioned and, once again, climate change emerges as a threat multiplier. Crucial points of the Arria Formula meeting though, as they emerge from the summary, seem to be the hard-to-define relationship between climate change and conflict, on the one hand, the characterization of climate change as a threat to international peace and security, thus to be handled by the Security Council, on the other. Among the meeting's participants in fact, there seems to be no agreement over any of the two. Although the vast majority of delegations expressed favorably over the Security Council taking charge on Climate Change-related risks to international peace and security, disagreement was voiced over an involvement of the Council, once again pointing to the weak link between the effects of climate change and international peace and security as "these are challenges that should be dealt primarily with development tools" and "securitization of the climate change agenda should be avoided"[202].

In the last two years, other thematic debates within the Security Council were held over Climate Change and Security. Namely: "Climate and Security" (24 July 2020); "Humanitarian effects of environmental degradation and peace and security" (17 September 2020); "Maintenance of international peace and security: Climate and security" (23 February 2021); "Maintenance of international peace and security: climate and security" (23 September 2021)[203]. Chaired by German

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[199] For all the Arria formula meetings in detail held by the Security Council see: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/working_methods_arria_formula_meetings.pdf

[200] Security Council Report, 'Arria-formula Meeting on "Climate and security risks: the latest data', 21 April 2020. Available at: https://www.securitycouncilreport.org/whatsinblue/2020/04/arria-formula-meeting-on-climate-and-security-risks-the-latest-data.php

[201] Letter dated 11 May 2020 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council, UN Doc S/2020/392 (13 May 2020).

[202] Letter dated 11 May 2020 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council, UN Doc S/2020/392 (13 May 2020): 5.

[203] For the verbatim records see: UN Doc S/PV. 8748 (24 July 2020); and letters transmitting briefings from open debates held in VTC: S/2020/929 (17 September 2020); S/2021/198 (23 February 2021); S/PV.8864 (23 September 2021).

Foreign Minister Heiko Maas, the "Climate and Security" meeting of July 2020, constituted the fifth thematic debate, the first dating back to 2007 debate mentioned above[204]. Over the course of the debate, although concrete proposals were advanced in regards to a stronger role of the Council in tackling climate change, no substantial changes were recorded and no agreement was reached. Namely, while a vast majority of delegations underscored climate change's direct and indirect consequence on peace and security (especially those speaking for the most impacted areas such as small islands developing states), a few, yet fundamental members (notably Russia and China) confirmed their refusal of climate change as a generic security issue and restated that it is rather a matter of sustainable development[205]. The debate held two months later over the humanitarian effects of environmental degradation saw no change in the position of the two major veto-holding opposers. The Deputy Permanent Representative of the Russian Federation to the United Nations, Dmitry Chumakov, expressed in clear-cut terms that "There is no automatic link between environmental issues, including climate change, and conflict"[206]. The Permanent Representative of China, while admitting the context-specific yet ultimately global impacts of climate change on people's livelihoods and resources, pointed to the UNFCCC and the Paris Agreement as the appropriate forum for the climate challenge to be tackled, as " if climate change has security implications, then the implementation of the Paris Agreement on Climate Change and other aspects of the international consensus on climate change matters not only to the environment, but also to international peace and security"[207]. Two other thematic debates were held just last year, where, as far as China's and Russia's stances over the recognition of the link between climate change and conflict, or the potential role of the Security Council in the fight against climate change, no shifts were recorded.

In the debate held in September 2021 under the Irish Presidency, the role of the Security Council in tackling the security risks posed by climate change has been pointed to by many as necessary, vital,

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[204] UN Doc S/PV.5663

[205] Climate Diplomacy, "Summary: UNSC Open Debate on Climate and Security– 24 July 2020", 30 July 2020. Available at: https://climate-diplomacy.org/magazine/cooperation/summary-unsc-open-debate-climate-and-security-24-july-2020 (accessed 15 January 2022).

[206] Letter dated 21 September 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2020/929 (23 September 2020): 25.

[207] Letter dated 21 September 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2020/929 (23 September 2020): 16.

yet "too painfully slow"[208]. Yet, once again, no agreement was reached and, after several interventions advocating for the inclusion of climate change in the Security Council's agenda, the discussion was concluded by the opposing statements of the Russian and Chinese delegations[209]. The Russian delegate, stated that "the persistent and insistent attempts to advance the premise of climate change as a threat to international peace and security in the Security Council agenda at all costs introduces a completely unnecessary political component to an already complicated and sensitive discussion", concluding that "the Security Council is a very serious but not universal instrument at the disposal of the United Nations, and its use is liable to backfire with respect to our struggle to counter climate change"[210].

It comes with no surprise that, on the 13th of December 2021, when a draft resolution was voted on by the Security Council to include the security risks posed by climate change as central component of the UN's conflict−prevention strategies, with 12 votes in favour, 2 against (India and Russia), and China's abstention, the Resolution did not pass[211]. The vote on 13 December, which, if successful, would have led to the ground-breaking achievement of officially according, for the first time, climate change with its role as a threat to international peace and security, "sank a years-long effort to make global heating more central to decision-making in the UN's most powerful body"[212]. The resolution would have in fact "integrated climate−related security risk as a central component of United Nations conflict−prevention strategies"[213]. The vote was preceded, on 9 December, by a high-level open debate of the Council on "security in the context of terrorism and climate change", where the vast majority of speakers expressed support for the draft resolution[214]. Yet, before and after the vote, no agreement was reached among the Council's members over the content the

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[208] Differences Emerge over Appropriate Forum for Discussing Climate Change, as Delegates Hold Debate on Links between Global Crisis, Security. UN Doc SC/14644 (23 September 2021). Available at: https://www.un.org/press/en/2021/sc14644.doc.htm (accessed 12 January 2022)

[209] UN Doc S/PV.8864.

[210] UN Doc S/PV.8864: 19-20.

[211] Security Council Fails to Adopt Resolution Integrating Climate-Related Security Risk into Conflict-Prevention Strategies. UN Doc SC/14732 (13 December 2021). Available at: https://www.un.org/press/en/2021/sc14732.doc.htm (accessed 15 January 2022)

[212] Associated Press in New York, "Russia vetoes UN security council resolution linking climate crisis to international peace", *The Guardian*, 13 December 2021. Available at: https://www.theguardian.com/world/2021/dec/13/russia-vetoes-un-security-council-resolution-climate-crisis-international-peace (accessed 12 January 2022)

[213] UN Doc SC/12732.

[214] People, Countries Impacted by Climate Change Also Vulnerable to Terrorist Recruitment, Violence, Speakers Tell Security Council in Open Debate. UN Doc SC/14728 (9 December 2021). Available at: https://www.un.org/press/en/2021/sc14728.doc.htm (accessed 12 January 2022)

resolution and the very idea that climate change should be included in the organ's agenda[215]. Focal point of the vote was the interplay between the new instrument under discussion and the international climate governance regime under the UNFCCC and the Paris Agreement. The United States, through its delegate speaker, rejected the notion that Security Council's action would entail undermining the Paris Agreement, stressing that, on the contrary, Council's action could and should "complement, support and reinforce collective work under those instruments"[216]. India advanced an argument according to which, on the contrary, attempting to bring climate change into the Security Council's discourse, the inappropriate forum to do so, "appears to be motivated by a desire to evade responsibility in the appropriate forum"[217].

2.3.2 *The evolution of the Climate-Security discourse through Security Council outcomes: Meetings on topics related to climate change and security, Resolutions and Presidential Statements on specific regions*

In addition to the meetings referred to above, held within the Security Council specifically over climate change and security, the topic has been addressed by the Council in several other debates, over the years, not specifically dedicated to the security risks posed by climate change. The Council has in fact dealt with the interlinkages between climate and security also in broader discussions held over non-traditional threats to international peace and security, among which climate change has often been included, or in discussions held over specific climate related topics[218]. The full recollection of such events well beyond the scope of this analysis, some examples are worth being mentioned: for instance, in a briefing presided by Portugal in November 2011, climate change was addressed, together with transnational organized crime and pandemics, as one of the defining challenges of our time and, moreover, defined as "the defining challenge of our times, one that interacts with and reinforces the other global mega-trends, such as population

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[215] People, Countries Impacted by Climate Change Also Vulnerable to Terrorist Recruitment, Violence, Speakers Tell Security Council in Open Debate. UN Doc SC/14728 (9 December 2021). Available at: https://www.un.org/press/en/2021/sc14728.doc.htm (accessed 12 January 2022)

[216] Ibid.

[217] Ibid.

[218] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 7. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

growth; urbanization; growing food, water and energy insecurity; and the risk of pandemics"[219]. Furthermore, the more recent debate held over the contemporary drivers of conflict and instability and insecurity, held on 3 November 2020 via teleconferencing due to the global pandemic, dealt with the security implications of COVID-19 and climate change, referred to as among the most pressing new threats to international peace and security[220]. Climate change was also addressed, in its security implications, in debates convened over narrower yet related specific topics. For instance, in a meeting held in 2017 over preventive diplomacy and transboundary waters, the international security risks posed by climate change are explicitly referred when it is said that "traditional water-management policies are the result of the effects of climate change and have exposed a crisis that spark new local, regional and global tensions, which jeopardize the peace and security of nations"[221].

As already assessed, over the years, with a stark growth since 2017, climate change and its related security risks have been increasingly introduced into the language of Security Council outcomes. Such shift has not solely consisted in climate-security language growing in number, but such change has also been in terms. Since 2017 in fact, contrary to the previous tendency of the Council to express concern over climate change as part of a broad list of political and security threats, outcomes have stressed the importance of dealing with climate change and its adverse effects with adequate risk assessments and risk management strategies[222]. Such language, in addition to a few previous thematic outcomes[223], has since 2017 been integrated primarily in country-specific Presidential Statements and Resolutions, dealing for the most part with Africa[224]. Resolution 2349 on the Lake Chad Basin region in 2017, which recognized the "adverse effects of climate change and ecological changes among other factors on the stability of the Region, including through water

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[219] UNSC 6668th meeting, UN Doc S/PV.6668 (23 November 2011): 5.

[220] Letter dated 5 November 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2020/1090 (12 November 2020).

[221] UNSC 7959th meeting, UN Doc S/PV.7959 (6 June 2017).

[222] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 8. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

[223] See: Maintenance of international peace and security, UN Doc S/PRST/2011/15 (20 July 2011); Threats to international peace and security caused by terrorist acts, UN Doc S/PRST/2014/17 (27 august 2014); Women and peace and security, UN Doc S/RES/2242 (13 October 2015).

[224] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 8. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

scarcity, drought, desertification, land degradation, and food insecurity"[225] set a model for wording the climate and security nexus in several following country-specific outcomes. In the years following the Lake Chad resolution, several Resolutions and Presidential statements have been adopted, recognizing the negative impact of climate change in, to mention a few, West Africa and the Sahel, Somalia, Malia, the Central African Republic[226].

2.3.3 Relevant Institutional and Research Initiatives

Since 2018, several relevant institutional developments and research initiatives have been established to assess and coordinate over the security risks of climate change, namely the Climate-Security Mechanism (CSM) in 2018, the Group of Friends on Climate and Security on the same year, the Informal Expert Group of Members of the Security Council on Climate and Security in 2020[227]. The CSM was born as a joint initiative of the UN Department of Political and Peace-building Affairs (DPPA), the UN Development Programme (UNDP), and the UN Environment Programme (UNEP) in order to help the UN system address climate-related security risks more systematically and strengthen its capacity to analyze and address the impacts of climate change on peace and security[228]. The CSM works with partners all over the world and is composed by a small staff drawn from the three entities whose joint effort led to its foundation, and, as recalled by its 2021 progress report, it "engages in a range of activities related to integrated analysis and action, awareness raising, partnerships, capacity building, and the co-creation and management of knowledge"[229]. The Group of Friends on Climate and Security, counting 27 UN members at the time of its foundation and 57 as of last year (with all five UN regional groups represented), was

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[225] United Nations Security Council (UNSC) Resolution 2349 (2017), adopted 31 March 2017, UN Doc S/RES/ 2349(2017) : 7.

[226] United Nations Security Council (UNSC): West Africa and the Sahel (S/PRST/2018/3) (S/PRST/2019/7) (S/PRST/ 2020/7), Somalia (S/RES/2408) (S/RES/2431) (S/RES/2461) (S/RES/2472) (S/RES/2520) (S/RES/2540) (S/RES/2568), Mali (S/RES/2423) (S/RES/2480) (S/RES/2531) (S/RES/2584), Sudan (S/RES/2429) (S/RES/2524) (S/RES/2579), Central African Republic (S/RES/2448) (S/RES/2499) (S/RES/2552).

[227] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 9-12. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

[228] Patrizia Albrecht, "Joint efforts for Sustaining Peace: Meet the UN Climate Security Mechanism", 23 August 2021. Available at: https://www.unssc.org/news-and-insights/blog/joint-efforts-sustaining-peace-meet-un-climate-security-mechanism/ (accessed 12 January 2022).

[229] United Nations, "Climate Security Mechanism, Progress Report, May 2021" CSM Progress Report, 28 May 2021: 5-6. Available at: https://www.unep.org/resources/report/climate-security-mechanism-csm-progress-report-2021 (accessed 12 January 2022).

established on the initiative of Germany and Nauru, with the goal of cooperating to inform policy on the security implications of climate change, raise awareness on such implications and boost the UN's efforts to tackle them[230]. The creation of an Informal Expert Group of Members of the Security Council on Climate and Security, advisory and non-decision-making group open to all members of the Council, was announced by Germany at the Security Council's 24 July 2020 debate on climate change and security[231]. In the aftermath of the 2020 debate, ten members submitted a letter the the Secretary-General expressing the rationale of the foundation of the Informal Expert Group in that "the Council's work in this context would greatly benefit from increased attention to climate-related security risks in briefings and reports to the Council by the Secretariat and senior mission leaders"[232]. Thus, they added, "the informal expert group will improve the flow of information and analysis with respect to the peace and security implications of climate change in country- and region-specific situations and sharpen the focus and specificity of Council deliberations and actions"[233].

Along the institutional developments briefly reported above, deserving of attention are some recent research initiatives, which were launched as their insights provide with relevant information on the risks to international peace posed by climate change and signify further steps taken to investigate and address the issue at the international level. First and foremost, the Climate Security Expert Network (CSEN), launched in 2019 and consisting of some 30 international experts, is a research hub on the climate and security linkages, the impacts of climate change on international security and the relevant responses to such impacts[234]. Run by a Berlin-based think thank as its Secretariat, and supported financially by the German Federal Foreign Office, the CSEN supports the above mentioned institutions (Group of Friends on Climate and Security and the CSM) and produces reports and papers on the broader issue of climate and security as well as the specific security risks posed by climate change in several countries and regions, its activity consisting in "synthesising scientific knowledge and expertise, advising on entry points for building resilience to climate-security risks, and helping to strengthen a shared understanding of the challenges and opportunities

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[230] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 9. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

[231] Letter dated 28 July 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc. S/2020/751 (30 July 2020):13.

[232] Letter dated 27 August 2020 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Secretary-General, UN Doc. S/2020/849 (28 August 2020):2.

[233] Ibid.

[234] Climate Security Expert Network (CSEN), https://climate-security-expert-network.org/.

of addressing climate-related security risks."[235]. Another example of relevant research initiative on climate and security is the project "Climate-related Peace and Security Risks (CPSR)" launched in 2020 by the collaboration of the Stockholm International Peace Research Institute (SIPRI) and the Norwegian Institute of International Affairs (NUPI) in order to provide with "reliable, relevant, timely and actionable information on climate, peace and security risks for specific countries and regions on the UN Security Council agenda"[236]. The project, by fostering collaboration and networking among researchers, contributes to the gathering of relevant information and its diffusion to the general public, as well as policymakers, to address the context-specific risks posed by environmental degradation.

2.4 What role for the Security Council in Climate Change? Main drivers and obstacles to Security Council's action in climate change

The gravity of the climate emergency is well recognized and addressed as the world faces what has been regarded as the worst moment in human history in terms of environmental degradation. In the Security Council's debate held in February 2021 over climate-related security risks, Secretary-General António Guterres referred to the climate emergency as "the defining issue of our time" and expressed his grave concern in clear-cut terms by stating that "carbon dioxide levels are at record highs, and wildfires, cyclones, floods and droughts are the new normal, those shocks not only damage the environment on which we depend; they also weaken our political, economic and social systems"[237]. More over, the Secretary-General stressed the need to act and prepare for the "escalating implications of the climate crisis for international peace and security"[238]. While major efforts have been made in the last decades to address global warming and a complex regime of international climate governance has been set up to reverse the process and open up to a better future for the planet and its populations, such changes do not seem to be enough. The goals set by The United Nations Framework Convention of Climate Change and the related Paris Agreement,

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[235] Climate Security Expert Network (CSEN), https://climate-security-expert-network.org/.

[236] Norwegian Institute of International Affairs (NUPI), Research Project "Climate-related Peace and Security Risks (CPSR)", https://www.nupi.no/nupi_eng/About-NUPI/Projects-centers/Climate-related-Peace-and-Security-Risks.

[237] Briefing by the Secretary-General in Letter dated 25 February 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, U.N Doc. S/2021/198 (1 March 2021): 3.

[238] Ibid.

major achievements of international cooperation to deal with the disastrous impacts of climate change, have not yet been reached and calls have been increasingly raised for the international community to step up its game and come up with new solutions.

A greater involvement of the United Nations Security Council has been fiercely proposed and debated over the last decades as the implications of climate change on security have been increasingly recognized. As the highest international body charged by the United Nations with the primary responsibility for the maintenance of international peace and security[239], the Council has been increasingly looked at as the right forum to address climate change. While several steps have been made and the Council has addressed the issue more and more over the years, the matter is complex as, both in the literature and within the Council itself, strong arguments have been raised for and against the 'securitization' of the climate issue[240]. Such complexity derives in the first place by the multifaceted nature of the climate change challenge per se. The risks posed by environmental degradation and extreme weather events are in fact not the same in every part of the world as some countries, often the most impacted, being less equipped and prepared to deal with such risks[241]. Furthermore, while the environmental threat must be addressed and tackled at the global level with major international cooperation efforts, such efforts intertwine with geopolitical dynamics and differing interests, their effectiveness ultimately relying on local political, social and economic factors[242].

No agreement on the climate-security nexus, thus climate change-related security risks being deserving of Council's attention, has been reached, as climate change would not fir squarely among conventional notions of 'threats to international peace of security' which traditionally amount to the occurrence of violent conflict[243]. Nonetheless, compelling arguments have been advanced to support the Council's involvement in climate as wide acceptance has emerged over the role of climate change as a 'threat multiplier'. Such recognition, coupled with the Council's past practice of

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[239] *Charter of the United Nations*, Article 24.

[240] Başar Baysaland Uluç Karakas, "Climate Change and Security: Different Perceptions, Different Approaches", *International Relations* 14, no. 5.

[241] John Podesta and Peter Ogden, "Global warning: The Security Challenges of Climate Change", Center for American Progress 2007: 2.

[242] John Podesta and Peter Ogden, "Global warning: The Security Challenges of Climate Change", Center for American Progress 2007:2.

[243] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 2. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

intervening to deal with non-conventional threats and the inefficacy of the climate governance regime to date, have all been raised as arguments in favour of the Council taking a lead role. Furthermore, the Council's intervention has been called upon given the global urgency of the climate issue and the Council's superior authority as an emitter of binding obligations and "the most powerful and perhaps the most recognisable part of an international institution that still commands a high level of respect across the globe"[244].

In the last decades, the UNSC has engaged with climate and climate-related matters like never before. Yet, it has still been reluctant to assume full responsibility by including climate change within its agenda and, just last year, a draft resolution which would have allowed so, has not did not pass. The issue has been discussed inside the Council for the first time in 2007, when a debate was held specifically on the relationship between climate change and security[245]. Stark disagreement emerged among countries over the Council being the appropriate forum to deal with the climate threat, with several members pushing for action and major powers, notably Russia and China, contrasting such intervention. Several other thematic meetings over the security impacts of climate change have been held over the years, in 2011, 2018, 2019, 2020, 2021. Alongside such meetings, several Arria-formula meetings and meetings on matters related to the security implications of climate change were held, and the climate discourse has entered the Council's language to an unprecedented extent. Such an increase in the Council's engagement with the environmental emergency (in the years between the first 2007 debate and the 2019 debate 12 meetings were held with an equal number in the last two years since 2020) has signaled great progress towards the Council taking action to tackle the climate challenge. Yet, strong disagreement persists among countries as to the role to be assumed by the security organ of the UN, the main division not being on the existence of climate change, or even on it having security implications, but rather on them being worth of being included within the scope of the Council's work[246]. While notable shifts have been registered in countries' position since 2007, strong opposition, notably from major veto-holding powers China and Russia, still remains. The main contrasting points raised in the debates seem to be revolving around the appropriateness of the Council as a forum to deal with climate

[244]Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 4. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

[245] UN Doc S/PV.5663

[246]Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 12. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

change. Namely, the Council wouldn't have the necessary tools to adequately tackle the climate threat, its intervention would invade the role of other UN organs as it is ultimately a matter of sustainable development more than a threat to international peace and security. More over, the Council taking charge of climate change would undermine the climate governance system under the UNFCCC and the Paris agreement. The importance of the major progress made to bring climate change into the Council notwithstanding, the effectiveness of any Council action ultimately rests on the support conferred to it by the international community. Such support is vital, not only in the obvious first step of its adoption, but also in its implementation in terms of resources and finance. The crucial progresses made by the international community over the last decade, especially in the last few years, lead to higher hopes for the future. Yet, how events will unfold in the years to come is still uncertain as States' support has not reached a level that confers the Council the power to act. What is certain, as it has been stressed by researchers and world leaders, is that the urgency of the environmental challenge continues to grow, as will the security implications of climate change on global security. This leads to the inevitable conclusion that, weren't further steps taken, "the Council failing to respond will make it appear out of touch with fundamental threats to international peace and security—and human survival"[247].

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[247] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 17. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

The role of the United Nations Security Council in International Health Crises: focus on the Covid-19 pandemic

3.1 International Health Crises and Security: introduction to the matter

At the time of writing, the world is struggling with the global pandemic of Covid-19, referred to by the UN Secretary-General António Guterres as 'its gravest test' since the foundation of the United Nations[248]. The outbreak of Covid-19 rekindled a long-standing debate, namely that over the relationship between health and security and the role of the Security Council, the UN body with primary responsibility for the maintenance of international peace and security[249], in handling international health crises. International Health Crises and Pandemics are in fact included, together with Climate Change, among the most pressing global challenges and non-conventional security threats the world is facing[250]. Thus, the Security Council, has been increasingly called upon and looked at to address such threats and assume a lead role. Despite its primary mission of maintaining international peace and security, and its previous practice of giving a wide interpretation to Article 39[251] by including, among 'threats to international peace and security', non-conventional threats such as terrorism, climate change and infectious diseases, the Security Council would have nevertheless significantly disappointed in living up to the expectation of assuming a predominant

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[248] UN Secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', *United Nations Secretary-General* (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid-19-pandemic-delivered (accessed 24 January 2022).

[249] *Charter of the United Nations*, Article 24.

[250] Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc. A/59/565 (2 December 2004): 11. The report states that 'the biggest security threats we face now, and in the decades ahead, go far beyond States waging aggressive war. They extend to poverty, infectious disease and environmental degradation".

[251] *Charter of the United Nations*, Article 39. The Article, opening to Chapter VII, provides the Council with the power to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and, based on such determination, "make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security".

role in international health crises, the global fight against Coronavirus being the latest manifestation of such reality.

The link between infectious diseases and security is all but new. The literature over 'the securitization of health' is in fact astonishingly rich, as is the production of historical accounts of the evolution of the 'global health security' field, as well as of its institutional and geopolitical ramifications. Several strands of literature have developed, over the course of decades, analyzing the growing securitization of health and infectious diseases and, unsurprisingly, several arguments have been raised both for and against the inclusion of health in the security realm[252]. Nevertheless, such literature seems to be strongly revolving around the theoretical aspects of the 'securitization of health', thus going beyond the scope of this analysis. What a revision of such production unravels though, is that, although both praised and contested in its legitimacy and ultimate effectiveness, the recognition of infectious diseases as security issues by the international community has reached unprecedented extents, to the point of being referred to as a fact[253]. The link between health and international security goes back almost a century, to the 1946 Preamble of the World Health Organization (WHO), the specialized United Nations agency[254] charged with the authority to direct and coordinate international health within the United Nations system[255]. Yet, such nexus seems to have received strong and renewed impetus, especially by western governments, in the 1990s, in the aftermath of the Cold War, when awareness grew over the "threat that infectious disease outbreaks could pose to their citizens' health and to their countries' economic and political stability"[256], which in turn "elicited support among governments for a global strategy to contain infectious disease outbreak"[257]. As noted by Burci, such nexus between health and security seems to have evolved along some main lines, such as the general "broadening of the notion of international security and

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[252] Christian Enemark and Michael J. Selgelid (eds.), *Ethics and Security Aspects of Infectious Disease Control:Interdisciplinary Perspective* (NewYork, Routledge:2016), 1.

[253] Ricardo Pereira, "Processes of Securitization of Infectious Diseases and Western Hegemonic Power: A Historical-Political Analysis", *Global Health Governance II*, no. 1 (2008): 1.

[254] Article 57a of the *Charter of the United Nations* provides that 'the various specialized agencies, established by inter-governmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations'.

[255] United Nations Official Website, 'UN system' (Web Page). Available at: https://www.un.org/en/about-us/un-system (accessed 25 January 2022). The Constitution of the World Health Organization (2020) in its Preamble includes a paragraph where it is stated that ""the health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States ".

[256] Sara E. Davies, "Securitizing Infectious Disease", International Affairs 84, no. 2 (2008): 298.

[257] Ibid., 302.

its extension to humanitarian and social issues[258]" and "the perceived impact of naturally occurring diseases on national and international security", the conceptualization of such concern mainly stemming from the HIV/AIDS outbreak in Africa at the turn of the century[259].

Such recognition of the link between health and security and the security implications of infectious diseases has evolved and grown in the two different, yet obviously inextricably interconnected, dimensions of the public health sector, embodied in the World Health Organization (WHO), and the security sector, embodied in the Security Council[260]. As the highest multilateral body for the maintenance of peace and security, the UNSC has in fact been increasingly dealing with international health crises and the security implications posed by pandemics, officially determining, for the first time in 2014, a health issue as a threat to international peace and security[261]. Such adoption was, though, one step in a longer process of the involvement of the Security Council in international health crises, a process culminating in the recent, and still ongoing, Covid-19 pandemic. Farrall and Michaelsen, in a paper dedicated to an evaluation of the Security Council's response to Covid-19 and previous international health crises, refer to the Council as 's reluctant to respond assertively', revealing a reality in which the Council is 'a peripheral, rather than central, actor when it comes to addressing grave contemporary threats to international peace and security'[262]. In their analysis, the Council's response to Covid-19 was in line with its past practice of: (i) being uncomfortable to respond to non conventional threats to international peace and security; (ii) struggling to act when there is tension among the P5 and their interests are involved (iii) accomplishing significant progress by focusing on process despite the slow progress on substance[263].

Being Covid-19 the latest international health crisis addressed by the Security Council, logically, the Council's role in addressing the pandemic has widely been analyzed by taking its previous

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[258] Gian Luca Burci, "Health and Infectious Disease" in *The Oxford Handbook on the United Nations* (2 ed.) Edited by Thomas G. Weiss and Sam Daws (2018): 6. https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/ 9780198803164.001.0001/oxfordhb-9780198803164-e- 37#oxfordhb-9780198803164-e-37-note-1646

[259] Ibid., 7.

[260] Christian Enemark and Michael J. Selgelid (eds.), *Ethics and Security Aspects of Infectious Disease Control: Interdisciplinary Perspectives,* (New York: Routledge, 2016): Introduction.

[261] Marko Svicevic, "COVID-19 as a Threat to International Peace and Security: What place for the UN Security Council?", *EJIL:Talk! Blog of the European Journal of International Law* (27 March 2020). Available at: https:// www.ejiltalk.org/covid-19-as-a-threat-to-international-peace-and-security-what-place-for-the-un-security-council/ (accessed 25 January 2022).

[262] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 228-230.

[263] Ibid.

responses to international health crises into account. Along the lines of such literature, the following chapter will unfold by, firstly, taking into account the main steps in the process of the United Nations Security Council's involvement with international health crises, by recalling its role in the HIV/AIDS outbreak at the beginning of the century and its role in the Ebola outbreaks in 2013-2014 and 2018. The analysis will then move on to by focusing on the Council's response to the Covid-19 pandemic, the investigation being conducted with the ultimate goal of unravelling the main similarities and differences among these cases and grasp why the Council has been strongly referred to as failing to address such threats, its response to Covid-19 being the most recent manifestation of such alleged failure and 'downsizing of the ongoing process of 'securitization of health'[264].

3.2 The role of the United Nations Security Council in international health crises

3.2.1 The Security Council's response to HIV/AIDS

On the 10th of January 2000, the Security Council held a debate over the 'the impact of AIDS on peace and security in Africa'[265]. This meeting, prompted and presided by the United States, came more than a decade years after the outbreak of the HIV/AIDS health crisis and after a few key global initiatives had been set up to face the challenge such as the 1987 WHO Global Programme on AIDS (GPA)[266] and the 1993 Joint United Nations Programme on HIV/AIDS (UNAIDS), born to lead and inspire global efforts to end HIV/AIDS and related illnesses[267]. The meeting held by the Security Council has been recognized as paramount in the process of securitization of international health crises as, for the first time, the Security Council dealt with a health issue as a security threat[268]. The 'historic' relevance of such an event was expressed by the Council's President himself, at the time US Vice-President Al Gore, who opened the debate by stating that 'When 10

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[264] Ilja Richard Pavone, 'ESIL Reflections COVID-19 Series – Security Council Resolution 2532 (2020) on COVID-19 A Missed Opportunity?', ? *ESIL Reflections* 9, no. 5 (8 February 2021): introduction. Available at: https://esil-sedi.eu/ esil-reflections-covid-19-series-security-council-resolution-2532-2020-on-covid-19-a-missed-opportunity/#_ftn5 (accessed 25 January 2022).

[265] United Nations Security Council (UNSC) 4087th meeting, UN Doc S/PV.4087 (10 January 2000).

[266] For a report on the WHO Global Programme on AIDS (GPA) see: WHO Global Programme on AIDS & World Health Organization, 'Global Programme on AIDS 1987-1995 : final report with emphasis on 1994-1995 biennium', Doc. WHO/ASD/97.1. Available at: https://apps.who.int/iris/handle/10665/65955 (accessed 25 January 2022).

[267] UNAIDS Website: https://www.unaids.org/en/whoweare/about.

[268] UN Doc S/PV.4087.

people in sub-Saharan Africa are infected every minute; when 11 million children have already become AIDS orphans, and many must be raised by other children; when a single disease threatens everything from economic strength to peacekeeping, we clearly face a security threat of the greatest magnitude'[269]. Furthermore, it is crucial that the President went on by stressing the powerful role and the larger significance of the meeting for the future conceptualization of security, by stating that 'it sets a precedent for Security Council concern and action on a broader security agenda' and 'by the power of example, this meeting demands of us that we see security through a new and wider prism and, forever after, think about it according to a new and more expansive definition'[270].

The meeting held by the Council was indeed considered a key event in the evolution of the link between health and security and the broader matter of new international security threats. In addition, Pereira underscores the significance of 'the first HIV/AIDS international momentum at the political level' happening within the Security Council, among all the UN bodies, and being prompted by the United States of America. The relevance of this meeting as a key moment in the recognition of international health crises as a security threat to be handled by the Security Council notwithstanding, the firm position on the issue held by Al Gore, in his dual role as President of the Security Council and US representative, was not fully embraced. UN Secretary-General Kofi Annan, while reaffirming the non-regional but international nature of the threat posed by HIV/ AIDS, and welcoming the Security Council as a partner in the fight against the disease, stated that role of the Security Council should be 'to prevent conflict from contributing to the spread of AIDS and from impeding the efforts that other partners are making to control it'[271]. In an interview held in 2006, United States Ambassador to the United Nations in 2000-2001, Richard Holbrooke, commented on the meeting held within the Security Council years before[272]. While admitting and stressing the significance of the event as it had 'helped redefine the issue', he recounted strong opposition from Russia and, when asked about the recognition of AIDS as an international security issue he referred to the issue as one of the past and stated 'everyone now accepts our definition of AIDS as a security issue -- it's self-evident' yet reaffirmed opposition from Russia, as well as India, Estonia and Ukraine[273].

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[269] Ibid., 2.
[270] Ibid.
[271] UN Doc S/PV.4087: 5.
[272] Richard Holbrooke, Interview, *PBS Frontline* (2006). Available at: https://www.pbs.org/wgbh/pages/frontline/aids/interviews/holbrooke.html (accessed 25 January 2022).
[273] Ibid.

On 17 July 2000, the Security Council unanimously adopted Resolution 1308 (2000) oh HIV/AIDS, referred to as 'historic', as it was the first Security Council Resolution on a health issue and it was seen as proof of the full recognition of the disease as a threat to international peace and security[274]. In the Resolution, the Council, 'bearing in mind the Council's primary responsibility for the maintenance of international peace and security, stressed that 'the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security'[275]. It further expressed 'concern at the potential damaging impact of HIV/AIDS on the health of international peacekeeping personnel, including support personnel' and encouraged 'interested Member States to increase international cooperation among their relevant national bodies to assist with the creation and execution of policies for HIV/AIDS prevention, voluntary and confidential testing and counselling, and treatment for personnel to be deployed in international peacekeeping operations'[276]. In the years following the Resolution, several meetings were held within the Council on its implementation[277], in addition to meetings where HIV/AIDS was simply referred to, for instance the Council's 4736th meeting in 2003 where HIV/AIDS was mentioned as a concurring cause of Africa's food crisis[278]. At some of the meetings held by the Council over the implementation of resolution 1308 (2000), presidential statements were adopted[279]. In the statements, the Council reaffirmed and reinforced 'its commitment to the full implementation of resolution 1308 (2000)' but no further measures were taken[280]. Moreover, as stressed by Farrall and Michaelsen, the Council did not go on building a comprehensive framework to act in response to future global health crises[281].

Resolution 1308 (2000) was, understandably, seen as a the defining outcome and as the full completion of the 'securitization' of an international health issue. The importance of the resolution notwithstanding, interesting counterpoints have been raised which question the UNSC's 1308 resolution as the proof of full recognition of the HIV/AIDS pandemic as a threat to international

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[274] United Nations,"Security Council, adopting 'historic' Resolution 1308 (2000) on HIV/AIDS, calls for pre-deployment testing, counselling for peacekeeping personnel", Press Release, UN Doc SC/6890 (17 July 2000).

[275] United Nations Security Council Resolution 1308, UN Doc. S/RES/1308 (17 July 2000). For the meeting record see UN Doc S/PV.4172 (17 July 2000).

[276] UNSC Res 1308, UN Doc S/RES/1308 (17 July 2000) paras 1,4.

[277] UNSC, 4259th meeting, UN Doc S/PV.4259 (19 January 2001); UNSC, 4339th meeting, UN Doc S/PV.4339 (28 June 2001); UNSC, 4859th meeting, UN Doc S/PV.4859 (17 November 2003); UNSC, 5228th meeting, UN Doc S/PV. 5228 (18 July 2005).

[278] UNSC, 4736th meeting, UN Doc S/PV.4736 (7 April 2003): 2.

[279] UNSC, 4339th meeting, UN Doc S/PRST/2001/16 (28 June 2001); UNSC, 5228th meeting, UN Doc S/PRST/ 2005/33 (18 July 2005).

[280] UNSC, 5228th meeting, UN Doc S/PRST/2005/33 (18 July 2005): para 2.

[281] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 218.

peace and security. Rushton advances several arguments questioning both the establishment of HIV/ AIDS as an international security issue and Resolution 1308 (2000) as the decisive moment in such allegedly successful securitization process[282]. Even though the Resolution was adopted unanimously by the Security Council, it was in fact surrounded by strong controversy. Rushton argues that rather than be interpreted as proof of a full recognition of HIV/AIDS as a threat to international peace and security, resolution 1308 should rather be seen as the result of the strong United States' influence and the weighing up by the Council members of a wide range of factors and interests, included the 'political and reputational costs of opposing a Resolution addressing such a major human tragedy'[283]. This view is confirmed by Prins that, providing with a summary of the negotiations and the dynamics preceding the adoption of resolution 1308, shows that strong controversy existed between members, notably 'France and China relented, and eventually Russia agreed, but only because everyone else wanted it; not on positive grounds'[284]. Thus, three of the five permanent members, although finally accepting to adopt the resolution, were in fact opposed, thus confirming Rushton's view that 'being persuaded to support the Resolution is not necessarily the same as being persuaded by the securitization claims'[285]. Furthermore, Rushton evidences that, differently from the January 2000 debate[286], in resolution 1308 (2000) HIV/AIDS is characterized as a threat to international peace and security in a limited sense with the focus only on the impact of of HIV/AIDS on the health of international peacekeeping personnel[287]. Furthermore, most importantly, the Council would have had quite a limited role in the fight against the HIV/AIDS pandemic after the 2000 resolution given that, while concrete actions followed the resolution, these were mainly on the part of the UNAIDS, thus 'far from becoming a major player in the global governance of HIV/AIDS (as many predicted in 2000), the issue seems to have dropped off the Council's agenda'[288].

Paku, commenting on the 2000 resolution, states that its real achievement was that of reformulating the global response to the pandemic, leading to 'an unprecedented global commitment to

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[282] Simon Rushton, "AIDS and international security in the United Nations System", *Health Policy and Planning* 25, no. 6 (2010): 495-504.

[283] Ibid., 498.

[284] Gwyn Prins, "AIDS and Global Security", *International Affairs (Royal Institute of International Affairs* 80, no. 5 (2004): 941.

[285] Simon Rushton, "AIDS and international security in the United Nations System", *Health Policy and Planning* 25, no. 6 (2010): 498.

[286] UN Doc S/PV.4087 (10 January 2000).

[287] Simon Rushton, "AIDS and international security in the United Nations System", *Health Policy and Planning* 25, no. 6 (2010): 498-499. See also UNSC Res 1308, UN Doc S/RES/1308 (17 July 2000).

[288] Ibid. 499.

ameliorating the impacts of the pandemic through the provision of treatment and care for the world's poorest regions'[289]. Thus, while the significance of resolution 1308, and the process that led to its adoption, should not be understated, it similarly does not seem to be the proof of the Security Council assuming a lead role in the fight against the international health crisis posed by HIV/AIDS. This seems to be confirmed by the involvement of the Security Council in the years following its first resolution, referred to above. In 2011, a high-level Council debate was held by the Security Council over the Impact of HIV/AIDS epidemic on international peace and security[290], which led to the unanimous adoption of Resolution 1983 (2011)[291]. On this occasion, the Council reinforced its previous commitments and the 2000 resolution, but took no additional action[292].

3.2.2 The Security Council's response to Ebola Outbreaks in West Africa (2013-2014) and the Democratic Republic of Congo (2018)

The Council's intervention over the Ebola outbreak, started at the end of 2013 in Guinea, occurred nearly a year later, in September 2014, when the Council held an emergency meeting to consider the Ebola epidemic[293] where strong support emerged among states over the need to tackle the outbreak[294]. Thus, in late 2014, the meeting led to the adoption of Resolution 2177 (2014)[295], through which the Security Council intervened over the West Africa outbreak of the Ebola virus disease (EVD), the first outbreak outside its traditional reservoir in central Africa, started at the end of 2013 in Guinea and rapidly spread to Liberia, Nigeria and Sierra Leone[296]. Such intervention by the Council followed previous official declarations by the World Health Organization (WHO) such as the declaration in March 2014 of the ebola disease in Guinea, which marked the start of the West

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[289] Nana K. Poku, "HIV/AIDS, State fragility, and United Nations Security Council Resolution 1308: A View from Africa", *International Peacekeeping* 20, no. 4 (2013): 532. DOI: 10.1080/13553312.2013.854580.

[290] UNSC, 6547th meeting, UN Doc S/PV.6547 (7 June 2011).

[291] UNSC Res 1983 (2011), UN Doc S/RES/1983 (7 June 2011).

[292] Ibid.

[293] UNSC, 7268th meeting, UN Doc S/PV.7268 (18 September 2014).

[294] Marko Svicevic, "COVID-19 as a Threat to International Peace and Security: What place for the UN Security Council?", *EJIL:Talk! Blog of the European Journal of International Law.* 27 March 2020, https://www.ejiltalk.org/covid-19-as-a-threat-to-international-peace-and-security-what-place-for-the-un-security-council/. For theVerbatim Record of the meeting see S/PV.7268.

[295] UNSC Res 2177, UN Doc S/RES/1277 (18 September 2014)

[296] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 27.

Africa EVD epidemic[297] and the declaration in August 2014 of the Ebola outbreak as 'the largest EVD outbreak ever recorded' and a 'public health emergency of international concern' under the International Health Regulations (IHR)[298]. The Security Council intervention with Resolution 2177 followed, and recalled, previous interventions by the Council in the same year, where it had expressed 'deep concern over the current outbreak of the Ebola virus in some countries in West Africa'[299] and, 'in particular in Liberia, Guinea and Sierra Leone'[300].

Resolution 2177, adopted unanimously by the Security Council on 18 September 2014, marked the official intervention by the Council on the Ebola disease, since, in its text, the Ebola outbreak in Africa was determined as a 'threat to international peace and security'[301]. Such resolution has thus been identified as a milestone in the process of 'securitization' of health and international health crises, since, differently from the above mentioned Resolution 1308 (2000) on HIV/AIDS, where the Council had declared that the HIV/AIDS pandemic, 'may pose a risk to stability and security'[302], for the first time the Council determined that a health issue per se constituted a threat to international peace and security[303]. In the Resolution, the Council, 'recalling its primary responsibility for the maintenance of international peace and security', 'expressing grave concern about the outbreak of the Ebola virus in, and its impact on, West Africa, in particular Liberia, Guinea and Sierra Leone, as well as Nigeria and beyond', determined that 'the unprecedented extent of the Ebola outbreak in Africa constitutes a threat to international peace and security'[304]. As above mentioned, Security Council's Resolution 2177/2014 on the Ebola Outbreak has been widely recognized in the literature as a 'landmark in the evolution of the notion of security'[305]. Burci, writing in the aftermath of the adoption of Resolution 2177 notes in fact the Security Council's

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[297] World Health Organization (WHO) Official Website, "Ebola virus disease in Guinea", *Disease Outbreak News* (23 March 2014). Available at: https://www.who.int/emergencies/disease-outbreak-news/item/2014_03_23_ebola-en (accessed 25 January 2022). For situation reports and Disease Outbreak News (DONs) published by the WHO on the Ebola virus disease see: https://www.who.int/emergencies/disease-outbreak-news (accessed 25 January 2022).

[298] World Health Organization (WHO) Official Website, "Statement on the 1st meeting of the IHR Emergency Committee on the 2014 Ebola outbreak in West Africa" (8 August 2014). Available at: https://www.who.int/news/item/08-08-2014-statement-on-the-1st-meeting-of-the-ihr-emergency-committee-on-the-2014-ebola-outbreak-in-west-africa (accessed 25 January 2022).

[299] United Nations, "Security Council Press Statement on United Nations Office for West Africa", Press Release, UN Doc SC/11466-AFR/2930 (9 July 2014).

[300] UNSC Res 2176, UN Doc S/RES/2176 (15 September 2014).

[301] UNSC Res 2177 (2104), UN Doc S/RES/1277: Preamble para 5.

[302] UNSC Res 1308 (2000), UN Doc S/RES/1308: Preamble para 11.

[303] Anna Hood, "Ebola: A Threat to the Parameters of a Threat to the Peace?", *Melbourne Journal of International Law* 16, no. 1 (2015): 29.

[304] UNSC Res 2177 (2104), UN Doc S/RES/1277: Preamble paras 2,3,5.

[305] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond,* eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 301.

practice of broadening the notion of threats to international peace and security through the inclusion of developmental and social issues[306]. In his words, 'the debates on the threats posed by climate change and the intervention in the Ebola crisis are just the most recent manifestation of a consolidated practice that arguably reflects the political perception of security in a globalized world'[307]. While Resolution 2177 marked what would seem as 'a turning point in defining roles, functions and powers of the UNSC in the field of health'[308], thus a crucial and game-changing step in the process of securitization of health started with the above mentioned Resolutions 1308/2000 and 1983/2011 on HIV/AIDS[309], it is nevertheless widely noted that it didn't eventually lead to substantial changes in the roles and functions of the Security Council as the Council did not take concrete measures under Chapter VII (Articles 41-42 of the UN Charter), ultimately not being the revolution widely envisaged in its adoption[310].

First of all, Resolution 2177, while indeed adopted by consensus and co-sponsored by the highest number of states in the Security Council's history[311], was not without disagreement in its determination of Ebola as a threat to peace and security. Unsurprisingly, in the debate which led to its adoption, voices against the determination of the Ebola disease as a threat to international peace and security were raised[312]. Notably, the Brazilian and Colombian Representatives expressed firm opposition to such determination, stating, respectively, 'the need to treat the outbreak first and foremost as a health emergency and a social and development challenge rather than a threat to peace and security'[313], and that 'while the Ebola outbreak in West Africa has the potential to erode stability and social cohesion in some of the countries concerned, the situation cannot be characterized as a threat to international peace and security in general'[314]. The Council was nevertheless able to take action and the Resolution was adopted. What has been widely raised as the

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[306] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 38.

[307] Ibid.

[308] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond,* eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 303.

[309] UNSC Res 1308, UN Doc S/RES/1308 (17 July 2000); United Nations Security Council Res 1983 (2011), UN Doc S/RES/1983 (7 June 2011).

[310] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond,* eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 304.

[311] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[312] United Nations Security Council (UNSC) 7286th meeting, UN Doc S/PV.7268 (18 September 2014).

[313] Statement of the Brazilian Delegation, UN Doc S/PV.7268 (18 September 2014): 28.

[314] Statement of the Colombian Delegation, UN Doc S/PV.7268 (18 September 2014): 45.

ultimate evidence against the consideration of such action as proof of full securitization of a health issue, is that, despite such action and the inclusion of Ebola among 'threats to international peace and security', thus the use of Article 39 of the UN Charter, which activates the system of collective security provided by Chapter VI-VII of the Constitutional Treaty, the Council did not concretely take any enforcement action under those chapters[315]. The Resolution in fact, in its operative section, calls on Member States in the region 'to facilitate the delivery of assistance, including qualified, specialized and trained personnel and supplies'[316], 'to enhance efforts to communicate to the public, as well as to implement, the established safety and health protocols and preventive measures to mitigate against misinformation and undue alarm about the transmission and extent of the outbreak'[317]. Furthermore, it 'encourages the WHO to continue to strengthen its technical leadership and operational support to governments and partners, monitor Ebola transmission, assist in identifying existing response needs and partners to meet those needs'[318]. It has thus been concluded that the inclusion of Ebola among threats to international peace and security under Article 39 of the Charter seems to have been more of a political and symbolic act, 'to generate momentum and additional political, operational and financial commitments by the international community'[319]. Namely, Resolution 2177 would not have been adopted to set a precedent of the expansion of the role of the Council in international health crises, but rather, the drafters of the Resolution 'aspired to reach a stricter cooperation amongst UN Member States and to gain additional financial resources while facing an exceptional event'[320].

The symbolic nature of the Council's securitization of the Ebola disease contained in Resolution 2177 seems to be confirmed by its subsequent action. In the aftermath of Resolution 2177, the Council held several other debates over 'Peace and Security in Africa'[321]. One of these meetings led to the adoption of a Presidential Statement[322]. In the Statement, the Council confirmed the determination of Ebola as a threat to international peace and security as contained in Resolution

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[315] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[316] UNSC Res 2177 (2014), UN Doc S/RES/1277: para 5.

[317] Ibid., para 6.

[318] Ibid., para 12.

[319] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[320] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits", supra note 309, at 326.

[321] UNSC, 7279th meeting, UN Doc S/PV.7279 (14 October 2014); UNSC, 7318th meeting, UN Doc S/PV.7318 (21 November 2014); UNSC, 7502th meeting, UN Doc S/PV.7502 (13 August 2015).

[322] UNSC, 7318th meeting, UN Doc S/PRST/2014/24 (21 November 2014).

2177 by reiterating 'its grave concern about the unprecedented extent of the Ebola outbreak in Africa, which constitutes a threat to international peace and security, and the impact of the Ebola virus on West Africa, in particular Liberia, Guinea and Sierra Leone'[323]. Yet it did not take any further action. In this regard, Burci notes that this is to be understood also in the context of the concrete enforcement measures the Council could have adopted under the scope of Chapter VI-VII of the UN Charter, given the absence of specific political targets to be sanctioned through coercion[324].

Years later, the Security Council intervened in another Ebola outbreak, in the Democratic Republic of Congo (DRC), broken out in August 2018[325]. In the beginning of October 2018, the WHO Director-General, reiterating a previous briefing in August, updated the Security Council on the gravity of the situation in DRC, by informing the Council of 'the critical point in the outbreak', the challenges being faced and the efforts being made by the WHO and the DRC's government[326]. At the end of October 2018, the Council adopted Resolution 2439[327]. In the Resolution, the Council expressed 'grave concern about the most recent outbreak of the Ebola virus in the Democratic Republic of Congo (DRC)'[328], it called for the 'immediate cessation of hostilities by all armed groups'[329] and underscored that 'the control of outbreaks of major infectious diseases requires urgent action and greater national, regional and international collaboration' and stressed 'the crucial and continued need for a WHO coordinated international response in the DRC in collaboration with the Government'[330].

Unlike the previous Resolution 2177 (2014) over the Ebola emergency in West Africa, in Resolution 2439, the Council did not determine the Ebola outbreak as a threat to international peace and security per se. Rather, the Council determined that 'the situation in the DRC continues to constitute a threat to international peace and security in the region'[331]. Thus, the 2018 response by

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[323] Ibid. Preamble para 1.

[324] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[325] Security Council Report, 'Democratic Republic of the Congo (DRC): Resolution to be Adopted on Ebola', *What's In Blue* (Web Page, 29 October 2018). Available at: https://www.securitycouncilreport.org/whatsinblue/2018/10/democratic-republic-of-the-congo-drc-resolution-to-be-adopted-on-ebola.php (accessed 25 January 2022)

[326] World Health Organization (WHO), 'UN Security Council meeting on the Ebola Outbreak in North Kivu, Democratic Republic of the Congo', *WHO Director-General Speeches* (WHO Web Page, 3 October 2018).

[327] UNSC Res 2439, UN Doc S/RES/2439 (30 October 2018).

[328] Ibid., Preamble para 1.

[329] Ibid., para 4.

[330] Ibid., Preamble para 14.

[331] Ibid., Preamble para 3.

the Council did not frame the health emergency as a Chapter VII issue[332]. While the initial draft of the Resolution included, like its 2014 precedent, the determination of the Ebola outbreak as a threat to international peace and security, such determination was removed as 'several states were of the view that such language would have been unjustifiably broad, however, and preferred a statement placing the Ebola epidemic within the context of the security situation in the DRC'[333]. Thus, by adopting Resolution 2439, the Council determined that the armed attacks and ongoing conflict determined a threat to international peace and security by 'exacerbating the country's ongoing Ebola outbreak'[334], not the outbreak itself. Such stance was confirmed by a Statement by the President of the Security Council, adopted over the Ebola outbreak in DRC in August 2019[335]. According to Farrall and Michaelsen, the Council's response to international health crises shows its tendency of excluding non-conventional threats from its purview, the 2018 Ebola outbreak and its previous response to HIV/AIDS in 2013-2014 being the evidence of such practice[336]. While the characterization of the Ebola virus outbreak in West Africa in 2013 as a threat to international peace and security might have led to believe in a subsequent change in the Council's general practice, such change did not happen.

3.2.3 The Security Council's response to Covid-19

The last, and ongoing, international health crisis the world has faced is the outbreak of the novel coronavirus Covid-19, firstly detected in China at the end of 2019 and soon become a global pandemic.The rapid spread of the coronavirus has unsurprisingly sparked great comparison between the global response to - and the Security Council's role in - Covid-19 and previous international health crises, in particular the two assessed above of HIV/AIDS and Ebola[337]. The Security Council, as the principal organ for the maintenance of international peace and security has been widely

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[332] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 220.

[333] Security Council Report, 'Democratic Republic of the Congo (DRC): Resolution to be Adopted on Ebola', *What's In Blue* (Web Page, 29 October 2018).

[334] Adopting Resolution 2439 (2018), Security Council Condemns Attacks by Armed Groups in Democratic Republic of Congo Jeopardizing Response to Ebola Outbreak, Press Release, UN Doc SC/13559 (30 October 2018).

[335] UNSC, 8590th meeting, UN Doc S/PRST/2019/6 (2 August 2019): Preamble para 7.

[336] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 217, 220-221.

[337] Marko Svicevic, "COVID-19 as a Threat to International Peace and Security: What place for the UN Security Council?", *EJIL:Talk! Blog of the European Journal of International Law* (27 March 2020). Available at: https://www.ejiltalk.org/covid-19-as-a-threat-to-international-peace-and-security-what-place-for-the-un-security-council/ (accessed 25 January 2022).

criticized for its late and unassertive response to the pandemic[338]. The intervention by the Council came in fact after several official warnings had already been given by UN Secretary General and WHO Director-General. At the end of January 2020, WHO Director-General officially declared the global outbreak of the novel coronavirus as a 'public health emergency of international concern'[339]. Less than two months later, on 11 March 2020, Covid-19 was officially declared a global 'pandemic'[340]. WHO Secretary-General, in characterizing the outbreak of Covid-19 as a pandemic, expressed deep concern over 'the alarming levels of spread and severity, and by the alarming levels of inaction' stating that '(Covid-19) is not just a public health crisis, it is a crisis that will touch every sector – so every sector and every individual must be involved in the fight'[341]. These alarming statements were rapidly followed by warnings by the UN Secretary-General António Guterres. Shortly after the 11 March declaration of Covid-19 as a global pandemic, UN Secretary-General appealed for a global ceasefire of conflicts by requesting to 'end the sickness of war and fight the disease that is ravaging our world'[342]. The Secretary-General's request for a global ceasefire wielded positive responses as, in the aftermath of the appeal, in a number of countries, several armed groups committed themselves to a cessation of hostilities[343]. The appeal was then followed by a Resolution of the General Assembly, co-sponsored by 188 countries, on 'global solidarity to fight the coronavirus disease (COVID−19)' in which the GA, recognizing 'the threat to human health, safety and well-being caused by the COVID-19 pandemic' and 'the unprecedented effects of the pandemic, including the severe disruption to societies and economies', called for 'intensified international cooperation to contain, mitigate and defeat the pandemic', pointing to the central role played by the United Nations system and the WHO in 'catalysing and coordinating the global

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[338] Boris Kondoch, "covid-19 and the Role of the Security Council as Global Health Peacekeeper", *Journal of International Peacekeeping* 23 (2019): 109.

[339] 'WHO Director-General's statement on IHR Emergency Committee on Novel Coronavirus (2019-nCoV)', *World Health Organization* (Web Page, 30 January 2020). Available at: https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-ihr-emergency-committee-on-novel-coronavirus-(2019-ncov) (accessed 20 January 2022).

[340] 'WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020', *World Health Organization* (Web Page, 11 March 2020). Available at: https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 (accessed 25 January 2022).

[341] 'WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020', *World Health Organization* (Web Page, 11 March 2020). Available at: https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 (accessed 25 January 2022). For the full chronological timeline of the WHO's response to Covid-19 see: 'Listings of WHO's response to COVID-19', *World Health Organization* (Web Page, 29 June 2020). Available at: https://www.who.int/news/item/29-06-2020-covidtimeline (accessed 25 January 2022).

[342] UN Secretary-General, 'Secretary-General's Appeal for Global Ceasefire', *United Nations Secretary-General* (Web Page, 23 March 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-03-23/secretary-generals-appeal-for-global-ceasefire (accessed 25 January 2022).

[343] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

response to control and contain the spread of COVID-19'[344]. Less than a week later, UN Secretary-General reiterated its concern over the spread of the disease by warning the Security Council, noticeably still inactive, stating that 'the pandemic also poses a significant threat to the maintenance of international peace and security -- potentially leading to an increase in social unrest and violence that would greatly undermine our ability to fight the disease'[345]. Mr Guterres further invoked the Council's intervention by expressing the critical role the Council would play in mitigating 'the peace and security implications of the COVID-19 pandemic'[346]. Furthermore, he stated in clear-cut terms that 'a signal of unity and resolve from the Council would count for a lot at this anxious time'[347].

3.2.3.1 Resolution 2532 (2020)

Nevertheless, the Security Council's intervention came only in July 2020, with the unanimous adoption of Resolution 2532[348]. In the Resolution, the Council, 'recalling its primary responsibility for the maintenance of international peace and security', expressed 'grave concern about the devastating impact of the COVID-19 pandemic across the world, especially in countries ravaged by armed conflicts, or in post-conflict situations, or affected by humanitarian crises' and recognized that 'the unprecedented extent of the COVID-19 pandemic is likely to endanger the maintenance of international peace and security'[349]. As far as the characterization of the Covid-19 health emergency as a threat to international peace and security is concerned, the Council did not go back to its 2177/2014[350] practice though, thus including the health issue itself under Article 39, but rather the threat to international peace and security was framed as the 'devastating impact of the Covid-19

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[344] General Assembly Resolution 74/270, UN Doc A/RES/74/270 (3 April 2020): Preamble paras 1,2,4 and para 5. The Resolution 74/270 was also followed by another GA Resolution on 'International Cooperation to ensure global access to medicines, vaccines and medical equipment to face COVID-19' in the same month: GA Res 74/274, U.N Doc. A/RES74/274 (20 April 2020).

[345] UN secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', United Nations Secretary-General (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid-19-pandemic-delivered (accessed 25 January 2022).

[346] Ibid.

[347] Ibid.

[348] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020).

[349] Ibid., Preamble paras 1,2,11.

[350] supra note 294.

pandemic in countries ravaged by armed conflicts'[351]. The terminology adopted was more similar in fact to that of Resolution 1308/2000[352].

In spite of the adoption of Resolution 2532 (2020), the Council's response to Covid-19 has been widely criticized. First of all, because of its late intervention. Given the Secretary-General's remarks to the Security Council on 9 April[353], and being the UNSC the international body for the maintenance of international peace and security, the Council was unsurprisingly expected to promptly address the Covid-19 emergency. Lynch, writing in March 2020, described the Council's conduct as one of 'paralysis', stating that instead of dealing with the crisis the Council was rather 'watching the greatest global health crisis in a century unfold from the sidelines, quarreling over the wisdom of working online, batting down proposals to help organize the response to the pandemic, and largely ignoring the U.N. secretary-general's appeal for a global cease-fire'[354]. Furthermore, Lynch pointed to the divisions within the Council, which would have seriously hampered any intervention[355]. Pobje, writing in the aftermath of the adoption of Resolution 2532, took a similar stance, by clearly referring to the Council's intervention during the well-recognized spread of the pandemic, and its clear global consequences, as 'frustratingly silent, embroiled by political disagreements between its permanent members, most notably China and the United States'[356]. Both these views are well summarized and complemented by Farrall and Michaelsen who, also taking into account the Council's previous engagement in international health crises of HIV/AIDS and Ebola, affirm that its response to Covid-19 has confirmed, rather than shift from, its past practice of hesitating to respond to non-conventional threats to international peace and security and struggling to act when friction arises between the permanent members[357].

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[351] UNSC Res 2532 (2020): Preamble para 1.

[352] UNSC Res 1308 (2000).

[353] UN secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', United Nations Secretary-General (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid- 19-pandemic-delivered (accessed 25 January 2022).

[354] Colum Lynch, 'U.N. Security Council Paralyzed as Contagion Rages' report, *Foreign Policy* (Web Page, 27 March 2020). Available at: https://foreignpolicy.com/2020/03/27/un-security-council-unsc-coronavirus-pandemic/ (accessed 25 January 2022).

[355] Ibid.

[356] Erin Pobjie, 'COVID-19 and the Scope of the UN Security Council's Mandate to Address Non-Traditional Threats to International Peace and Security', *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020-41* 81, no. 1 (5 November 2020):2.

[357] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 216.

3.2.3.2 The road to Resolution 2532 (2020): negotiations and frictions within the Council

The Council's July Resolution (2532/2020) was preceded by long and divided negotiations among the Council, together with several failed attempts at resolutions, which significantly stalled the Council from taking action. Over the months separating the official announcement of a global pandemic and the adoption of the final draft, several drafts were proposed, which were not adopted. Since the beginning, even before Mr Guterres' appeal for a ceasefire, discussions were held over the role of the UNSC in facing the Covid-19 outbreak and strong disagreements emerged as 'China and South Africa questioned the pandemic's link with international peace and security, and whether elements in the statement such as references to the global economy fell within the Council's mandate'[358]. Around the same time, a high-level discussion, initiated by France, was held between the 5 permanent members over a draft resolution, which soon stalled due strong divisions regarding the approach to be adopted by the Council in dealing with the pandemic, especially between China and the US over the origins of the outbreak[359]. At the end of March, a draft resolution, similar to that being negotiated by the P5, was proposed by Tunisia to the ten non-permanent elected members, who held different positions especially regarding the issue of economic sanctions[360]. During the negotiations, strong disagreement emerged among Member States over what role the UNSC should play in addressing the pandemic — how to frame the issue in Charter terms and what measures to adopt — which significantly led to to tensions within the P5 and hampered action of the non-permanent members.

While negotiations proceeded on the two drafts, on the 9th of April, the Council held a closed meeting with the Secretary-General[361]. In the meeting, referred to above, the Secretary-General characterized Covid-19 as a 'threat to the maintenance of international peace and security —

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[358] Security Council Report, 'Security Council Resolution on COVID-19*', *What's in Blue* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/06/security-council-resolution-on-covid-19.php (accessed 25 January 2022).

[359] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

[360] Security Council Report, 'Security Council Resolution on COVID-19*', *What's in Blue* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/06/security-council-resolution-on-covid-19.php (accessed 25 January 2022).

[361] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

potentially leading to an increase in social unrest and violence that would greatly undermine out ability to fight the disease' — and defined eight particular risks posed by the pandemic: (1) the risk of trust in public institutions being eroded by the COVID-19 pandemic; (2) major stressors created by the economic fallout, especially in fragile societies'; (3) the risk of political tensions due to the postponement of elections or relevant decisions to be put to a vote; (4) the risk, in conflict settings, for some actors to being incentivized to promote further division and instability given by pandemic-related uncertainty; (5) the risk of terrorism rising due to governmental attention mainly oriented at dealing with the health crisis; (6) the window of opportunity to bioterrorism attacks given by 'the weaknesses and lack of preparedness exposed by this pandemic'; (7) the risk of conflict resolution efforts, at every level, being hindered by the crisis; (8) the risk, and reality, of human rights challenges being exacerbated by the pandemic[362]. Later in April, negotiations on the two drafts came close to a conclusion and they were merged and presented to the Council, where negotiations stalled again over the role to be given in the text to the WHO, with the US strongly opposing any reference to the Organization and China supporting the opposite[363]. Such opposition continued during the following months and strongly slowed down the process of the adoption of a resolution, even though the failure to pronounce specifically over the pandemic, was simultaneously accompanied, unsurprisingly, by several references to the country-specific and context-specific impacts of Covid19 by the Councils in other outcomes[364].

As briefly summarized above, the process that led to the adoption of a Security Council's resolution in response to the global pandemic of Covid-19 lasted several months and was mainly slowed down by tensions within the Council, notably between its permanent members US and China. The main tensions revolved around the Secretary-General's demand for a global ceasefire, the inclusion in the text of the WHO and the origin of the pandemic. The consequence of such tension has been that the Council's response has come significantly late and has been widely criticized on several fronts. First of all, the view according to which the Secretary General's appeal for a globe ceasefire would have largely gone ignored by the Council, seems widely shared. The Council's intervention would have in fact been necessary to back the Secretary-General's appeal, and yet, it seems that the initial

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[362]UN secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', United Nations Secretary-General (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid-19-pandemic-delivered (accessed 25 January 2022).

[363] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

[364] Ibid.

success of Mr Guterres' appeal went lost due to the Council's reluctance to step in[365]. In the final draft, co-sponsored by France and Tunisia, the Council does in fact demand 'a general and immediate cessation of hostilities in all situations on its agenda' thus supporting 'the efforts undertaken by the Secretary-General and his Special Representatives and Special Envoys in that respect'[366]. Such demand for a cessation of hostilities included in the resolution has been regarded as remarkable since, for the first time, the Council has demanded for a "general ceasefire and humanitarian pause in armed conflicts across the globe"[367]. Yet, the Council excludes from such demand for a cessation of hostilities 'military operations against the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh), Al Qaeda and Al Nusra Front (ANF), and all other individuals, groups, undertakings and entities associated with Al Qaeda or ISIL, and other terrorist groups, which have been designated by the Security Council[368]'. Such a decision seems to have been the result of tensions within the Council as including language that would exclude counter-terrorism operations served to resolve the tension and gain acceptance from Russia and the US of a Council's endorsement of a global ceasefire[369]. As reported by Dutta, the US and Russia were in fact concerned about the implications of a ceasefire on their counter-terrorist operation, respectively in Iraq, Afghanistan and Syria[370]. Nevertheless, Farrall and Michaelsen conclude that, given this exception, the resolution 'fell short of the global ceasefire call' requested by the Secretary-General[371]. The adoption of Resolution 2532 notwithstanding, the UNSC has in fact been widely pointed to as failing to grasp a unique opportunity to back and support peace processes in a time of crisis as, by joining the Secretary-General's appeal for a global ceasefire right away, the Council would have at least sent 'a powerful symbolic gesture' in support of the multilateral management of

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[365] 'How covid-19 gave peace a chance, and nobody took it: Ceasefires are breaking down as America and China bicker at the UN', *The Economist* (5 May 2020). Available at: https://www.economist.com/international/2020/05/05/how-covid-19-gave-peace-a-chance-and-nobody-took-it (accessed 25 January 2022).

[366] UNSC Res 2532 (2020): para 1.

[367] Erin Pobjie, 'Covid-19 as a threat to international peace and security: The role of the UN Security Council in addressing the pandemic', *EJIL:Talk! Blog of the European Journal of International Law* (27 July 2020). Available at:https://www.ejiltalk.org/covid-19-as-a-threat-to-international-peace-and-security-the-role-of-the-un-security-council-in-addressing-the-pandemic/ (accessed 25 January 2022).

[368] UNSC Res 2532 (2020): para 3.

[369] Security Council Report, 'Security Council Resolution on COVID-19*', *What's in Blue* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/06/security-council-resolution-on-covid-19.php (accessed 25 January 2022).

[370] Aloka Dutta, "The Covid-19 Pandemic and the United Nations Security Council", *Politico* 13, no. 1 (2021): 6.

[371] Jeremy Farrall and Christopher Michaelsen, "When the Centre Becomes Peripheral? The UN Security Council's Response to Covid-19", *Australian Yearbook of International Law* 21.27 (2021): 7.

the pandemic[372]. It has also been added that, once the moment had passed, the July SC Resolution thus had no real impact on areas of conflict[373].

As already assessed, the main reason for the Council's reluctance to intervene and its 'disappointing' action has also been found in the tension between the Council's permanent members US and China, the main tensions between the two most powerful permanent members revolving around whether to include the WHO in the Resolution and placing blame for the origin of the virus[374]. On the one hand, the US, under the Trump administration at the time, pushed for the inclusion in the resolution of a paragraph clearly stating the Chinese origin of the virus[375]. Furthermore, the US strongly opposed the inclusion of the WHO in the text, accusing the organization of poorly handling the pandemic[376]. US' strong criticism towards the WHO peaked when, in Mid April, US President at the time Trump announced that the US would stop funding the Organization due to its poor handling of the pandemic, and, shortly after, that it would leave the organization[377]. On the other front, China insisted that the WHO would be mentioned in the text and opposed the inclusion in the text of language that would place blame on China for the origin of the crisis as well as criticize its response in handling the disease[378]. In an article published by the Economist in May, in the midst of negotiations and tensions within the Council, the matter of the inclusion of the WHO in the resolution was defined as 'a proxy battle between the two powers over who should shoulder most of the blame for causing the pandemic'[379]. On the matter, agreement was reached, or better the stall due to the strong disagreements was overcome, in not mentioning the World Health Organization directly, but solely including the consideration of GA resolution 74/270 which has been regarded as an implicit reference given that in the GA Resolution the crucial role of the WHO in controlling and containing the spread of Covid-19 is acknowledged[380].

[372] Aloka Dutta, "The Covid-19 Pandemic and the United Nations Security Council", *Politico* 13, no. 1 (2021): 3,6.

[373] Ibid., 3.

[374] Ibid.

[375] Boris Kondoch, "Covid-19 and the Role of the Security Council as Global Health Peacekeeper", *Journal of International Peacekeeping* 23 (2019): 112.

[376] Ibid.

[377] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

[378] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[379] 'How covid-19 gave peace a chance, and nobody took it: Ceasefires are breaking down as America and China bicker at the UN', *The Economist* (5 May 2020). Available at: https://www.economist.com/international/2020/05/05/how-covid-19-gave-peace-a-chance-and-nobody-took-it (accessed 25 January 2022).

[380] GA Res 74/270: Preamble para 4.

3.2.3.3 The Security Council's progress on procedure due to Covid-19

As noted by Farrall and Michaelsen, differently from its response to the pandemic, the Council promptly and skillfully adapted its working procedures to the emergency posed by the Covid-19 and related restrictions, by holding meetings via teleconference (VTC)[381] and introducing due changes in process to allow the Council to keep on working[382]. At the end of March 2020, following days of negotiation among UNSC's members, the Council changed its procedures, adopting temporary measures for the Covid-19 period due to the impossibility of meeting in person[383]. Such temporary measures were set out in a letter from the Council President China to the permanent representatives of the Council and involved new procedures for written voting, making statements, videoconferencing of Council meetings, adopting Resolutions[384].

The new process for the adoption of resolutions set out in the letter, in brief, is as follows: (i) following a request of a SC member or members presenting a draft resolution, the President circulates a letter indicating that such draft will be put to a vote; (ii) Council members are given a non-extendable 24 hour period for voting during which every delegation submits its vote on the draft, any delegation failing to do so being considered absent; (iii) during the established 24-hour period the draft is translated into the official languages of the UN; (iv) in the 3 hours following the end of the 24-hours voting period, the Security Council's President passes on a letter to all the Council's members, as well as Member States concerned and the Security Council Affairs Division (SCAD) with every delegation's vote; after receiving this letter, there is six-hour period during which members can make a written explanation of their vote; (v) If the draft is adopted, the SCAD circulates the resolution to all Member States concerned and the Security Council's members; (vi) in the 12 hours following the end of the of the 24-hours voting period, Security Council's President convenes a VTC of the Council announcing the outcome of the vote[385]. Resolutions following the above summarized procedure obtain the same legal validity as resolutions voted traditionally within

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[381] For the full list of the UN Security Council's members VTCs meetings and outcomes in 2020-2021 see: UN Security Council, '*VTCs and meetings of the Security Council members and outcomes in 2020-2021 during the COVID-19 pandemic*'. Available at: https://www.un.org/securitycouncil/content/meetings-2020-vtc (accessed 25 January 2022).

[382] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 225.

[383] Security Council Report, 'New Security Council Working Methods in the midst of COVID-19', *What's in blue* (Web Page, 27 March 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/03/new-council-working-methods-in-the-midst-of-covid-19.php (accessed 25 January 2022).

[384] UN Security Council, Letter dated 27 March 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council, UN Doc S/2020/253 (31 March 2020).

[385] Ibid. paras 3-6.

the Security Council's chambers[386]. The letter also includes an explanation of the new process for the Council's meetings via video conferencing[387].

The procedure briefly summarized above was but one of the several changes the Council made to its working methods. The use of virtual meetings, one of several changes the Council adopted to keep on working, has been tested and debated since the partial closure of the UN in middle March, the first fully virtual meeting being held on 24 March 2020[388]. Regarding the use of VTC meetings, Russia strongly opposed such meetings being considered official, among the key themes of the negotiations over new working methods being the official/unofficial nature of such Council's meetings and the adoption of new resolutions[389]. Furthermore, Russia raised as reasons for its opposition to VTC the 'difficulty of having simultaneous interpretation in all six languages in a virtual set-up' and it pushed for continuing Council's meetings in person, most members being uncomfortable with such option[390]. All over the course of March, the Council's working methods were under intense debate, until a final agreement was reached and communicated to the Council's members[391]. Although the Council, under the new procedures, adopted several resolutions (four in March) this progress was not visible from the outside world since no agreement had yet been reached over how to announce and keep records of the meetings leading to such adoptions[392]. Since this raised also questions of transparency and accountability, the new Council Presidency under the Dominican Republic worked on a set of measures which would also allow for the Council to share its developments to the outside world and the broader UN membership[393]. Following presidencies after China and the Dominican Republic went forward by adapting the Council's working methods and procedures to allow for its work to continue albeit the Covid-19 emergency, the Council thus demonstrating,disagreements between members over the details of such procedures notwithstanding, considerable flexibility[394].

[386] Ibid. para 7.

[387] Ibid. paras 9-11.

[388] Security Council Report, 'In Hindsight: Security Council Working Methods in the Time of COVID-19', *May 2020 Monthly Forecast* (Web Page, 30 April 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/ 2020-05/in-hindsight-security-council-working-methods-in-the-time-of-covid-19.php (accessed 25 January 2022).

[389] Security Council Report, 'New Security Council Working Methods in the midst of COVID-19', *What's in blue* (Web Page, 27 March 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/03/new-council-working-methods-in-the-midst-of-covid-19.php (accessed 25 January 2022).

[390] Ibid.

[391] supra note 383.

[392] Security Council Report, 'In Hindsight: Security Council Working Methods in the Time of COVID-19', *May 2020 Monthly Forecast* (Web Page, 30 April 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/ 2020-05/in-hindsight-security-council-working-methods-in-the-time-of-covid-19.php (accessed 25 January 2022).

[393] Ibid.

[394] Ibid.

3.3 What role for the Security Council in International Health Crises and the current Covid-19 pandemic?

The intervention of the Security Council in response to the Covid-19 pandemic, assessed above together with its response to previous international health crises of HIV/AIDS and Ebola, has been widely regarded as 'unassertive', 'late', and ultimately ineffective. As the evolution of the role of the Council in responding to security threats posed by infectious diseases shows, while it has intervened on multiple occasions, with outcomes whose significance should not be underestimated, such intervention has been widely criticized and has not led to the expected, and at times strongly envisaged, change of the Council's role in international health crises.

The characterization of health in security terms within the Security Council seems to have been going back and forth. In other words, instead of adopting a unique approach in dealing with the security threats posed by infectious diseases, the Council has adopted an inconsistent pattern over the years. With Resolution 1308 (2000) on the HIV/AIDS disease outbreak, the Council characterized the disease as a threat to international peace and security, although in a very limited sense[395]. The recognition of a health issue per se as a threat to international peace and security has come a decade later with Resolution 2177 (2014) on the Ebola outbreak in West Africa[396]. Although the Council's intervention with Resolution 2177 was eventually regarded as more symbolic than anything else, given that no substantial changes occurred in the the role of the Council and no concrete measures under Articles 41 and 42 of the Charter were adopted, it has nevertheless been stated that the Council, on that occasion, led the global response to the outbreak, its role being 'crucial in coordinating international efforts, gaining additional funding, and building momentum in the global community'[397]. Its response to Covid-19 with the adoption of Resolution 2532, on the other hand, has sparked strong criticism as the outcome has been defined as 'a downsizing of the ongoing process of 'securitization of health' and a significant 'step behind when compared to Resolution 2177 (2014) on the Ebola outbreak'[398]. Resolution 2532 of the UNSC over the security implications of Covid-19, and with it the general approach of the Council to the Covid-19 pandemic, has widely been regarded as disappointing as, while hope was high in the beginning of

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[395] UNSC Res 1308 (2000).
[396] UNSC Res 2177 (2014).
[397] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 2.
[398] Ibid.

the pandemic, also in the light of previous interventions of the Council in international health crises such as Ebola, referred to above, its approach to the 2019 coronavirus pandemic has been regarded as "a setback for its aspirations to address "non-traditional security threats"[399].

The Resolution came out of a long process of negotiations and divisions within the Council, resulting in a brief text where no explicit reference to the World Health Organization is included, the explicit consideration of Covid-19 under article 39 is not to be found and, as above noted, the Secretary-General's appeal for a ceasefire is answered in a limited sense. Disappointment over the Council's response to Covid-19 thus seems to revolve around some main themes, Resolution 2532 being the embodiment of such themes. First of all, disappointment has come from the Council's late response, thus its intervention not keeping the pace of the spread of the virus and relevant international responses coming from the General Assembly, the WHO Director-General and, above all, the Secretary General's call for a global ceasefire. The Council's lack of prompt support to such appeal has in fact been widely underscored as a symptom of the Council's inability to take the lead in the global response to the pandemic[400]. Furthermore, the Council would have remained trapped, unsurprisingly, by the internal tensions within its members, such tensions being mainly disagreement between the Council's members over the characterization of the pandemic as a threat to international peace and security, but most of all, tensions among the permanent members, notably US and China, over the inclusion of the WHO in the text of the resolution and the origin of the pandemic. It has been stated in fact, that friction within the P5 has been among the major reasons for the Council's unassertive and late response[401]. Pavone summarizes such reason by supporting that 'the Council's action was strongly hindered by its voting mechanism and superpower rivalry'[402].

As already mentioned, al the criticism directed a the Council's response to Covid-19 revolve around some key themes. While the elements summarized above concern the dynamics underpinning the adoption of Resolution 2532 in July 2020, other relevant points of stark criticism deal with the

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[399] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group' (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[400] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 4-6.

[401] Jeremy Farrall, 'The UN Security Council's response to Covid-19', *ANU College of Law* (Web Site, 28 May 2020). Available at: https://law.anu.edu.au/research/essay/covid-19-and-international-law/un-security-council%E2%80%99s-response-covid-19 (accessed 25 January 2022).

[402] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 2.

impacts of such resolution. Calling for "all parties to armed conflicts to engage immediately in a durable humanitarian pause"[403], Resolution 2532's significance has been found in that, for the first time, the Council advocated for a global ceasefire[404]. The relevance of such an appeal entering in a Security Council resolution notwithstanding, it has been stated that beyond such call for a ceasefire, the resolution "seems unlikely to be widely remembered, as its practical effects have been all but nil"[405]. Furthermore, a strong debate has emerged over the impacts of such resolution given its uncertain legal nature and the lack of enforcement measures[406]. Given the terms used by the Council in Resolution 2532 to address the security implications of climate change, according to which the Council expressed 'grave concern about the devastating impact of the COVID-19 pandemic across the world, especially in countries ravaged by armed conflicts, in post-conflict situations, or affected by humanitarian crises'[407], thus adopting a formulation more similar to that used for the Ebola outbreak with Resolution 1308, strong debate has emerged over whether to regard such Resolution as a binding decision under article 25 of the UN (Chapter VII) or a non-binding recommendation under article 36 (Chapter VI)[408] of the UN Constitutional Treaty[409]. Pavone argues that, the lack of an explicit qualification of COVID-19 as a 'threat to peace and security' under Article 39 makes the Resolution undeniably weaker, as such qualification would have opened up to the enforcement measures provided by Chapter VII and this 'undermines its concrete impact in conflict settings'[410].

Last, but not least, another element was widely raised as playing a significant role and impeding the Council prompt and assertive intervention in the Covid-19 pandemic, such element being the lack of concrete measures and proposals for an innovative response to the coronavirus outbreak[411]. Gowan and Pradhan further state that, differently from previous disease outbreaks such as the Ebola epidemic in 2013-2014, with Covid-19 it was not at all clear what the Council could do concretely,

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[403] UNSC Res 2532 (2020): para 2.

[404] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[405] Ibid.

[406] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 6-7.

[407] UNSC Res 2532 (2020): Preamble para 3.

[408] *Charter of the United Nations*, Article 36 para 1.

[409] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 4-6.

[410] Ibid., 6.

[411] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 223.

beyond the expression of concern over the spread of the pandemic[412]. While with Ebola in Liberia, Guinea and Sierra Leone the UN had significant presence with humanitarian and development assets in all three of the countries where the disease as spread, thus giving the Council room to act by 'throwing its weight behind use of these UN assets to counter the disease, and encouraging member states to pledge additional resources to the effort', with Covid-19 such UN humanitarian or security presence was little, if present, thus 'reducing the Security Council's ability to forge a response'[413]. This view is related to the widespread argument according to which the Council would be ill-equipped to respond to non-conventional threats due to the fact that, even though the Council has increasingly included non-conventional threats under its purview — HIV/AIDS and Ebola being examples of this practice — the main instruments available in the Council's toolkit to address such non-conventional threats fall under coercive Chapter VII measures[414]. Farrall states that 'effective action to halt COVID-19 would have required the Council to develop new, unorthodox responses'[415]. This argument, coupled with the above mentioned tensions within the Council, especially between its permanent members, have been advanced as key reasons as to why the Security Council would not have assumed a lead role in the fight against Covid-19, providing to be ill-prepared, previous international health crises as precedents notwithstanding. As formulated by Gowan and Pradhan, the Council's response to Covid-19 "left the sense that the Council presently has neither a solid policy framework for dealing with pandemics on the scale of COVID-19 or their security implications nor the collective political will necessary to tackle such challenges"[416].

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[412]Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', *International Crisis Group* (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[413]Ibid.

[414] Jeremy Farrall, 'The UN Security Council's response to Covid-19', *ANU College of Law* (Web Site, 28 May 2020). Available at: https://law.anu.edu.au/research/essay/covid-19-and-international-law/un-security-council%E2%80%99s-response-covid-19 (accessed 25 January 2022).

[415] Ibid.

[416] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', *International Crisis Group* (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

FOURTH CHAPTER

The Security Council and non-traditional security threats: evidence from Climate Change and International Health Crises

4.1 The Security Council and non-traditional security threats: a very topical issue

> "From this new vantage point, we must forge and follow a new agenda for world security, an agenda that includes the global environmental challenge, which could render all our other progress meaningless unless we deal with it successfully; the global challenge of defeating drugs and corruption, which now spill across our borders; the global challenge of terror, magnified by the availability of new weapons of mass destruction so small they can be concealed in a coat pocket; the new pandemics laying waste to whole societies; and the emergence of new strains of old diseases that are horrifyingly resistant to the antibiotics that protected the past three generations"[417].
>
> Al Gore (10 January 2000)

The 2017 National Intelligence Council's report deals with the major challenges the world is facing, adopting a long-term perspective to assess how these will unfold in the future, as "in a very messy and interconnected world, a longer perspective requires us to ask hard questions about which issues and choices will be most consequential in the decades ahead"[418]. The report identifies the key trends and issues transforming the global landscape and posing short-term and longer-term threats which will demand for greater collective action, among which feature climate change and health issues, as "more extreme weather, water and soil stress, and food insecurity will disrupt societies. Sea-level rise, ocean acidification, glacial melt, and pollution will change living patterns. Tensions over climate change will grow. Increased travel and poor health infrastructure will make infectious

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[417] United Nations Security Council, 4087th meeting, UN Doc S/PV.4087 (10 January 2000): 3.
[418] National Intelligence Council Report, "Global trends: paradox of progress", available https://www.dni.gov/files/documents/nic/GT-Full-Report.pdf (accessed 10 December 2021): Letter from the Chairman of the National Intelligence Council [vi].

diseases harder to manage"[419]. While not framed in the report as directly linked to the field of international security, the major issues referred to above, widely acknowledged as among the most pressing challenges to be addressed by the global community, constitute what is now established as the concept and term of "non-traditional security", which has increasingly gained ground both in the scolarship and in the international community, to refer to a range of threats not amounting to the traditional interstate and military conflict[420].

The definition and scope of Security has in fact changed and broadened over the years, as has broadened the range of threats falling within the scope of security studies, coming to include much more than interstate conflict, which dominated the sector during the Cold War, to the extent of becoming a synonym of international security and the study of security[421]. After the Cold-War in fact, the main assumptions about what should be the object of security evolved and changed[422]. If, for the longest time, international security had revolved around threats that could threaten state survival, and which were conceived as military disputes between states, attention shifted to threats that overcome national borders and unfold beyond the field of conventional state action[423]. Security has thus come to be associated with threats not necessarily threatening the existence of the state but rather its capacity to protect its people, thus a "a wide-range of non-traditional, mostly transnational issues, including terrorism, environmental degradation and climate change, infectious disease, transnational crime, and illegal migration"[424]. While definitions of traditional security, national or international, abound[425], coming across an established and universally adopted definition delimiting the scope of 'non-traditional security threats' is not as straightforward. When it comes to defining such non-traditional threats to international peace and security, this is mostly achieved through a negative or context-specific characterization, thus they are mostly defined by what they are not or through concrete context-specific examples. For the sake of the analysis, blending together the main

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[419] National Intelligence Council Report, "Global trends: paradox of progress", available https://www.dni.gov/files/documents/nic/GT-Full-Report.pdf (accessed 10 December 2021): 6.

[420] Shahar Hameiri and Lee Jones, "The Politics and Governance of Non-Traditional Security", *International Studies Quarterly* 57, no. 3 (2013) :462.

[421] Alan Collins, *Contemporary Security Studies,* (Oxford: Oxford University Press, 2016), 1-2.

[422] Ibid.

[423] Shahar Hameiri and Lee Jones, "The Politics and Governance of Non-Traditional Security", *International Studies Quarterly* 57, no. 3 (2013): 462.

[424] Ibid.

[425] For a collection of the main scolarship definitions of 'Security Studies' see: Alan Collins, *Contemporary Security Studies,* (Oxford: Oxford University Press, 2016), 3.

elements emerging from the scolarship and international institutions' outcomes[426], non-traditional security threats - among which Climate Change and Infectious Diseases have been chosen for the analysis - are conceived as non military threats; international and transnational in origin, nature and consequences; interconnected; requiring to be addressed at the regional, national and global level; not easily characterized as threats to international peace and security.

As referred to above, the meaning of 'peace and security' has evolved from simply relating to the 'national security' of states, to include the 'common security' of the international community and the 'human security' of peoples[427]. The responsibility to maintain such common security is mainly up to the United Nations, the global organization born with the primary objective of coordinating international efforts to 'maintain international peace and security'[428], and in particular to the UNSC, the UN body charged with carrying out such mission[429], in line with the Organization's primary objective. First and foremost in fact, the Security Council is charged by the UN members, on whose behalf it acts, with the "primary responsibility for the maintenance of international peace and security", under which it carries out its duties "in accordance with the Purposes and Principles of the United Nations" (Article 24 UN Charter), set out in the first chapter of the Constitutional Treaty (Articles 1 and 2)[430]. The specific powers of the Security Council for carrying out its duties and upholding its responsibility for the maintenance of international peace and security are laid down in Chapters VI, VII and VIII of the UN Charter[431]. Chapter VI of the Charter (Articles 33-38) provides with a system for the pacific settlement of any dispute "the continuance of which is likely to endanger the maintenance of international peace and security"[432]. Chapter VII (Articles 39-51) deals with actions with respects to threats to the peace, breaches of the peace and acts of aggression and identifies the Security Council as the primary actor responsible of determining the existence of such situations and adopting the necessary measures to restore international peace and security[433].

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[426] For example Langmore and Thakur define non-traditional security threats as threats that are "international in origin and nature, global in scope and effects, and require concerted multilateral action led by the major powers", supra note 126. The High Level Panel on Threats, Challenges and Change's report "A more secure world: our shared responsibility" (UN Doc. A/59/565) on the other hand refers to threats that are "beyond national boundaries, connected, and to be addressed at the regional, national and global level", supra note 125.

[427] John Trent and Laura Schnurr, "Peace and Security: Fixing the Security Council", in *A United Nations Renaissance:What the UN Is, and What It Could Be.* 1st ed. (Verlag Barbara Budrich: 2018), 56. https://doi.org/ 10.2307/j.ctvdf03xp.

[428] *Charter of the United Nations*, Article 1.

[429] *Charter of the United Nations*, Article 24.

[430] *Charter of the United Nations*, art. 24 and artt. 1-2 on Purposes and Principles of the United Nations.

[431] Ibid, art. 24.

[432] *Charter of the United Nations*, Chap. VI.

[433] *Charter of the United Nations*, Chap. VII.

Article 39, confers such responsibility, by providing that: 'The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security'[434].The measures referred to in Article 39 are enshrined in Articles 41 and 42, which provide with the concrete measures the Council may adopt to give effect to its decisions: those non involving the use of armed forces, such as the complete or partial interruption of economic relations or the severance of diplomatic relations (Article 41), and, were these regarded inadequate, actions which require the use of armed forces, by air, sea, or land (Article 42)[435].

When it comes to determining which crises fall under "threats to international peace and security", thus under its Charter-given mandate, opening up to its powers, the Council holds broad discretion as it is authorized to make such determination independently and no guidelines or definitions to be followed in doing so are included in the Charter[436]. Such room for interpretation and discretion seems to have been intendedly left to the Council by the drafters of the UN Charter, so to ensure that the Council would benefit from a high degree of flexibility and be able to adapt, as a political decision-making body, to respond to new emerging threats[437]. As a matter of fact, over the course of decades, since the cessation of the Cold War, the Council has expanded its definition of threats to international security, coming to include several social, economic, ecological and humanitarian sources of instability among threats to international peace and security, thus going beyond the traditional threats posed by armed conflicts between states[438]. Such gradual extension found its "ideological" basis in the 1992 Security Council Presidential Statement, where the Council, for the first time, expanded its interpretation of Article 39 by determine that the proliferation of WMDs constituted a threat to international peace and security[439].

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[434] Ibid., art. 39.

[435] *Charter of the United Nations*, artt. 41-42.

[436] Amber Jitts, "The UN Security Council: Is it Equipped to Deal with the Global Security Challenges of the 21st Century?" in *Emerging Scholars 2008-2009*, edited by Melissa H. Conley Tyler, Geoff Miller AO, Chad J. Mitcham & Emma White, *Australian Institute of International Affairs* (June 2009): 60-61.

[437] Edward C. Luck, "A council for all seasons: The creation of the Security Council and its relevance today," in Vaughan Lowe, Adam Roberts, Jennifer Welsh, et al., eds., *The United Nations Security Council and War: The Evolution of Thought and Practice Since 1945* (Oxford: Oxford University Press, 2008), 62–63.

[438] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond,* eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 306.

[439] Ibid. See UN Doc S/23500 (1992), at 3-4.

Such expansion notwithstanding, the Security Council, while having recorded much successes and failures since its foundations, has increasingly been called to address new challenges, among which feature prominently those referred to above and those chosen for the analysis. Among the critique to the Council's action, one of the crucial arguments seems to be revolving exactly around the inability of the Council to tackle such threats. While the SC has in fact increasingly engaged with such challenges after the end of the Cold War, and especially in the last couple of decades, this engagement is often deemed insufficient and disappointing, as the Council would fail to assume a prominent role and its response would be unassertive and tentative[440]. On the other hand, despite the wide criticism directed at the Council, its relevance as an enforcer of peace and security is still widely recognized and supported. Although not entailing a refusal of the shortcomings and obstacles raised by the critique to the Council's ability to adapt to the global challenges of the 21st century, the Security Council seems to be nevertheless unmatched as a forum to deal with such challenges. This is well summarized by Jitts who, while recalling the main shortcomings in the Council's response to 21st century threats, states that 'the Council remains a vitally important mechanism for coordinating state responses to 21st century security threats' as 'a collective security approach is more important than ever before, and that the Council stands alone in its authority and ability to achieve international peace and security'[441].

Thus the choice of delving into the question of what role the UN Security Council has had in addressing such non-traditional security threats, focusing on the specific security implications of climate change and international health crises due to infectious diseases. The matter is rather complex and multidisciplinary as dealing with such topic requires grasping the interplay between questions of international law, security studies, environmental and health studies, international law and politics. The matter of the Security Council's response to the contemporary international security challenges is all but new, yet its evaluation seems particularly relevant at the time of writing. Given the choice to assess the Council's role in addressing non-traditional security threats, focusing on climate change and international health crises of infectious diseases, current events give in fact a surprisingly new perspective to do so. Given the recent outbreak of the Covid-19 pandemic, still ongoing, and the current international momentum given by national and international news and institutions to climate change, with the last UNFCCC's Conference of the

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[440] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

[441] Amber Jitts, "The UN Security Council: Is it Equipped to Deal with the Global Security Challenges of the 21st Century?", supra note 435, at 60-61.

Parties COP26 taking place at the end of 2021, the time is uniquely favorable to deal with such topic. The two challenges chosen for the analysis are currently at the center of international focus and concern, thus assessing the role of the highest international security body in addressing them appears as topical as ever.

4.2 The Security Council's response to Climate Change and International Health crises: patterns and differences

4.2.1 The Security Council's response to Climate Change

To date, no thematic resolution has been adopted by the Security Council over the security implications of climate change, an attempt at doing failing to be adopted just last year[442]. While strong agreement seems to have been reached over climate change as a multiplier of threats, thus an exacerbating factor in the presence of conflict, an equally strong agreement over the characterization of climate change as a threat to international peace and security to be addressed by the Security Council is not yet achieved. Both in the literature and the international community in fact, opposing views emerge as to the role the Council should have in dealing with the climate threat. Such opposing views have been briefly reported above (Chapter 2). The Security Council has nevertheless increasingly dealt with the climate change challenge and its security implications. Holding its first ever debate in 2007, its engagement has rapidly grown, as proven by the fact that, in the last few years, the frequency of debates held by the Council over the security implications of climate change has significantly risen. What emerges from this engagement is that, while several important steps have been taken over the years, the Council cannot count on a sufficiently strong base of support to step in and assume a lead role in tackling the climate threat.

This is proven by the fact that, just last year, in a debate held within the Council under the Irish Presidency, over climate and security[443], disagreement emerged over the Council being the appropriate forum for discussing climate change[444]. Firm opposition came from permanent

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[442] Security Council Fails to Adopt Resolution Integrating Climate-Related Security Risk into Conflict-Prevention Strategies. UN Doc SC/14732 (13 December 2021). Available at: https://www.un.org/press/en/2021/sc14732.doc.htm (accessed 15 January 2022)

[443] UN Doc S/PV.8864

[444] Differences Emerge over Appropriate Forum for Discussing Climate Change, as Delegates Hold Debate on Links between Global Crisis, Security. UN Doc SC/14644 (23 September 2021). Available at: https://www.un.org/press/en/2021/sc14644.doc.htm (accessed 2 February 2022)

members Russia and China. The Russian delegate stated that "the persistent and insistent attempts to advance the premise of climate change as a threat to international peace and security in the Security Council agenda at all costs introduces a completely unnecessary political component to an already complicated and sensitive discussion", concluding that "the Security Council is a very serious but not universal instrument at the disposal of the United Nations, and its use is liable to backfire with respect to our struggle to counter climate change"[445]. China's position, shared by India, was likely one of firm opposition to the Council's involvement as the Chinese representative warned that the Council, lacking "the necessary specialized tools and knowledge", by intervening in climate change, would be invading the mandate of the forum where the environmental challenge is to be tackled, thus the international climate governance regime under the UNFCCC and the Paris Agreement[446]. Furthermore, it added that the Council should avoid introducing climate change in peacekeeping mandates as that would be detrimental, rather than beneficial, to peace operations' delivery of their core tasks[447]. India's position was one of opposition to the Council's involvement as well, with arguments similar to those expressed by Russia's and China's delegates, to which it was added that, were the Council to step in by addressing climate security, would lead to "ignoring basic principles and practices relating to climate change" which in turn would "disrupt the nature of overall discussion on that extremely important topic"[448]. Furthermore, and crucial to an understanding of the point the Council has reached when it comes to recognizing the security implications of climate change, India's representative stated that "to view conflicts in the poorer parts of the world through the prism of climate change will only serve to present a lopsided narrative when the reasons for the conflict are to be found elsewhere", thus refusing the link between climate change and conflict[449].

It comes with no surprise then than, on the 13th of December 2021, when a draft resolution was voted on by the Security Council to include the security risks posed by climate change as central component of the UN's conflict−prevention strategies, with 12 votes in favour, 2 against (India and Russia), and China's abstention, the Resolution did not pass[450]. The vote on 13 December, which, if

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[445] U.N Doc S/PV.8864:19-20.

[446] Differences Emerge over Appropriate Forum for Discussing Climate Change, as Delegates Hold Debate on Links between Global Crisis, Security. UN Doc SC/14644 (23 September 2021). Available at: https://www.un.org/press/en/2021/sc14644.doc.htm (accessed 2 February 2022).

[447] Ibid.

[448] Ibid.

[449] Ibid.

[450] Security Council Fails to Adopt Resolution Integrating Climate-Related Security Risk into Conflict-Prevention Strategies. UN Doc SC/14732 (13 December 2021). Available at: https://www.un.org/press/en/2021/sc14732.doc.htm (accessed 15 January 2022).

successful, would have led to the ground-breaking achievement of officially according, for the first time, climate change with its role as a threat to international peace and security, "sank a years-long effort to make global heating more central to decision-making in the UN's most powerful body"[451]. The resolution would have in fact "integrated climate−related security risk as a central component of United Nations conflict−prevention strategies"[452].

Therefore, what emerges from an analysis of the Security Council's response to climate change is that strong disagreement persists among countries as to the role to be assumed by the Council, the main contrasting points not being on the existence of climate change, or even on it having security implications, but rather on them being worth of being included within the scope of the Council's work[453]. While several steps have been taken over time, and notable shifts have been registered in countries' position since 2007 - see for instance US' starkly favorable position held last year towards the Council's involvement in Climate Change - strong opposition, notably from 2 out 5 veto-holding powers China and Russia, still remains. The main contrasting points raised over the years, and raised just last year in the last Council's thematic debate over climate change and international security seem to be revolving around the appropriateness of the Council as a forum to deal with climate challenge. Namely, the Council wouldn't have the necessary tools to adequately tackle the climate threat, its intervention would invade the role of other UN organs as it is ultimately a matter of sustainable development more than a threat to international peace and security. More over, the Council taking charge of climate change would undermine the climate governance system under the UNFCCC and the Paris agreement.   The relevant steps taken by the Council over the last 15 years notwithstanding, since the Council dealt with the security implications of climate change for the first time, while strong opposition remains it seems highly unlikely for the Council to assume a lead role in the fight against the climate threat. the effectiveness of any Council action in fact, ultimately rests on the support conferred to it by the international community. Such support is vital, not only in the obvious first step of its adoption, but also in its implementation in terms of resources and finance.

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[451] Associated Press in New York, "Russia vetoes UN security council resolution linking climate crisis to international peace", *The Guardian*, 13 December 2021. Available at: https://www.theguardian.com/world/2021/dec/13/russia-vetoes-un-security-council-resolution-climate-crisis-international-peace (accessed 12 January 2022).

[452] UN Doc SC/12732.

[453] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 12. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

4.2.2 The Security Council's response to Pandemics

The involvement of the UNSC in addressing infectious diseases marks some significant similarities and differences with what has been observed with climate change. Through an analysis of the Council's engagement with the international health crises of HIV/AIDS, the Ebola outbreaks in West Africa (2013-2014) and in the Democratic Republic of Congo (2018) and the most recent outbreak of the novel coronavirus Covid-19, several key elements emerge which are consistent with the Security Council's engagement with the non-traditional security threats posed by climate change. Along these, some significant differences emerge as well, consisting mainly in the adoption of several resolutions by the Council over the security implications of specific infectious diseases, despite its characterization of such diseases as threats to international peace and security going back and forth instead of following a linear evolution and an established practice. As far as responding to international health crises is concerned in fact, the Council has been active for over two decades now, its first <u>debate</u> over the security implications posed by the HIV/AIDS disease going back to January 2000[454], at the very beginning of the 21st century. Several other resolutions have followed since then, with the Council not addressing international health crises in a consistent manner when it comes to recognizing the link between security and health. As with climate change, the Council has been increasingly involved in addressing international health crises, its action being nevertheless strongly criticized and often deemed unassertive and disappointing, Covid-19 being an emblematic example — and the most recent one at that, given that the Covid-19 emergency is still ongoing —- of the Council failing to live up to the widespread expectation of it assuming a prominent role in tackling the challenge[455].

The Council officially recognized a health issue as a threat to international peace and security, for the first time, in 2014, when it adopted resolution 2177 (2014) over the outbreak of the Ebola disease in West Africa[456]. This resolution though, did not mark the first time an international health crisis was addressed and debated within the Council, as it has done so with the HIV/AIDS disease over a decade earlier. On that occasion, the Council, on 17 July 2000, unanimously adopted Resolution 1308 (2000) on the impacts of HIV/AIDS where the Council 'bearing in mind the

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[454] United Nations Security Council (UNSC) 4087th meeting, UN Doc S/PV.4087 (10 January 2000).

[455] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

[456] UNSC Res 2177, UN Doc S/RES/1277 (18 September 2014).

Council's primary responsibility for the maintenance of international peace and security, stressed that 'the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security'[457].The Security Council's outcome was referred to as 'historic', as for the first time the Security Council adopted a Resolution on a health issue, thus it was seen as proof of the full recognition of an infectious disease as a threat to international peace and security[458]. The strong agreement over Resolution 1308 being evidence of the Council coming to including infectious diseases within its mandate, by recognizing HIV/AIDS as a threat to international peace and security though, soon diminished given that the Resolution recognized AIDS in Article 39 terms in a very limited sense, focusing only on the impact of HIV/AIDS on the health of international peacekeeping personnel[459]. Furthermore, strong disagreement between Council members actually existed over such recognition. The unanimous adoption of the 1308 Resolution on AIDS concealed in fact strong disagreements between the Council's members, among those not in favour featuring three of the five permanent members —- France, Russia and China —- and eventually was seen as the result of different underlying dynamics such as the strong US' influence and the other permanent members' awareness over the reputational costs of opposing a Resolution addressing such a major human tragedy'[460]. Furthermore, in following decade, while the Council reinforced its commitments under resolution 1308, no additional action was taken[461].

As above mentioned, full recognition by the Security Council of an infectious disease constituting a "threat to international peace and security" falling within its mandate thus occurred over a decade later, with the adoption of Resolution 2177 (2014) over the outbreak of the Ebola disease in West Africa[462]. On this occasion, like it had never done before, the Council determined that a health issue per se constituted a threat to international peace and security[463]. Consequently Security Council's Resolution 2177/2014 on the Ebola Outbreak has been widely recognized as a 'landmark in the evolution of the notion of security' and a milestone in the process of 'securitization' of health and

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[457] United Nations Security Council Resolution 1308, UN Doc S/RES/1308 (17 July 2000). For the meeting record see UN Doc S/PV.4172 (17 July 2000).

[458] United Nations,'Security Council, adopting 'historic' Resolution 1308 (2000) on HIV/AIDS,calls for pre-deployment testing, counselling for peacekeeping personnel', Press Release, UN Doc SC/6890 (17 July 2000).

[459] Simon Rushton, "AIDS and international security in the United Nations System", *Health Policy and Planning* 25, no. 6 (2010): 498-499. See also UNSC Res 1308, UN Doc S/RES/1308 (17 July 2000).

[460] Ibid., 498.

[461] Ibid.

[462] UNSC Res 2177 (2104), UN Doc S/RES/1277: Preamble para 5.

[463] Anna Hood, "Ebola: A Threat to the Parameters of a Threat to the Peace?", *Melbourne Journal of International Law* 16, no. 1 (2015): 29.

international health crises[464]. Yet, once again, the Council's role and functions did not change significantly as the Council did not take concrete measures under Chapter VII (Articles 41-42 of the UN Charter), ultimately not being the revolution widely envisaged in its adoption[465]. It has thus been concluded that the inclusion of Ebola among threats to international peace and security under Article 39 of the Charter seems to have been more of a political and symbolic act, 'to generate momentum and additional political, operational and financial commitments by the international community'[466]. Namely, Resolution 2177 would not have been adopted to set a precedent of the expansion of the role of the Council in international health crises, but rather, the drafters of the Resolution 'aspired to reach a stricter cooperation amongst UN Member States and to gain additional financial resources while facing an exceptional event'[467].

This seems to have been confirmed by the Council's subsequent practice. When facing another Ebola outbreak years later, in the Democratic Republic of Congo, the Council adopted Resolution 2439[468]. On such occasion, as far as the characterization of the disease as a threat to international peace and security, the Council reversed its previous practice and, unlike Resolution 2177 (2014), in Resolution 2439 the Council did not determine the Ebola outbreak as a threat to international peace and security per se but rather determined that 'the situation in the DRC continues to constitute a threat to international peace and security in the region'[469]. Thus, the 2018 response by the Council did not frame the health emergency as a Chapter VII issue[470]. Such an about-turn was due to disagreement within the Council, as several states 'preferred a statement placing the Ebola epidemic within the context of the security situation in the DRC'[471]. Thus, by adopting Resolution 2439, the Council determined that the armed attacks and ongoing conflict determined a threat to international peace and security by 'exacerbating the country's ongoing Ebola outbreak'[472], not the outbreak

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[464] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond,* eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 301.

[465] Ibid., 304.

[466] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[467] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits", supra note 463, at 326.

[468] UNSC Res 2439, UN Doc S/RES/2439 (30 October 2018).

[469] Ibid. Preamble para 3.

[470] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 220.

[471] Security Council Report, 'Democratic Republic of the Congo (DRC): Resolution to be Adopted on Ebola', *What's In Blue* (Web Page, 29 October 2018).

[472] 'Adopting Resolution 2439 (2018), Security Council Condemns Attacks by Armed Groups in Democratic Republic of Congo Jeopardizing Response to Ebola Outbreak', Press Release, UN Doc SC/13559 (30 October 2018).

itself. The Council thus opted for reconnecting the health crisis to the traditional situation of conflict in the region and individuating in that the security threat, not in the disease itself. While the characterization of the Ebola virus outbreak in West Africa in 2013 as a threat to international peace and security might have led to believe in a subsequent change in the Council's general practice, such change did not happen.

Such conclusion was confirmed by the Council's role in addressing the most recent international health emergency of the novel coronavirus Covid-19. Soon declared by the WHO as a global pandemic[473], an assertive intervention by the Council was widely called for and expected. Nonetheless, although its intervention being invoked by the Secretary-General of the UN himself[474], the Council responded to the crisis significantly late and it seems that the security organ of the United Nations failed in living up to the expectations of it assuming a lead role[475]. The Council intervened in fact over the Covid-19 international health crisis only in July 2020, by adopting Resolution 2532 (2020)[476]. As far as the characterization of Covid-19 as a threat to international peace and security, the Council adopted a terminology similar to that of Resolution 1308/2000[477], by expressing 'grave concern about the devastating impact of the COVID-19 pandemic across the world, especially in countries ravaged by armed conflicts, or in post-conflict situations, or affected by humanitarian crises' and recognizing that 'the unprecedented extent of the COVID-19 pandemic is likely to endanger the maintenance of international peace and security'[478]. Thus, the Council did not go back to its 2177/2014[479] practice by recognizing that the Covid-19 disease itself constitutes a threat to international peace and security.

The Council's late intervention was preceded by months of negotiations and attempts at resolutions, during which strong divisions emerged between members, which have hampered and stalled the

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[473] 'WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020', *World Health Organization* (Web Page, 11 March 2020). Available at: https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 (accessed 25 January 2022).

[474] UN secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', United Nations Secretary-General (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid-19-pandemic-delivered (accessed 25 January 2022). Mr Guterres invoked the Council's intervention by expressing the critical role the Council would play in mitigating 'the peace and security implications of the COVID-19 pandemic'. Furthermore, he stated in clear-cut terms that 'a signal of unity and resolve from the Council would count for a lot at this anxious time'.

[475] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020).

[476] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020).

[477] UNSC Res 1308 (2000).

[478] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020): Preamble paras 2,11.

[479] UNSC Res 2177 (2104), UN Doc S/RES/1277.

Council from taking action[480]. Such divisions revolved around the link between health and security. For instance, such link was rejected by China and South Africa who 'questioned the pandemic's link with international peace and security, and whether elements in the statement such as references to the global economy fell within the Council's mandate'[481]. Most importantly, the Council was hampered from taking action by the friction between two its permanent members — China and the US — who held opposite positions over the inclusion of the WHO in the text of the resolution and engaged in a blame-placing exchange over the origin of the outbreak[482]. The US, under the Trump administration at the time, pushed for the inclusion in the resolution of a paragraph clearly stating the Chinese origin of the virus and strongly opposed the inclusion of the WHO in the text, accusing the organization of poorly handling the pandemic[483]. China, in contrast, insisted that the WHO would be mentioned in the text and opposed the inclusion in the text of language that would place blame on China for the origin of the crisis as well as criticize its response in handling the disease[484].

Other relevant points of stark criticism to the Council's response to climate change deal with the impacts of Resolution 2532 (2020). Calling for "all parties to armed conflicts to engage immediately in a durable humanitarian pause"[485], Resolution 2532's significance has been found in that, for the first time, the Council advocated for a global ceasefire[486]. The relevance of such an appeal entering in a Security Council resolution notwithstanding, it has been stated that beyond such call for a ceasefire, the resolution "seems unlikely to be widely remembered, as its practical effects have been all but nil"[487]. Furthermore, a strong debate has emerged over the impacts of such resolution given its uncertain legal nature and the lack of enforcement measures[488]. Furthermore, a

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[480] Colum Lynch, 'U.N. Security Council Paralyzed as Contagion Rages' report, *Foreign Policy* (Web Page, 27 March 2020). Available at: https://foreignpolicy.com/2020/03/27/un-security-council-unsc-coronavirus-pandemic/ (accessed 25 January 2022).

[481] Security Council Report, 'Security Council Resolution on COVID-19*', *What's in Blue* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/06/security-council-resolution-on-covid-19.php (accessed 25 January 2022).

[482] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

[483] Boris Kondoch, "Covid-19 and the Role of the Security Council as Global Health Peacekeeper", *Journal of International Peacekeeping* 23 (2019): 112.

[484] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

[485] UNSC Res 2532 (2020): para 2.

[486] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[487] Ibid.

[488] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 6-7.

further key element was widely raised as playing a significant role and impeding the Council prompt and assertive intervention in the Covid-19 pandemic, such element being the lack of concrete measures and proposals for an innovative response to the coronavirus outbreak[489]. It seems in fact that 'effective action to halt COVID-19 would have required the Council to develop new, unorthodox responses'[490]. Not having done so, thus not developing a framework to deal with international health crises posed by infectious diseases and their security implications seems to have been a crucial element in the Council's late and weak intervention.

4.3 The Security Council's role in non-traditional security threats through the climate change and pandemics' lens: where are we at?

The analysis of the Security Council's response to the non-traditional security threats posed by climate change and international health crises due to infectious diseases, such as the most recent outbreak of Covid-19, allows for some final conclusions to be drawn over the Security Council's role in non-traditional security threats. First and foremost, the SC has increasingly addressed and debated such non-traditional threats to international peace and security, as proven by the augmented frequency of Security Council's debates over the security implications of climate change and its involvement in several international health crises preceding the outbreak of Covid-19. Such greater involvement is both due to the urgency of such threats, included among the most pressing global challenges the world faces, and growing calls for an intervention by the Council due to their recognized implications on global security. Yet, in both instances, the Council, seems to have failed to assume a lead role, as proven by the late and disappointing intervention to deal with the Covid-19 pandemic, which in the end led to the adoption of a resolution whose legal nature is debated and its impacts questioned, and the failed attempt to adopt a groundbreaking resolution over the security implications of climate change, which would have included these within the Council's agenda, just last year. Such reluctance of the Council to lead global efforts in non-traditional security threats, as proven by the two cases taken into account for the analysis, seems to stem from several factors.

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489 Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 223.
490 Jeremy Farrall, 'The UN Security Council's response to Covid-19", *ANU College of Law* (Web Site, 28 May 2020). Available at: https://law.anu.edu.au/research/essay/covid-19-and-international-law/un-security-council%E2%80%99s-response-covid-19 (accessed 25 January 2022).

First of all, the complex nature of such non-traditional threats. While the impacts of both climate change and infectious diseases are not equally distributed among countries, they are nevertheless "international in origin and nature, global in scope and effects" and most of all requiring to be addressed "at the regional, national and global level"[491]. This is noticed and underscored for both the non-traditional threats taken into account in this work. Pobje, assessing the role of the UNSC in responding to Covid-19 states that "the collective security architecture that the Security Council exists within was not designed to address these non-military types of threats and those that do not necessarily emanate from an identifiable responsible actor, as the sanctions regime envisaged by Chapter VII makes clear. A feature of these newer, non-traditional security threats may indeed be that they are not directly attributable to a specific actor"[492]. Such complexity in directly attributing responsibility is evidenced in the case of climate change and its threats to international peace and security as well, given that "human activity and environmental factors combine with crosscutting intrastate and interstate socio-economic-political-issues to produce non-traditional threats to international peace and security "[493]. This complexity leads to the difficulty of the Council to come up with concrete measures to address such threats, given the instruments at its disposal, designed for a different era and with other threats in mind.

Furthermore, the inability of the Council to lead global efforts to address non-traditional threats seems to originate in its very nature, its structure and voting mechanism. The effectiveness of any Council action ultimately rests on the support conferred to it by the international community and such support is vital in the whole process of the Council's action, from the adoption of a Resolution to its implementation in terms of resources and finance. Unless agreement is reached over the characterization of such challenges as threats to international peace and security, worthy of being included within the purview of the Council, hopes for the Council assuming a lead role are bound to be let down. With due differences between the two cases, the characterization of climate change as a security issue to be addressed by the Council is still under question — and still strongly opposed by permanent members China and Russia — and the characterization of infectious diseases as threats to international peace and security to be handled by the Council has been going back and forth over

[491] John Langmore and Ramesh Thakur, "The Elected but Neglected Security Council Members", *The Washington Quarterly* 39, no. 2 (2016): 99; Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc A/59/565, 11.

[492] Erin Pobjie, 'COVID-19 and the Scope of the UN Security Council's Mandate to Address Non-Traditional Threats to International Peace and Security', *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020-41* 81, no. 1 (5 November 2020):19.

[493] Trina Ng, "Safeguarding Peace and Security in our Warming World: A Role for the Security Council", *Journal of Conflict & Security Law* 15, no. 2 (2010): 289.

the years. That said, the Security Council is in fact, above all, a political organ. As such, its action is inevitably guided and influenced by the will of its members and intrastate and inter-state political dynamics. Friction among the veto-holding permanent members, above all, and emerged in both cases analyzed above — Russia and China still opposing the the characterization of climate change as a security issue and the China-US contrast in the negotiations to adopt a resolution in response to Covid-19 — is indeed a major cause of stall to the Council's response*. As a consequence, in addressing such non-traditional security threats, a tendency of the Council is evident in it linking the threats to conflict, the traditional area of Security Council's action. As stated by Pobje, the Council's response to Covid-19 has shown "a trend in the practice of the Council towards a narrower form of human security which continues to recognise non-military factors that may negatively affect international peace and security in a sense more restricted to armed conflict and violence. The focus on military factors may also reflect the limited consensus possible in the context of a strained geopolitical situation among the permanent members of the Council and disagreement over how to address the pandemic"[494].

Calls for reform to make the Council more able to tackle the security challenges of the 21st century, among which feature the ones dealt with in this work, have strongly been raised, the veto power of the permanent members and the Council's unrepresentative membership having been under discussion for decades, with no significant solution do date[495]. On the one hand, it is supported that such reform would make the Council more reflective of the current geopolitical reality[496]. On the other, it seems clear that such reform is highly unlikely and, furthermore, it is noted that there is no agreement over how such reform would look like and over its effectiveness. As put by Haas, 'Significant reform of the UN is not a realistic option, as potential changes, such as altering the composition of the Security Council to reflect the distribution of power in today's world, would favor some countries and disadvantage others. Not surprisingly, those who stand to lose can and do block any such change'[497]. Once again, the question comes down to countries' will and support to any Council reform.

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[494] Erin Pobjie, 'COVID-19 and the Scope of the UN Security Council's Mandate to Address Non-Traditional Threats to International Peace and Security', *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020-41* 81, no. 1 (5 November 2020):15-16.

[495] Jovana Blešić, "The United Nations combat against Covid-19 — the alarm for the Security Council reform?" In *International Organizations and States' response to Covid-19*, edited by Sanja Jelisavac Trošić and Jelica Gordanić (Institute of International Politics and Economics: Belgrade, 2021), 169.

[496] Ibid.

[497] Richard Haass, 'The UN's Unhappy Birthday', Project Syndicate (10 September 2020). Available at: https://www.project-syndicate.org/commentary/united-nations-75th-anniversary-little-to-celebrate-by-richard-haass- 2020-09 (accessed 25 January 2022).

Thus, it seems, to date, that while the Council's importance as the UN security body is still recognized, its role in addressing international non-traditional security threats is yet too marginal, the inability of the Council to assume a lead role in tackling such threats to be mainly blamed on the complexity of such threats — both in nature and in defining concrete measures to address them — and its very structure and voting mechanism, as when strong friction exists between members, those wielding the power of veto especially, any Council's action is inevitably hampered and hesitant. It has been widely stated that, at this point, the Council's role in addressing such threats mainly comes down to gaining international focus to the urgency of such threats, its action thus being mostly symbolic. Furthermore, as summarized by Farrell and Michaelsen, 'the best that can be hoped in such circumstances is that it can agree to strengthen the hands of other multilateral actors that are better equipped to address such unorthodox threats'. Were a policy framework not developed to address such threats, and were stronger agreement and support among the Council's members' — the P5 especially — to the formal characterization of such challenges as threats to international peace and security, thus falling within the Council's mandate not reached, such would be inevitably the best one can hope for. Nonetheless, given the recognized urgency of such threats*, it seems appropriate to aim higher, thus to the Council assuming a lead role in tackling the most pressing global challenges the world is facing and their security implications, as non-traditional as they may be. Having the issues dealt within this work been at the top of the national and international agendas for decades now, with international concern over the threats posed infectious diseases gaining significant new momentum with the recent outbreak of the Covid-19 pandemic, were the Council not able to step up its game and come up with new ways to address them, this 'will make it appear out of touch with fundamental threats to international peace and security—and human survival'[498]. This change ultimately rests on states' support, those with the Charter-given power to stop the Council from taking action overcoming their disagreements especially, as without a sufficiently strong base of legitimacy for the Council to act, it remains stalled in its old ways, the significant steps made over the years ultimately making its action not as impactful as one may hope.

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[498] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 17. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 25 January 2022).

CONCLUSION

Two years into the Covid-19 pandemic, and less than a year after COP26, which led to the adoption of the Glasgow Climate Pact and the disappointing realization that several goals set under the Paris Agreement have not yet been achieved, the aim of this work has been that of assessing the role of the United Nations Security Council in addressing non-traditional security threats, through the lens of two specific cases, among those recognized within this category. Namely, Climate Change and International Health crises due to infectious diseases, chosen due to their topicality in the current international context. The analysis of the Security Council's role in non-traditional security threats, through the investigation of its response to Climate Change and International Health Crises, has led to a deeper understanding of the key factors contributing to the Council's action, widely deemed marginal and not as impactful as expected. First and foremost, the complexity of such threats is worth being mentioned, as it significantly contributes to an understanding of the Council's intervention. While awareness on the disastrous impacts of such challenges and the cruciality of coming up with new forms of international cooperation towards effectively tackling them has reached unprecedented levels in the last years — which is mirrored by the increased involvement of the Council in addressing such threats — the nature of these issues severely impacts its scope of action. Namely, having been designed in a different era, for different threats — interstate military conflicts as the main form of security threat envisaged by the drafters of the UN Constitutional Treaty — the Council struggles when dealing with these international, transnational, non-military, interconnected threats, where identifying a specific responsible actor is not necessarily clear and their impacts are unequally distributed. While the Council has in fact recognized the need for these threats to be handled through shared intervention and cooperation at the regional, national, and global level, it seems that when it comes to it assuming a lead role, that requires coming up with unorthodox responses and operating within new frameworks the Council was not build upon.

With due differences among the two cases taken into account in the analysis — above all the fact that a resolution including the full recognition of an international health crisis as a threat to international peace and security was achieved by the Council in 2014 (Res 2177/2014 on Ebola disease) — while with climate change the Council has not yet reached that outcome, several key elements, to this day, hamper its prompt and assertive intervention. First and foremost, the Council

is ultimately a political organ, thus inevitably guided and influenced by the will of its members which in turn is a result of intrastate and inter-state political dynamics. Leaving aside the wide body of critique to the Council's lack of legitimacy, accountability and representativeness, along with the process for Council reform, which specularly focuses mainly on its unrepresentative membership and the unequal representation due to the veto power — with heated debates persisting over what such reform could look like and whether it would lead to the Council being effectively more able to deal with current threats — the Council, given its structure and voting mechanism, is bound to States' support. Unless sufficiently strong agreement is reached over the characterization of such challenges as threats to international peace and security, worthy of being included within the purview of the Council, hopes for the Council assuming a lead role are set to be let down.

While the Council has increasingly broadened its interpretation of what constitutes a threat to international peace and security, in both cases analyzed it seems that such agreement has not yet been reached. For instance, while the disastrous impacts of climate change are, unsurprisingly, not neglected by the Council's members, and strong agreement has been reached, over the years, as climate change acting as a multiplier of threats, disagreement persists over it being 'a threat to international peace and security' falling under the specific purview of the Council, as some Council members — notably permanent members Russia and China — still insist on the matter falling under the category of development issues to be handled under the international climate governance regime of the UNFCCC and the Paris agreement. The ultimate proof of such disagreement is the failed attempt to adopt a resolution, in December 2021, which would have included the climate issue in the Council's agenda. On the other hand, as far as the the characterization of international health crises caused by infectious diseases as threat to international peace and security is concerned, the Council's approach has followed a different path, yet when taking into account the recent handling of the Covid-19 crisis as the culminating point of such path, the conclusion is not that far from that reached with climate change. In fact, considering the Council's response to the international health crises of HIV/AIDS at the outset of the 21st century, the Ebola outbreaks in West Africa (2013-2014) and in the Democratic Republic of Congo (2018), along with the most recent outbreak of the novel coronavirus Covid-19, several key elements emerge which are consistent with the Security Council's engagement with the non-traditional security threat posed by climate change. While recognizing, for the first time ever in 2014 with Ebola in West Africa, an infectious disease as a threat to international peace and security, such recognition did not lead to a substantial change in the Council's practice. Due to disagreements within the Council, in subsequent crises — namely the

Ebola outbreak in the Democratic Republic of Congo in 2018 and the most recent crisis of Covid-19, the Council did not recognize the crisis per se as a threat to security, but rather opted for reconnecting the health crisis to the traditional situation of conflict in the region and individuating in that the security threat, not in the disease itself.

Furthermore, a key element to be taken into account, or rather further underscored, as it is a vital underlying element of the above mentioned disagreement within the Council, is that, due to the Council's voting mechanisms, where strong opposition persists from veto-holding permanent members, the Council assertively intervening is highly unlikely. The long-standing opposition of permanent members Russia and China over framing the climate issue in terms of security worthy of being included within the Council's agenda is a primary example. More over, tensions among the permanent members, emerged in both cases analyzed in this work, are in fact a major contributing element to the Council's action, or lack of effective and assertive action thereof. For instance, the tensions between US and China are individuated as a key reason of the Council failing to promptly respond to the Covid-19 crisis, in spite of it being invoked to intervene by the Secretary-General of the UN, following his appeal for a global ceasefire, which the Council, due to such internal frictions, answered to excessively slowly and in a limited sense. In turn, when the Council did eventually act, adopting a resolution over the global pandemic, it did so with a resolution which resulted from such tensions and has been widely pointed to as unclear in its legal nature and nil in its effects on conflict given the limited, and above all late — although significant as a first instance of the Security Council doing so — appeal for a ceasefire included in the text.

Thus, it seems, to date, that while the Council's importance as the UN security body is still recognized, its role in addressing international non-traditional security threats is yet too marginal, the inability of the Council to assume a lead role in tackling such threats to be mainly blamed on the complexity of such threats — both in nature and in defining concrete measures to address them — and its very structure and voting mechanism, as when strong opposition from permanent members and strong friction among them, persist, any Council's action is inevitably hampered and hesitant. It has been widely stated that, at this point, the Council's role in addressing such threats mainly comes down to gaining international momentum to the urgency of such threats, its action thus being mostly symbolic, and reaffirming and strengthening the established mechanisms of multilateral cooperation outside of the UNSC, namely the WHO for health and the UNFCCC and the Paris Agreement for Climate Change. Were in fact a policy framework not developed to address such threats, and were

stronger agreement and support among the Council's members' — the P5 above all — to the formal characterization of such challenges as threats to international peace and security, thus falling within the Council's mandate, not reached, such would be inevitably the best one can hope for. Nevertheless, given the urgency of such global challenges, as recognized by national and international agendas, and the continuously and rapidly growing concern over the long-term irreversible impacts on the planet and human lives, it seems reasonable to conclude that further action is needed. Such action inevitably rests on the international community reaching a sufficiently strong base of support for the Council to assume a lead role.

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SUMMARY

As the world struggles with the global pandemic of Covid-19, debates over the notions of international security and international cooperation have gained new momentum, as scholars, policymakers, and the international community as a whole, come to terms with this new challenge to international stability and security. While the gravity and the urgency of global challenges such as climate change and environmental degradation or international health crises are certainly not groundbreaking news, national and international institutions, as well as forums of international cooperation, the United Nations with its stakeholders and specialized agencies above all, are under unprecedented scrutiny and global attention, as the world figures out how to deal with the Covid-19 crisis and develop new instruments and responses to an emergency with such strong social, developmental and economic impacts. As the organ charged with the primary responsibility of maintaining international peace and security[499], in line with the UN's purpose and principles, the UN Security Council has been called upon to address the crisis and assume a lead role, as its activity as an enforcer of international cooperation towards the attainment and the maintenance of international peace and security has significantly evolved since the establishment of the United Nations. Yet, the Council seems to have struggled to be up to the task. Born in a different world, and for different threats, the Council has significantly expanded the range of issues it has dealt with over the decades, undoubtably recording both successes and failures in carrying out its duties. Nevertheless, it is still object of much criticism as it would fail to adapt to the evolving international context and promptly tackle the new 21st century challenges.

Thus the desire to delve into the role of the Security Council in dealing with non-traditional security threats, to assess whether it has intervened and how, unravel whether it has assumed a lead role or rather watched events unfold from the sidelines, and identify the main impediments to its action. Such investigation is carried out through the lens of two specific non-traditional threats, namely climate change and international health crises, both widely addressed and analyzed over the years. Focusing the analysis on the two above mentioned cases stems from the urgency and topicality of both these global problems, as, at the time of writing, two years into the Covid-19 pandemic and less than year after the 26th Conference of the Parties to the United Nations Framework Convention on Climate Change[500], assessing the role of the Security Council is done from a new perspective. The engagement of the Security Council with both challenges goes back decades, at the beginning of the century, its first debates over the security implications of an international health crisis and over climate change taking place, respectively, in 2000 and 2007. Over the years, both topics have been addressed and debated within the UN security body, with strong disagreement emerging among states over the role to be assumed by the Council. Such disagreement is mirrored in the literature, where both arguments in favour and against the 'securitization' of the new threats are raised. Analyzing the role of the UNSC in dealing with Climate Change and international health crises entails a significant degree

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[499] *Charter of the United Nations*, Article 24.
[500] UN Climate Change Conference UK (Web site). Available at: https://ukcop26.org/ (accessed 4 February 2022).

of complexity as delving into the evolution of such matters within the Council leads to grasping the interplay between elements of international law, international relations and political dynamics.

Born in 1945 with the founding of the United Nations, in the aftermath of the Second World War, the United Nations Security Council is one of the United Nations' six principal organs, specifically the one charged with the main responsibility of maintaining international peace and security, in line with the UN's primary function, purposes and principles, enshrined in the first chapter of its Constitutional Treaty (UN Charter or simply the Charter)[501].The Council's structure, composition, powers and procedures are enshrined in the United Nations' Constitutional Treaty and different but largely consistent with the organ envisaged by the United Nations' founders. First and foremost, the Security Council is charged by the UN members, on whose behalf it acts, with the "primary responsibility for the maintenance of international peace and security", under which it carries out its duties "in accordance with the Purposes and Principles of the United Nations" (Article 24 UN Charter), set out in the first chapter of the Constitutional Treaty (Articles 1 and 2)[502]. Chapters V to VIII of the Charter are then specifically dedicated to the Council; its composition, functions, procedures and powers (Chapter V, Articles 23-32); the pacific settlement of disputes (Chapter VI, Articles 33-38); Action with respect to threats to peace, breaches of peace, and acts of aggression (Chapter VII, Articles 39-51); regional security arrangements (Chapter VIII, Articles 52-54)[503].

The specific powers of the Security Council for carrying out its duties and upholding its responsibility for the maintenance of international peace and security are laid down in Chapters VI, VII and VIII of the UN Charter[504]. Chapter VI of the Charter (Articles 33-38) provides with a system for the pacific settlement of any dispute "the continuance of which is likely to endanger the maintenance of international peace and security", assigning the Council with the power to call upon the parties to settle their disputes peacefully (article 33); investigate any dispute or situation which might lead to international friction in order to determine if its continuation is likely to put at risk the maintenance of international peace and security (Article 34); have any dispute or situation brought to it by states (Article 35), recommend appropriate procedures or methods of adjustment (Article 36), and recommend the terms of a settlement or make other recommendations to the parties (Articles 37 and 38)[505]. Chapter VI of the Charter, if sometimes seen as simply the "non-forceful part" of the Council's powers to act and often over-shadowed by the later addressed Chapter VII's collective security mechanism, is actually the basis for many of the Council's actions of preventing incipient or actual conflict as well as the basis for most of the United Nations' peacekeeping operations[506].

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[501] *Charter of the United Nations*, Articles 1-2.

[502] *Charter of the United Nations*, Article 24 and Articles. 1-2 on Purposes and Principles of the United Nations.

[503] *Charter of the United Nations*, Chapters V-VIII.

[504] Ibid, art. 24.

[505] *Charter of the United Nations*, Chap. VI.

[506] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), Introduction.

Chapter VII (Articles 39-51) deals with actions with respects to threats to the peace, breaches of the peace and acts of aggression and identifies the Security Council as the primary actor responsible of determining the existence of such situations and adopting the necessary measures to restore international peace and security[507]. Article 39, among the most debated provisions when it comes to the Security Council, especially in the part relating to 'threats to peace' (which will in fact be the focus from now on) and reported here in full, confers such responsibility, by providing that: "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security[508]. As has been extensively noted, and will be later more thoroughly addressed, Article 39 leaves the Council with much room for discretion regarding which situations constitute a threat to international peace and security, as well as what measures are to be taken accordingly[509]. This freedom has enabled an evolution of the array of situations and disputes characterized as threats to international peace and security, going beyond the sole interstate military conflict. Said evolution, and "pronouncements not exactly amounting to a formal determination under article 39", practice the Council has increasingly resorted to, has led to the dividing lines between Chapter VI and Chapter VII of the Charter being less clear than envisaged by its drafters[510]. The measures referred to in Article 39 are enshrined in Articles 41 and 42, which provide with the concrete measures the Council may adopt to give effect to its decisions: those non involving the use of armed forces, such as the complete or partial interruption of economic relations or the severance of diplomatic relations (Article 41), and, were these regarded inadequate, actions which require the use of armed forces, by air, sea, or land (Article 42)[511]. Such actions are rendered feasible by the contributions of all Members of the United Nations, who, "in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security" (Article 43 (1))[512].

As above mentioned, Article 39 of the Charter, opening to Chapter VII on Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, charges the Security Council with the responsibility and power to determine what situation constitutes a threat to international peace and security, thus falling under its purview and activating the system envisaged by Chapter VII. It seems widely accepted and established, as well as widely discussed and analyzed in its wider consequences on international law, that the Council holds a wide power of discretion when it comes to the interpretation of this provision, given that no indication as to how the Council should do so, is included in the Charter[513]. Two limits to the Council's

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[507] *Charter of the United Nations*, Chap. VII.

[508] *Ibid.*, art. 39.

[509] Vaughan Lowe, Adam Roberts et al., *The United Nations Security Council and War: The Evolution of Thought and practice since 1945*, (New York: Oxford University Press, 2008), 14.

[510] Karel Wellens, "The UN Security Council and new threats to the peace: back to the future", *Journal of Conflict & Security Law* 8, no. 1 (2003):53.

[511] *Charter of the United Nations*, artt. 41-42.

[512] Ibid., art. 43.

[513] Robert Cryer, "The Security Council and Article 39: A Threat to Coherence?", *Journal of Armed Conflict Law* 1, no. 2 (1996): 165.

action have nonetheless been identified and underlined: firstly, it is bound by international law and by ius cogens norms, thus in determining if a situation constitutes a threat to the peace, it has to abide by the general rules of interpretation enshrined in the Vienna Convention on the Law of Treaties[514]; secondly, the Council must respect and act in conformity with the principles and purposes of the United Nations[515]. The use and interpretation of Article 39 has undergone significant evolution over the years, as the Council has come to include new threats and challenges to international security. After the end of the Cold War in fact, the Council has been developing a broader notion of a 'threat to the peace' by adopting several resolutions under its Chapter VII powers, covering the proliferation of weapons of mass destruction, civil wars, human rights violations and terrorism, to mention a few[516]. At the time the Constitutional Treaty was drafted, the United Nations faced 'threats to peace' which amounted to interstate military threats, but the circumstances radically changed and, in the post Cold War era, the UNSC increased its activity by adopting resolutions that recognize, as above mentioned, civil wars, lack of democracy and violations of international human rights law, as threats to international peace and security[517].

Such expansion notwithstanding, the Security Council, while having recorded much successes and failures since its foundations, has increasingly been called to address new challenges, among which feature prominently those referred to above and those chosen for the analysis. Among the critique to the Council's action, one of the crucial arguments seems to be revolving exactly around the inability of the Council to tackle such threats. While the SC has in fact increasingly engaged with such challenges after the end of the Cold War, and especially in the last couple of decades, this engagement is often deemed insufficient and disappointing, as the Council would fail to assume a prominent role and its response would be unassertive and tentative[518]. On the other hand, despite the wide criticism directed at the Council, its relevance as an enforcer of peace and security is still widely recognized and supported. Although not entailing a refusal of the shortcomings and obstacles raised by the critique to the Council's ability to adapt to the global challenges of the 21st century, the Security Council seems to be nevertheless unmatched as a forum to deal with such challenges.

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[514] Articles 31 and 32 of the Vienna Convention on the Law of Treaties (1969), available at: https://www.refworld.org/docid/3ae6b3a10.html (accessed 17 December 2021). It must be noted that, although the UN Charter preceded the Vienna Convention, its rules are seen as evidence of customary international law between States thus to be taken into account in order to establish the powers of the Security Council while determining a threat to the peace.

[515] Mónica Lourdes de la Serna Galvan, "Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council", *Anuario Mexicano de Derecho International* XI (2011):159,181. Available at: http://www.scielo.org.mx/pdf/amdi/v11/v11a6.pdf (accessed 17 December 2021)

[516] Karel Wellens, "The UN Security Council and new threats to the peace: back to the future", *Journal of Conflict & Security Law* 8, no. 1 (2003):15.

[517] For examples of such Resolutions see Mónica Lourdes de la Serna Galvan, 'Interpretation of Article 39 of the UN Charter (Threat to the Peace) by the Security Council', *Anuario Mexicano de Derecho International* XI (2011): 164-174.

[518] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

Regarding the Security Council's role in climate change, to date, no thematic resolution has been adopted by the Security Council over its security implications, an attempt at doing having failed to pass just last year[519]. While strong agreement seems to have been reached over climate change as a multiplier of threats, thus an exacerbating factor in the presence of conflict, an equally strong agreement over the characterization of climate change as a threat to international peace and security to be addressed by the Security Council is not yet achieved. Both in the literature and the international community in fact, opposing views emerge as to the role the Council should have in dealing with the climate threat. The Security Council has nevertheless increasingly dealt with the climate change challenge and its security implications. Holding its first ever debate in 2007, its engagement has rapidly grown, as proven by the fact that, in the last few years, the frequency of debates held by the Council over the security implications of climate change has significantly risen. What emerges from this engagement is that, while several important steps have been taken over the years, the Council cannot count on a sufficiently strong base of support to step in and assume a lead role in tackling the climate threat.

Just last year, in a debate held within the Council under the Irish Presidency, over climate and security[520], disagreement emerged over the Council being the appropriate forum for discussing climate change[521]. Firm opposition came from permanent members Russia and China. The Russian delegate stated that "the persistent and insistent attempts to advance the premise of climate change as a threat to international peace and security in the Security Council agenda at all costs introduces a completely unnecessary political component to an already complicated and sensitive discussion", concluding that "the Security Council is a very serious but not universal instrument at the disposal of the United Nations, and its use is liable to backfire with respect to our struggle to counter climate change"[522]. China's position, shared by India, was likely one of firm opposition to the Council's involvement as the Chinese representative warned that the Council, lacking "the necessary specialized tools and knowledge", by intervening in climate change, would be invading the mandate of the forum where the environmental challenge is to be tackled, thus the international climate governance regime under the UNFCCC and the Paris Agreement[523]. Furthermore, it added that the Council should avoid introducing climate change in peacekeeping mandates as that would be detrimental, rather than beneficial, to peace operations' delivery of their core tasks[524]. India's position was one of opposition to the Council's involvement as well, with arguments similar to those expressed by Russia's and China's delegates, to which it was added that, were the Council to step in by addressing climate security, would lead to "ignoring basic principles and practices relating to climate change" which in turn would "disrupt the nature of overall

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[519] Security Council Fails to Adopt Resolution Integrating Climate-Related Security Risk into Conflict-Prevention Strategies. UN Doc SC/14732 (13 December 2021). Available at: https://www.un.org/press/en/2021/sc14732.doc.htm (accessed 15 January 2022)

[520] UN Doc S/PV.8864

[521] Differences Emerge over Appropriate Forum for Discussing Climate Change, as Delegates Hold Debate on Links between Global Crisis, Security. UN Doc SC/14644 (23 September 2021). Available at: https://www.un.org/press/en/2021/sc14644.doc.htm (accessed 2 February 2022)

[522] U.N Doc S/PV.8864:19-20.

[523] Differences Emerge over Appropriate Forum for Discussing Climate Change, as Delegates Hold Debate on Links between Global Crisis, Security. UN Doc SC/14644 (23 September 2021). Available at: https://www.un.org/press/en/2021/sc14644.doc.htm (accessed 2 February 2022).

[524] Ibid.

discussion on that extremely important topic"[525]. Furthermore, and crucial to an understanding of the point the Council has reached when it comes to recognizing the security implications of climate change, India's representative stated that "to view conflicts in the poorer parts of the world through the prism of climate change will only serve to present a lopsided narrative when the reasons for the conflict are to be found elsewhere", thus refusing the link between climate change and conflict[526].

It comes with no surprise then than, on the 13th of December 2021, when a draft resolution was voted on by the Security Council to include the security risks posed by climate change as central component of the UN's conflict−prevention strategies, with 12 votes in favour, 2 against (India and Russia), and China's abstention, the Resolution did not pass[527]. The vote on 13 December, which, if successful, would have led to the ground-breaking achievement of officially according, for the first time, climate change with its role as a threat to international peace and security, "sank a years-long effort to make global heating more central to decision-making in the UN's most powerful body"[528]. The resolution would have in fact "integrated climate−related security risk as a central component of United Nations conflict−prevention strategies"[529]. Therefore, what emerges from an analysis of the Security Council's response to climate change is that strong disagreement persists among countries as to the role to be assumed by the Council, the main contrasting points not being on the existence of climate change, or even on it having security implications, but rather on them being worth of being included within the scope of the Council's work[530]. While several steps have been taken over time, and notable shifts have been registered in countries' position since 2007 - see for instance US' starkly favorable position held last year towards the Council's involvement in Climate Change - strong opposition, notably from 2 out 5 veto-holding powers China and Russia, still remains. The main contrasting points raised over the years, and raised just last year in the last Council's thematic debate over climate change and international security seem to be revolving around the appropriateness of the Council as a forum to deal with climate challenge. Namely, the Council wouldn't have the necessary tools to adequately tackle the climate threat, its intervention would invade the role of other UN organs as it is ultimately a matter of sustainable development more than a threat to international peace and security. More over, the Council taking charge of climate change would undermine the climate governance system under the UNFCCC and the Paris agreement. The relevant steps taken by the Council over the last 15 years notwithstanding, since the Council dealt with the security implications of climate change for the first time, while strong opposition remains it seems highly unlikely for the Council to assume a lead role in the fight against the climate threat. the effectiveness of any Council action in fact, ultimately rests on the support conferred to it by the international

[525] Ibid.

[526] Ibid.

[527] Security Council Fails to Adopt Resolution Integrating Climate-Related Security Risk into Conflict-Prevention Strategies. UN Doc SC/14732 (13 December 2021). Available at: https://www.un.org/press/en/2021/sc14732.doc.htm (accessed 15 January 2022).

[528] Associated Press in New York, "Russia vetoes UN security council resolution linking climate crisis to international peace", The Guardian, 13 December 2021. Available at: https://www.theguardian.com/world/2021/dec/13/russia-vetoes-un-security-council-resolution-climate-crisis-international-peace (accessed 12 January 2022).

[529] UN Doc SC/12732.

[530]Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 12. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 8 January 2022).

community. Such support is vital, not only in the obvious first step of its adoption, but also in its implementation in terms of resources and finance.

Regarding the involvement of the UNSC in addressing International Health Crises posed by infectious diseases, some significant similarities and differences with what has been observed with climate change emerge. Through an analysis of the Council's engagement with the international health crises of HIV/AIDS, the Ebola outbreaks in West Africa (2013-2014) and in the Democratic Republic of Congo (2018) and the most recent outbreak of the novel coronavirus Covid-19, several key elements emerge which are consistent with the Security Council's engagement with the non-traditional security threats posed by climate change. Along these, some significant differences emerge as well, consisting mainly in the adoption of several resolutions by the Council over the security implications of specific infectious diseases, despite its characterization of such diseases as threats to international peace and security going back and forth instead of following a linear evolution and an established practice. As far as responding to international health crises is concerned in fact, the Council has been active for over two decades now, its first debate over the security implications posed by the HIV/AIDS disease going back to January 2000[531], at the very beginning of the 21st century. Several other resolutions have followed since then, with the Council not addressing international health crises in a consistent manner when it comes to recognizing the link between security and health. As with climate change, the Council has been increasingly involved in addressing international health crises, its action being nevertheless strongly criticized and often deemed unassertive and disappointing, Covid-19 being an emblematic example — and the most recent one at that, given that the Covid-19 emergency is still ongoing —- of the Council failing to live up to the widespread expectation of it assuming a prominent role in tackling the challenge[532].

The Council officially recognized a health issue as a threat to international peace and security, for the first time, in 2014, when it adopted resolution 2177 (2014) over the outbreak of the Ebola disease in West Africa[533]. This resolution though, did not mark the first time an international health crisis was addressed and debated within the Council, as it has done so with the HIV/AIDS disease over a decade earlier. On that occasion, the Council, on 17 July 2000, unanimously adopted Resolution 1308 (2000) on the impacts of HIV/AIDS where the Council 'bearing in mind the Council's primary responsibility for the maintenance of international peace and security, stressed that 'the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security'[534].The Security Council's outcome was referred to as 'historic', as for the first time the Security Council adopted a Resolution on a health issue, thus it was seen as proof of the full recognition of an infectious disease as a threat to international peace and security[535]. The strong agreement over Resolution

[531] United Nations Security Council (UNSC) 4087th meeting, UN Doc S/PV.4087 (10 January 2000).

[532]Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

[533] UNSC Res 2177, UN Doc S/RES/1277 (18 September 2014).

[534] United Nations Security Council Resolution 1308, UN Doc S/RES/1308 (17 July 2000). For the meeting record see UN Doc S/PV.4172 (17 July 2000).

[535] United Nations,'Security Council, adopting 'historic' Resolution 1308 (2000) on HIV/AIDS,calls for pre-deployment testing, counselling for peacekeeping personnel', Press Release, UN Doc SC/6890 (17 July 2000).

1308 being evidence of the Council coming to including infectious diseases within its mandate, by recognizing HIV/AIDS as a threat to international peace and security though, soon diminished given that the Resolution recognized AIDS in Article 39 terms in a very limited sense, focusing only on the impact of HIV/ AIDS on the health of international peacekeeping personnel[536]. Furthermore, strong disagreement between Council members actually existed over such recognition. The unanimous adoption of the 1308 Resolution on AIDS concealed in fact strong disagreements between the Council's members, among those not in favour featuring three of the five permanent members —- France, Russia and China —- and eventually was seen as the result of different underlying dynamics such as the strong US' influence and the other permanent members' awareness over the reputational costs of opposing a Resolution addressing such a major human tragedy'[537]. Furthermore, in following decade, while the Council reinforced its commitments under resolution 1308, no additional action was taken[538].

As above mentioned, full recognition by the Security Council of an infectious disease constituting a "threat to international peace and security" falling within its mandate thus occurred over a decade later, with the adoption of Resolution 2177 (2014) over the outbreak of the Ebola disease in West Africa[539]. On this occasion, like it had never done before, the Council determined that a health issue per se constituted a threat to international peace and security[540]. Consequently Security Council's Resolution 2177/2014 on the Ebola Outbreak has been widely recognized as a 'landmark in the evolution of the notion of security' and a milestone in the process of 'securitization' of health and international health crises[541]. Yet, once again, the Council's role and functions did not change significantly as the Council did not take concrete measures under Chapter VII (Articles 41-42 of the UN Charter), ultimately not being the revolution widely envisaged in its adoption[542]. It has thus been concluded that the inclusion of Ebola among threats to international peace and security under Article 39 of the Charter seems to have been more of a political and symbolic act, 'to generate momentum and additional political, operational and financial commitments by the international community'[543]. Namely, Resolution 2177 would not have been adopted to set a precedent of the expansion of the role of the Council in international health crises, but rather, the drafters of the Resolution 'aspired to reach a stricter cooperation amongst UN Member States and to gain additional financial resources while facing an exceptional event'[544].

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[536] Simon Rushton, "AIDS and international security in the United Nations System", *Health Policy and Planning* 25, no. 6 (2010): 498-499. See also UNSC Res 1308, UN Doc S/RES/1308 (17 July 2000).

[537] Ibid., 498.

[538] Ibid.

[539] UNSC Res 2177 (2104), UN Doc S/RES/1277: Preamble para 5.

[540] Anna Hood, "Ebola: A Threat to the Parameters of a Threat to the Peace?", *Melbourne Journal of International Law* 16, no. 1 (2015): 29.

[541] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits" in *The governance of disease outbreaks: International Health Law: Lessons from the ebola crisis and beyond*, eds. Leonie Vierck, Pedro A. Villarreal and A. Katarina Weilert (Nomos: 2017), 301.

[542] Ibid., 304.

[543] Gian Luca Burci, "Ebola, the Security Council and the securitization of public health", *Questions of International Law* 10 (2014): 29.

[544] Ilja Richard Pavone, "Ebola and Securitization of Health: UN Security Council Resolution 2177/2014 and Its Limits", supra note 463, at 326.

This seems to have been confirmed by the Council's subsequent practice. When facing another Ebola outbreak years later, in the Democratic Republic of Congo, the Council adopted Resolution 2439[545]. On such occasion, as far as the characterization of the disease as a threat to international peace and security, the Council reversed its previous practice and, unlike Resolution 2177 (2014), in Resolution 2439 the Council did not determine the Ebola outbreak as a threat to international peace and security per se but rather determined that 'the situation in the DRC continues to constitute a threat to international peace and security in the region'[546]. Thus, the 2018 response by the Council did not frame the health emergency as a Chapter VII issue[547]. Such an about-turn was due to disagreement within the Council, as several states 'preferred a statement placing the Ebola epidemic within the context of the security situation in the DRC'[548]. Thus, by adopting Resolution 2439, the Council determined that the armed attacks and ongoing conflict determined a threat to international peace and security by 'exacerbating the country's ongoing Ebola outbreak'[549], not the outbreak itself. The Council thus opted for reconnecting the health crisis to the traditional situation of conflict in the region and individuating in that the security threat, not in the disease itself. While the characterization of the Ebola virus outbreak in West Africa in 2013 as a threat to international peace and security might have led to believe in a subsequent change in the Council's general practice, such change did not happen.

Such conclusion was confirmed by the Council's role in addressing the most recent international health emergency of the novel coronavirus Covid-19. Soon declared by the WHO as a global pandemic[550], an assertive intervention by the Council was widely called for and expected. Nonetheless, although its intervention being invoked by the Secretary-General of the UN himself[551], the Council responded to the crisis significantly late and it seems that the security organ of the United Nations failed in living up to the expectations of it assuming a lead role[552]. The Council intervened in fact over the Covid-19 international health crisis only in July 2020, by adopting Resolution 2532 (2020)[553]. As far as the characterization of Covid-19 as a threat to international peace and security, the Council adopted a terminology similar to that of Resolution 1308/2000[554], by expressing 'grave concern about the devastating impact of the COVID-19

[545] UNSC Res 2439, UN Doc S/RES/2439 (30 October 2018).

[546] Ibid. Preamble para 3.

[547] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 220.

[548] Security Council Report, 'Democratic Republic of the Congo (DRC): Resolution to be Adopted on Ebola', *What's In Blue* (Web Page, 29 October 2018).

[549]'Adopting Resolution 2439 (2018), Security Council Condemns Attacks by Armed Groups in Democratic Republic of Congo Jeopardizing Response to Ebola Outbreak', Press Release, UN Doc SC/13559 (30 October 2018).

[550] 'WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020', *World Health Organization* (Web Page, 11 March 2020). Available at: https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 (accessed 25 January 2022).

[551] UN secretary-General, 'Secretary-General's remarks to the Security Council on the COVID-19 Pandemic [as delivered]', United Nations Secretary-General (Web Page, 9 April 2020). Available at: https://www.un.org/sg/en/content/sg/statement/2020-04-09/secretary-generals-remarks-the-security-council-the-covid-19-pandemic-delivered (accessed 25 January 2022). Mr Guterres invoked the Council's intervention by expressing the critical role the Council would play in mitigating 'the peace and security implications of the COVID-19 pandemic'. Furthermore, he stated in clear-cut terms that 'a signal of unity and resolve from the Council would count for a lot at this anxious time'.

[552]UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020).

[553] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020).

[554] UNSC Res 1308 (2000).

pandemic across the world, especially in countries ravaged by armed conflicts, or in post-conflict situations, or affected by humanitarian crises' and recognizing that 'the unprecedented extent of the COVID-19 pandemic is likely to endanger the maintenance of international peace and security'[555]. Thus, the Council did not go back to its 2177/2014[556] practice by recognizing that the Covid-19 disease itself constitutes a threat to international peace and security.

The Council's late intervention was preceded by months of negotiations and attempts at resolutions, during which strong divisions emerged between members, which have hampered and stalled the Council from taking action[557]. Such divisions revolved around the link between health and security. For instance, such link was rejected by China and South Africa who 'questioned the pandemic's link with international peace and security, and whether elements in the statement such as references to the global economy fell within the Council's mandate'[558]. Most importantly, the Council was hampered from taking action by the friction between two its permanent members — China and the US — who held opposite positions over the inclusion of the WHO in the text of the resolution and engaged in a blame-placing exchange over the origin of the outbreak[559]. The US, under the Trump administration at the time, pushed for the inclusion in the resolution of a paragraph clearly stating the Chinese origin of the virus and strongly opposed the inclusion of the WHO in the text, accusing the organization of poorly handling the pandemic[560]. China, in contrast, insisted that the WHO would be mentioned in the text and opposed the inclusion in the text of language that would place blame on China for the origin of the crisis as well as criticize its response in handling the disease[561].

Other relevant points of stark criticism to the Council's response to climate change deal with the impacts of Resolution 2532 (2020). Calling for "all parties to armed conflicts to engage immediately in a durable humanitarian pause"[562], Resolution 2532's significance has been found in that, for the first time, the Council advocated for a global ceasefire[563]. The relevance of such an appeal entering in a Security Council resolution notwithstanding, it has been stated that beyond such call for a ceasefire, the resolution "seems unlikely to be widely remembered, as its practical effects have been all but nil"[564]. Furthermore, a strong debate has

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[555] UNSC Res 2532, UN Doc S/RES/2532 (1 July 2020): Preamble paras 2,11.

[556] UNSC Res 2177 (2104), UN Doc S/RES/1277.

[557] Colum Lynch, 'U.N. Security Council Paralyzed as Contagion Rages' report, *Foreign Policy* (Web Page, 27 March 2020). Available at: https://foreignpolicy.com/2020/03/27/un-security-council-unsc-coronavirus-pandemic/ (accessed 25 January 2022).

[558] Security Council Report, 'Security Council Resolution on COVID-19*', *What's in Blue* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/whatsinblue/2020/06/security-council-resolution-on-covid-19.php (accessed 25 January 2022).

[559] Security Council Report, 'Pandemics and Security', *July 2020 Monthly Forecast* (Web Page, 30 June 2020). Available at: https://www.securitycouncilreport.org/monthly-forecast/2020-07/pandemics-and-security.php (accessed 25 January 2022).

[560] Boris Kondoch, "Covid-19 and the Role of the Security Council as Global Health Peacekeeper", *Journal of International Peacekeeping* 23 (2019): 112.

[561] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 2 February 2022).

[562] UNSC Res 2532 (2020): para 2.

[563] Richard Gowan and Ashish Pradhan, 'Salvaging the Security Council's Coronavirus Response', International Crisis Group (Web Site, 4 August 2020). Available at: https://www.crisisgroup.org/global/salvaging-security-councils-coronavirus-response (accessed 25 January 2022).

[564] Ibid.

emerged over the impacts of such resolution given its uncertain legal nature and the lack of enforcement measures[565]. Furthermore, a further key element was widely raised as playing a significant role and impeding the Council prompt and assertive intervention in the Covid-19 pandemic, such element being the lack of concrete measures and proposals for an innovative response to the coronavirus outbreak[566]. It seems in fact that 'effective action to halt COVID-19 would have required the Council to develop new, unorthodox responses'[567]. Not having done so, thus not developing a framework to deal with international health crises posed by infectious diseases and their security implications seems to have been a crucial element in the Council's late and weak intervention.

The analysis of the Security Council's response to the non-traditional security threats posed by climate change and international health crises due to infectious diseases, such as the most recent outbreak of Covid-19, allows for some final conclusions to be drawn over the Security Council's role in non-traditional security threats. First and foremost, the SC has increasingly addressed and debated such non-traditional threats to international peace and security, as proven by the augmented frequency of Security Council's debates over the security implications of climate change and its involvement in several international health crises preceding the outbreak of Covid-19. Such greater involvement is both due to the urgency of such threats, included among the most pressing global challenges the world faces, and growing calls for an intervention by the Council due to their recognized implications on global security. Yet, in both instances, the Council, seems to have failed to assume a lead role, as proven by the late and disappointing intervention to deal with the Covid-19 pandemic, which in the end led to the adoption of a resolution whose legal nature is debated and its impacts questioned, and the failed attempt to adopt a groundbreaking resolution over the security implications of climate change, which would have included these within the Council's agenda, just last year. Such reluctance of the Council to lead global efforts in non-traditional security threats, as proven by the two cases taken into account for the analysis, seems to stem from several factors.

First of all, the complex nature of such non-traditional threats. While the impacts of both climate change and infectious diseases are not equally distributed among countries, they are nevertheless "international in origin and nature, global in scope and effects" and most of all requiring to be addressed "at the regional, national and global level"[568]. This is noticed and underscored for both the non-traditional threats taken into account in this work. Pobje, assessing the role of the UNSC in responding to Covid-19 states that "the collective security architecture that the Security Council exists within was not designed to address these non-military types of threats and those that do not necessarily emanate from an identifiable responsible actor, as the sanctions regime envisaged by Chapter VII makes clear. A feature of these newer, non-traditional security

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[565] Ilja Richard Pavone, "Security Council Resolution 2532 (2020) on COVID-19: A Missed Opportunity?", *ESIL Reflections* 9, no. 5 (8 February 2021): 6-7.

[566] Jeremy Farrall and Christopher Michaelsen, "The UN Security Council's Response to COVID-19: From the Centre to the Periphery?", *The Australian Yearbook of International Law* 39, no.1 (2021): 223.

[567] Jeremy Farrall, 'The UN Security Council's response to Covid-19", *ANU College of Law* (Web Site, 28 May 2020). Available at: https://law.anu.edu.au/research/essay/covid-19-and-international-law/un-security-council%E2%80%99s-response-covid-19 (accessed 25 January 2022).

[568] John Langmore and Ramesh Thakur, "The Elected but Neglected Security Council Members", *The Washington Quarterly* 39, no. 2 (2016): 99; Report of the High-level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", UN Doc A/59/565, 11.

threats may indeed be that they are not directly attributable to a specific actor"[569]. Such complexity in directly attributing responsibility is evidenced in the case of climate change and its threats to international peace and security as well, given that "human activity and environmental factors combine with crosscutting intrastate and interstate socio-economic-political-issues to produce non-traditional threats to international peace and security "[570]. This complexity leads to the difficulty of the Council to come up with concrete measures to address such threats, given the instruments at its disposal, designed for a different era and with other threats in mind.

Furthermore, the inability of the Council to lead global efforts to address non-traditional threats seems to originate in its very nature, its structure and voting mechanism. The effectiveness of any Council action ultimately rests on the support conferred to it by the international community and such support is vital in the whole process of the Council's action, from the adoption of a Resolution to its implementation in terms of resources and finance. Unless agreement is reached over the characterization of such challenges as threats to international peace and security, worthy of being included within the purview of the Council, hopes for the Council assuming a lead role are bound to be let down. With due differences between the two cases, the characterization of climate change as a security issue to be addressed by the Council is still under question — and still strongly opposed by permanent members China and Russia — and the characterization of infectious diseases as threats to international peace and security to be handled by the Council has been going back and forth over the years. That said, the Security Council is in fact, above all, a political organ. As such, its action is inevitably guided and influenced by the will of its members and intrastate and inter-state political dynamics. Friction among the veto-holding permanent members, above all, and emerged in both cases analyzed above — Russia and China still opposing the the characterization of climate change as a security issue and the China-US contrast in the negotiations to adopt a resolution in response to Covid-19 — is indeed a major cause of stall to the Council's response. As a consequence, in addressing such non-traditional security threats, a tendency of the Council is evident in it linking the threats to conflict, the traditional area of Security Council's action. As stated by Pobje, the Council's response to Covid-19 has shown "a trend in the practice of the Council towards a narrower form of human security which continues to recognise non-military factors that may negatively affect international peace and security in a sense more restricted to armed conflict and violence. The focus on military factors may also reflect the limited consensus possible in the context of a strained geopolitical situation among the permanent members of the Council and disagreement over how to address the pandemic"[571].

Calls for reform to make the Council more able to tackle the security challenges of the 21st century, among which feature the ones dealt with in this work, have strongly been raised, the veto power of the permanent members and the Council's unrepresentative membership having been under discussion for decades, with no

[569] Erin Pobjie, 'COVID-19 and the Scope of the UN Security Council's Mandate to Address Non-Traditional Threats to International Peace and Security', *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020-41* 81, no. 1 (5 November 2020):19.

[570] Trina Ng, "Safeguarding Peace and Security in our Warming World: A Role for the Security Council", *Journal of Conflict & Security Law* 15, no. 2 (2010): 289.

[571] Erin Pobjie, 'COVID-19 and the Scope of the UN Security Council's Mandate to Address Non-Traditional Threats to International Peace and Security', *Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2020-41* 81, no. 1 (5 November 2020):15-16.

significant solution do date[572]. On the one hand, it is supported that such reform would make the Council more reflective of the current geopolitical reality[573]. On the other, it seems clear that such reform is highly unlikely and, furthermore, it is noted that there is no agreement over how such reform would look like and over its effectiveness. As put by Haas, 'Significant reform of the UN is not a realistic option, as potential changes, such as altering the composition of the Security Council to reflect the distribution of power in today's world, would favor some countries and disadvantage others. Not surprisingly, those who stand to lose can and do block any such change'[574]. Once again, the question comes down to countries' will and support to any Council reform.

Thus, it seems, to date, that while the Council's importance as the UN security body is still recognized, its role in addressing international non-traditional security threats is yet too marginal, the inability of the Council to assume a lead role in tackling such threats to be mainly blamed on the complexity of such threats — both in nature and in defining concrete measures to address them — and its very structure and voting mechanism, as when strong friction exists between members, those wielding the power of veto especially, any Council's action is inevitably hampered and hesitant. It has been widely stated that, at this point, the Council's role in addressing such threats mainly comes down to gaining international focus to the urgency of such threats, its action thus being mostly symbolic. Furthermore, as summarized by Farrell and Michaelsen, 'the best that can be hoped in such circumstances is that it can agree to strengthen the hands of other multilateral actors that are better equipped to address such unorthodox threats'. Were a policy framework not developed to address such threats, and were stronger agreement and support among the Council's members' — the P5 especially — to the formal characterization of such challenges as threats to international peace and security, thus falling within the Council's mandate not reached, such would be inevitably the best one can hope for. Nonetheless, given the recognized urgency of such threats*, it seems appropriate to aim higher, thus to the Council assuming a lead role in tackling the most pressing global challenges the world is facing and their security implications, as non-traditional as they may be. Having the issues dealt within this work been at the top of the national and international agendas for decades now, with international concern over the threats posed infectious diseases gaining significant new momentum with the recent outbreak of the Covid-19 pandemic, were the Council not able to step up its game and come up with new ways to address them, this 'will make it appear out of touch with fundamental threats to international peace and security— and human survival'[575]. This change ultimately rests on states' support, those with the Charter-given power to stop the Council from taking action overcoming their disagreements especially, as without a sufficiently strong base of legitimacy for the Council to act, it remains stalled in its old ways, the significant steps made over the years ultimately making its action not as impactful as one may hope.

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[572] Jovana Blešić, "The United Nations combat against Covid-19 — the alarm for the Security Council reform?" In *International Organizations and States' response to Covid-19*, edited by Sanja Jelisavac Trošić and Jelica Gordanić (Institute of International Politics and Economics: Belgrade, 2021), 169.

[573] Ibid.

[574] Richard Haass, 'The UN's Unhappy Birthday', Project Syndicate (10 September 2020). Available at: https://www.project-syndicate.org/commentary/united-nations-75th-anniversary-little-to-celebrate-by-richard-haass- 2020-09 (accessed 25 January 2022).

[575] Security Council Research Report (21 June 2021), "The UN Security Council and Climate Change", 17. Available at: https://www.securitycouncilreport.org/research-reports/the-un-security-council-and-climate-change.php (accessed 25 January 2022).