

Course of

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## Introduction

The United Nations Security Council plays a fundamental role on the international scene, having the primary responsibility for the maintenance of international peace and security on the basis of the United Nations Charter. However, since its creation the Council often found its hands tied due to the application of the veto power, held by the 5 permanent members. Moreover, its composition, established in 1945 by the major powers emerged at the end of the Second World War, was amended only once in 1963<sup>1</sup>. Therefore, it is evident that the actual global realities are not well-represented within the Council. Indeed, in 1945 the total amount of United Nations Member States was 51, later, in 1963, with the process of decolonization, it became 117, while today it is 193. Hence, the main debated points are the composition and the powers of the Council since there is non-equitable geographical and political representation: this generates inefficiency and created international stalemates. This thesis aims to analyze the long-standing debate from the need of the majority of Member States to apply a reform to the Security Council. Despite decades of negotiations, a solution has not yet been found and the debate ended up into the background. However, it gained renewed attention through a declaration by the US President Joe Biden in September 2022<sup>2</sup> that highlighted the need for reform of the Council and supported the possibility of increasing its permanent seats. This support was evidenced in the light of the Ukrainian War, started few months before, that particularly highlighted the Council's inefficiency to address conflicts in which one of the P-5 is directly involved. Therefore, the negotiations are aimed at achieving equitable geographical representation and at creating an organ that reflects contemporary geopolitical realities, hence, that is efficient, fair, stable and transparent.

Starting with an in-depth analysis on the main principles of the United Nations enshrined in the United Nations Charter and on the provisions related to its reform, the

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<sup>1</sup> A/RES/1991(XVIII). (1963, December 17). [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F1991\(XVIII\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F1991(XVIII)&Language=E&DeviceType=Desktop&LangRequested=False)

<sup>2</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

first chapter seeks to emphasize the role of one of the most important organs of this international organization, focusing on its functions, composition, and powers established by Chapters V, VI, VII, and VIII of the Charter. Moreover, since an amendment of the Charter, according to Articles 108 and 109, requires a vote of two-thirds of the members of the General Assembly and a ratification in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council, an immediate reform is difficult to achieve. Thus, its functions evolved through various resolutions, that are going to be analyzed in Section 1.3, with the aim of granting efficiency even in case of a blockade of the Security Council. Finally, in this chapter attention will be devoted on the reasons behind the request of a reform, focusing on issues and criticisms.

The second chapter highlights the proposals to reform the composition of the Council, starting from the first phase of negotiations from 1993 to 2008 with the creation 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* established by General Assembly<sup>3</sup> and with the creation in 2003 of the *High Level Panel on Threats, Challenges and Change*, then moving to the second phase that officially started in 2009 with the *Inter-Governmental Negotiations*<sup>4</sup>. The debate is characterized by the suggestions of various groups, such as the G4, the Uniting for Consensus, the Group of African Nations, the Arab Group, the group of Small 5, the CARICOM and the L69, on five main pillars: Council membership categories, the veto issue, regional representation, the overall size of the expanded Council, its operational methods, and the relationship between the Security Council and the General Assembly. The final section of this chapter delves its attention to a critical analysis on the proposals to reform the composition of the Council generated in the two phases of negotiations.

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<sup>3</sup> UN. General Assembly. (1993, December 10). Question of equitable representation on and increase in the membership of the Security Council: Resolution adopted by the General Assembly (A/48/26). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/177987?v=pdf>

<sup>4</sup> Decision 62/557: *UN Documents : Security Council report*. (2008). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

Subsequently, the third chapter explores the proposals to reform the power of veto held by the United States, the United Kingdom, France, the Russian Federation and China: The Permanent 5 (P-5). The initial section investigates the origins of this power dated to 1943, with a declaration of the US President Franklin Delano Roosevelt concerning the task of the great powers of maintaining international peace and security and affirming there would not be the possibility of a new world war since Britain, Russia, China and the United States (and their allies) represent more than three-quarters of the total population of the world and they are characterized by great military power stick together in determination to keep the peace.<sup>5</sup> Lately, the proposals to reform this power are going to be examined, moreover, special attention will be devoted to the recent attempt of reform in the light of the Ukraine War. Particularly, after the Russian attack in February 2022<sup>6</sup>, the Security Council was paralyzed by the veto of the Russia Federation in addressing the issue raised by Ukraine regarding the deteriorating situation in Crimea<sup>7</sup>, this has once again led the world to question the effectiveness of the role of the Council and the fairness in the entire United Nations system, indeed, after years of stalemate in the negotiations, a reform seems to be increasingly requested by the Member States, for instance, the President of the United States Joe Biden in September 2022 declared himself in support of it and explicitly supported a possible creation of new permanent seats both for emerging powers, such as Germany, India or Japan, and for under-represented

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<sup>5</sup> Roosevelt, F. D. (1943, December 24). Fireside Chat. *The American Presidency Project*. <https://www.presidency.ucsb.edu/documents/fireside-chat>

<sup>6</sup> Krauss, C., Cohn, N., Bigg, M. M., Cohen, P., Erlanger, S., Timur, S., Ramzy, A., Schwirtz, M., Hopkins, V., Pronczuk, M., Kingsley, P., Stevis-Gridneff, M., Hill, E., Khavin, D., Meheut, C., Nechepurenko, I., Granville, K., Cumming-Bruce, N., Qin, A., & Gall, C. (2022, March 30). Putin's forces attack Ukraine. *The New York Times*. <https://www.nytimes.com/live/2022/02/24/world/russia-ukraine-putin>

<sup>7</sup> S/RES/2623(2022). (2022, February 27). Referred to the lack of unanimity of the permanent members regarding S/2014/136. (2014, February 28). [https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623\(2022\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623(2022)&Language=E&DeviceType=Desktop&LangRequested=False)  
<https://undocs.org/Home/Mobile?FinalSymbol=S%2F2014%2F136&Language=E&DeviceType=Desktop&LangRequested=False>

continents such as Africa and Latin America and the Caribbean<sup>8</sup>. Additionally, the last section focuses on the critical analysis on the proposals to reform the powers of the Security Council, diving deeper three primary viewpoints in the debate: the first one advocates for the retaining of the veto for the Permanent-5 while adding new non-permanent seats to the Council, the second one perspective suggests extending this power to all new permanent members, and the last proposal concerns the possible abolition of the veto. Finally, conclusions and remarks are going to be made, after a careful analysis of the various proposals and their criticisms, on the prospects of the future role and asset of the Security Council in the international arena and on the feasibility of an immediate or long-term reform.

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<sup>8</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

# **Chapter 1 : The United Nations Security Council**

## **Introduction**

The first chapter of this thesis delves into the foundational principles of the United Nations Charter, and provides a comprehensive analysis of the Security Council, focusing on its composition, functions, and powers. Through the exploration of the main principles and values delineated in Articles 1 and 2, and their significance in guiding the organization's mission, along with the examination of the provisions related to the amendment or reform of the Charter as specified in Articles 108 and 109, the aim of this chapter is to highlight how the Security Council is involved in the international arena. Particularly, it serves as a base for understanding the ongoing debate surrounding the reform of the Security Council. Moreover, in the third section, there is a special focus on the evolution of the functions of the Security Council in the absence of Charter reforms, for instance, the Uniting for Peace Resolution, which is an important turning point in the debate. Finally, in the last section, through an analysis of the issues and criticisms surrounding the Security Council, mentioning the points of view of three different actors such as African States, India, and the Russian Federation, the main objective is to provide a comprehensive understanding of the multifaceted nature of the reform debate within the United Nations. Furthermore, particular attention will be devoted to the ongoing conflict in Ukraine that highlights the Security Council's inability to effectively respond when one of its permanent members is involved directly in a conflict in violation of the UN Charter. By highlighting the areas in need of improvement and the diverse viewpoints shaping the discourse on reform, this section sets the stage for exploring potential pathways towards enhancing the Council's effectiveness and legitimacy in fulfilling its mandate of maintaining international peace and security.

### **1.1. The main principles of the United Nations Charter and the provisions related to its reform**

The United Nations Charter, established in San Francisco in 1945 and signed by the 193 Member States, serves as the foundational document guiding the principles and operations of the United Nations. This section delves into the main principles outlined in

Articles 1 and 2, emphasizing the core values that underpin the organization's mission. Additionally, it explores the provisions related to the reform of the UN Charter as outlined in Articles 108 and 109, highlighting the mechanisms for adapting the organization to contemporary global challenges.

Chapter I of the Charter<sup>9</sup> includes the first two articles and explains purposes and principles of the United Nations. Article 1 outlines the primary purposes in four points. The first point emphasizes the maintenance of international peace and security as a central objective, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. The second point underscores the importance to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace. Furthermore, the last two points outline the fundamental purpose of achieving international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and to be a center for harmonizing the actions of nations in the attainment of these common ends. These principles reflect the UN's commitment to fostering a more peaceful, just, and inclusive world order.

In parallel, Article 2 elaborates on the fundamental principles that guide the conduct of Member States within the UN framework. It is divided in seven paragraphs; thus, it contains seven main principles. The first principle is the sovereign equality; hence, it is the right, that belongs equally to all the Member States, to exercise sovereign power. It emphasizes that States are all equal under International Law. The second principle states that all Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance

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<sup>9</sup> Gaeta, P., Viñuales, J. E., & Zappalà, S. (2020). Cassese's International Law. *Oxford University Press*. (pp. 45-76).



with the Charter; consequently, all the actions of the MSs must be practiced in respect of the UN Charter. Following, the third principle outlines that all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. It is surely a principle that includes the role of the Security Council, as it is highlighted in Chapter VI of the Charter. Later, the fourth principle states that all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. The violation of threat or use of force is a *jus cogens*: a non derogable norm. This is the only case in international law in which there is a hierarchically superior law, indeed, according to Article 53 of the Vienna Convention on the Law of Treaties 1969<sup>10</sup>, if a treaty goes against a *jus cogens* it is null and invalid. Moreover, also this fourth paragraph includes the role of the Security Council, as it is highlighted in Chapter VII of the Charter which regards the action with respect to threats to the peace, breaches of the peace, and acts of aggression. Both the fifth and the sixth principle refer to co-operative relations, indeed, the fifth one establishes that all Members shall give the United Nations every assistance in any action it takes in accordance with the UN Charter and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action. While the sixth one states that the Organization shall ensure that states which are not Members of the United Nations, act in accordance with these principles so far as may be necessary for the maintenance of international peace and security. Therefore, the aim of these two paragraphs is the cooperation to maintain international peace and security. Later, the last paragraph emphasizes that nothing contained in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle, also called principle of non-intervention, shall not prejudice the application of enforcement measures under Chapter VII previously mentioned.

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<sup>10</sup> Vienna Convention on the Law of Treaties. (1969). Part V, Section 2: Invalidation of Treaties. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/101071>

In order to enforce these principles and the UN Charter itself, two fundamental articles were inserted into the Charter: Articles 108 and 109<sup>11</sup>. They address the mechanisms for reforming the organization to adapt to evolving global dynamics. Article 108 outlines the process for amending the Charter, requiring a two-thirds majority vote in the General Assembly and ratification by two-thirds of Member States in accordance with their respective constitutional processes, including all five permanent members of the Security Council which are the United States, the United Kingdom, France, the Russian Federation and China. This provision ensures that any changes to the Charter reflect the collective will of the international community and maintain the balance of power within the UN system. Meanwhile, Article 109 outlines the process for reviewing and amending the Charter itself, and it is divided in three paragraphs. The first one establishes the possibility of holding a General Conference of the Member States to review the Charter. This conference can be convened by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations has one vote in this conference, this is obviously connected to the principle of sovereign equality of the Member States. The second paragraph outlines the procedure for altering the Charter. Any alteration recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Member States, including all the permanent members of the Security Council. The third paragraph addresses the situation where a General Conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter. In this case, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Overall, Article 109 provides a mechanism for periodic review and potential amendment of the UN Charter, ensuring that it remains relevant and responsive to the changing needs and dynamics of the international community.

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<sup>11</sup> Preschern, P. (2015, August 12). La riforma del Consiglio di Sicurezza dagli anni '90 ad oggi. *Rome, Italy: Istituto Affari Internazionali*. (p. 3). <https://www.iai.it/it/pubblicazioni/la-riforma-del-consiglio-di-sicurezza-dagli-anni-90-ad-oggi>

In conclusion, the main principles enshrined in Articles 1 and 2 of the UN Charter underscore the core values of the United Nations, emphasizing peace, cooperation, equality, and respect for human rights. The provisions related to the reform of the UN Charter in Articles 108 and 109 highlight the organization's capacity for adaptation and evolution in response to changing global realities. By upholding these principles and mechanisms for reform, the United Nations remains a vital institution for promoting international peace, security, and cooperation in the contemporary world.

## **1.2. Composition, functions, and powers**

The United Nations Security Council is a central organ of the United Nations responsible for maintaining international peace and security. Its role is outlined in Chapter V, VI, and VII of the UN Charter. This section provides a comprehensive analysis of its composition, functions, and powers, examining the provisions laid out in these chapters of the Charter.

Article 23 of Chapter V establishes the composition, delineated in three paragraphs. The first paragraph specifies that the Council shall comprise fifteen Member States, with the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America serving as permanent members. Additionally, ten non-permanent members shall be elected by the General Assembly, with careful consideration given to their contributions to international peace and security, as well as to equitable geographical representation. The second paragraph outlines the tenure of non-permanent members, stipulating a two-year term. Following the expansion of the Security Council's membership from eleven to fifteen in 1963, the first election of non-permanent members shall include two of the additional four members serving a one-year term. Furthermore, a retiring member is ineligible for immediate re-election. Lastly, the third paragraph emphasizes that each member of the Council shall be represented by one representative, ensuring equal representation and participation within it.

Subsequently, the functions are outlined in three articles: Article 24, 25 and 26. The main function is the primary responsibility for the maintenance of international peace and security, this power is conferred by the Member States which agree that in carrying

out its duties under this responsibility the Security Council acts on their behalf<sup>12</sup>. Indeed, in discharging these duties the Council shall act in accordance with the Purposes and Principles of the United Nations, explained in the previous section. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII that will be treated later. Another task of the Council is to submit an annual relation, and if necessary special reports, to the General Assembly for its consideration. It is important to highlight that the Members of the United Nations, upon joining the organization, agree to adhere to and implement the decisions made by the Security Council as outlined in the Charter. This means that once the Security Council reaches a decision, all Member States are expected to comply with and carry out those decisions. Furthermore, in order to promote the objectives of fostering and preserving international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council, with the assistance of the Military Staff Committee mentioned in Article 47, shall undertake the task of formulating plans. These plans will be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Additionally, the voting system is outlined in Article 27, while the procedures applied by the Council are outlined in five articles: from Article 28 to Article 32. The Council must adhere to the following roles for each vote: firstly, each member of the Security Council shall have one vote; secondly, decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members and, lastly, decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting<sup>13</sup>. After analyzing the voting system, the focus moves to the procedures in which it is applied. The procedural framework guiding the operations of the Security Council is delineated in several articles. Article 28 affirms that the Council

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<sup>12</sup> Kelsen, H. (1948). Collective Security and Collective Self-Defense under the Charter of the United Nations. *The American Journal of International Law*, 42(4). (pp. 785–786). <https://doi.org/10.2307/2193350><https://www.jstor.org/stable/2193350>

<sup>13</sup> Kirgis, F. L., & Jr. (1995). The Security Council's first fifty years. *The American Journal of International Law*, 89(3). (pp. 510–511). <https://doi.org/10.2307/2204171><https://www.jstor.org/stable/2204171>

shall be so organized as to be able to function continuously and each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization. Additionally, it mandates the convening of periodic meetings, during which members have the option to be represented by government officials or designated representatives. Flexibility is granted for meetings to be held at alternative locations to enhance efficiency. Article 29 confers upon the Security Council the authority to establish subsidiary organs deemed necessary for the performance of its functions. Furthermore, Article 30 empowers the Security Council to establish its own rules of procedure, including the method for selecting its President, thereby ensuring autonomy in decision-making processes. Later, Article 31 allows for the participation of any UN Member not serving on the Security Council in discussions on pertinent issues, provided that the Council determines their interests are implicated, albeit without voting privileges. Lastly, Article 32 extends invitations to non-Member States of the Security Council, as well as states not part of the UN, involved in disputes under the Council's consideration, enabling their participation in discussions without voting rights. The Council reserves the authority to set equitable conditions for the involvement of non-UN Member States. Moving forward through the analysis of the role of the Security Council, the focus shifts on the tasks of the Security Council in the pacific settlement of disputes. It is outlined by Chapter VI, which includes articles from 33 to 38. Firstly, it is fundamental to highlight that this section of the UN Charter is strictly connected to the third principle of Article 2 explained in the previous paragraph. Thus, Articles 33 and 34 emphasize that the parties engaged in any dispute that poses a threat to international peace and security are required to prioritize resolution through peaceful methods such as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or any other peaceful means of their own choice. The Security Council, when it considers it appropriate, may call upon the disputing parties to pursue resolution through these means. Moreover, the Security Council has the authority to investigate any dispute or situation that could potentially escalate into international friction or give rise to a dispute, with the aim of assessing whether its continuation poses a threat to the preservation of international peace and security. Subsequently, the chapter examines in Article 35 how a dispute can be brought to the attention of the Council: any Member State of the United Nations has the authority to bring any dispute, or any situation of the nature referred to in

Article 34, to the attention of the Security Council or the General Assembly; a State which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute in which it is involved, if it accepts in advanced the obligations of pacific settlement provided in the present Charter. Furthermore, the proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12. Article 36 establishes an important function of the Council: it may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment. It should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties and it should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice<sup>14</sup>. Later, Article 37 deals with the situation in which the parties to a dispute fail to settle it by the means previously indicated in Article 33, in this case they shall refer it to the Security Council which shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate, if it deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security. Finally, the last article of this chapter establishes that if all the parties to any dispute so request, without prejudice to the provisions of Articles 33 to 37, the Security Council may make recommendations to the parties with a view to a pacific settlement of the dispute. In summary, Chapter VI of the UN Charter emphasizes: the importance of prioritizing peaceful; the authority of the Council to investigate potential threats, to recommend appropriate procedures, and to prevent further escalation. Overall, this important chapter underscores the UN's commitment to solving conflicts through peaceful means to maintain global peace and security.

To conclude the focus on the tasks of the Security Council there must be a deeper analysis on its actions with respect to threats to the peace, breaches of the peace, and acts of aggression. It is treated in Chapter VIII of the UN Charter which includes article from

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<sup>14</sup> The principal judicial organ of the United Nations, established in June 1945 by the Charter of the United Nations and began work in April 1946, seated at the Peace Palace in The Hague (Netherlands).

39 to 51<sup>15</sup>. Article 39 outlines the Security Council's authority to assess and determine any threats to peace, breaches of peace, or acts of aggression. Subsequently, it is empowered to make recommendations or decide on appropriate measures, as outlined in Articles 41 and 42, to uphold or restore international peace and security. Furthermore, Article 40 stipulates that to prevent an aggravation of the situation, the Security Council may, before making recommendations or decisions under the previous article, call upon the involved parties to comply with such provisional measures as it deems necessary or desirable. These provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned, moreover, the Security Council shall duly take account of failure to comply with such provisional measures. Later, Article 41 empowers the Security Council to determine and implement non-military measures aimed at enforcing its decisions. These measures, which do not involve the use of armed force, may encompass a wide range of actions, such as complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. The Council may call upon Member States of the United Nations to adhere to and implement these measures, thereby exerting collective pressure to address threats to international peace and security. In a similar way, Article 42 grants the Security Council the authority to escalate its response if measures outlined in Article 41 are deemed insufficient or have proven ineffective. In such cases, it may take some actions by air, sea, or land forces. These actions can encompass a variety of operations, including demonstrations, blockades, and other maneuvers executed by the UN Member States. Additionally, Article 43 outlines the obligations of all UN Member States to contribute to the maintenance of international peace and security by providing armed forces, assistance, and facilities to the Security Council as requested. These contributions are governed by special agreements negotiated between the Council and Member States, which detail the numbers and types of forces, their degree of readiness and general location, and the nature of facilities and assistance to be provided. These agreements, concluded between the Security Council and Members or between the Security Council and groups of Members, are to be negotiated promptly

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<sup>15</sup> Kelsen, H. (1948). Collective Security and Collective Self-Defense under the Charter of the United Nations. *The American Journal of International Law*, 42(4). (pp. 785–786). <https://doi.org/10.2307/2193350><https://www.jstor.org/stable/2193350>

at the initiative of the Security Council and are subject to ratification by signatory States in accordance with their respective constitutional processes. Furthermore, Article 44 emphasizes the importance of consultation and participation in decision-making processes related to the use of force. Before calling upon a Member State not represented on the Council to provide armed forces in fulfillment of obligations under the previous article, the Council is required to invite the participation of that Member, if the Member so desires, in decisions concerning the employment of its armed forces. This underscores the Council's commitment to inclusivity and collective decision-making in matters of international peace and security. Subsequently, Article 45 underscores the importance of immediate military preparedness among Member States in order to enable the United Nations to take urgent military measures, indeed, it highlights that Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents are to be determined, within the parameters established in special agreements previously explained in Article 43, by the Security Council, with the assistance of the Military Staff Committee. Similarly, the subsequent article, the 46<sup>th</sup>, emphasizes the importance of the assisting role of the Military Staff Committee to the Security Council in plans for the application of armed force when deemed necessary. Later, in Article 47<sup>16</sup> the focus moves to the establishment of the tasks of the Military Staff Committee: to advise and aid the Security Council on matters related to its military requirements for maintaining international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament. Comprised of the Chiefs of Staff of the Council's permanent members or their representatives, the Committee may invite non-permanent members of the UN to participate in its work as needed. Moreover, it is responsible for the strategic direction of any armed forces at the Council's disposal and may establish regional sub-committees with Council authorization and after consultation with appropriate regional agencies. Article 48 outlines the collective responsibility of UN Members in carrying out Security Council decisions for peace and security maintenance. Such actions are to be implemented directly by Member States and through relevant international agencies of which they are members. Furthermore, Article 49 emphasizes

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<sup>16</sup> Kirgis, F. L., & Jr. (1995). The Security Council's first fifty years. *The American Journal of International Law*, 89(3). (p. 520). <https://doi.org/10.2307/2204171><https://www.jstor.org/stable/2204171>



the importance of the mutual assistance among UN Members in carrying out the measures decided upon by the Security Council. Article 50 grants to any States facing economic challenges due to Security Council preventive or enforcement measures the right to consult with the Council for a resolution. Lastly, the final article of Chapter VII, the 51<sup>st</sup><sup>17</sup>, reaffirms the inherent right of individual or collective self-defense until the Security Council takes necessary measures to restore peace and security. However, any actions taken in self-defense shall be immediately reported to the Council and shall not in any way affect its authority and responsibility under the Charter to act as it deems necessary in order to maintain or restore international peace and security.

In summary, the United Nations Security Council, as delineated in Chapters V, VI, and VII of the UN Charter, occupies a central role in the maintenance of international peace and security. This section has provided a thorough examination of its composition, functions, and powers, elucidating the provisions articulated within these chapters. Chapter V, composed by four sections, establishes the composition of the Security Council, and outlines its fundamental functions, its voting system and its procedures. Notably, the Council's duty to investigate disputes and recommend peaceful resolutions is underscored in Chapter VI, with Articles 33 through 38 outlining procedures for dispute settlement and the involvement of concerned parties. Moving forward, Chapter VIII empowers the Council to assess and determine threats and breaches to peace, make recommendations or decide on appropriate measures to restore peace, and call upon Member States to contribute to collective security efforts. In conclusion, these chapters underscore the UN's commitment to conflict resolution through peaceful means, collective action to address threats to peace and security, and the maintenance of international order. The objective of this section was to comprehend the role and responsibilities of the Security Council as delineated in the chapters of the UN Charter. This understanding aimed to provide insight into the framework established to promote global peace and stability, thereby linking the principles and purposes elucidated in the first section to their practical implementation.

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<sup>17</sup> Kelsen, H. (1948). Collective Security and Collective Self-Defense under the Charter of the United Nations. *The American Journal of International Law*, 42(4). (pp. 785–786). <https://doi.org/10.2307/2193350><https://www.jstor.org/stable/2193350>

### 1.3. Evolution of the functions of the Security Council in the absence of Charter reforms

The only reform of the Security Council dates to 1963<sup>18</sup>, when, given the increase in UN membership following the decolonization process, the Member States rose to 117 and the number of non-permanent members was increased from 6 to 10, causing the amendment of Articles 23 and 27<sup>19</sup>, enlarging the Council's membership from its original eleven to its current fifteen, with a corresponding change from seven to nine votes for the adoption of resolutions. However, the role of the Council evolves even in the absence of reforms of the UN Charter. In the UN framework, the most significant attempt to extend the competences of the General Assembly in matters of international peace and security, which consequently evolved the functions of the Council, occurred with Resolution 377 (V) of November 3, 1950<sup>20</sup>: the Uniting for Peace. The adoption of the resolution is closely linked to the events of the international crisis following North Korea's aggression against South Korea which represented, from the UN point of view, the first international conflict in which the Security Council managed to “authorize” military intervention<sup>21</sup>. This was possible due to the temporary absence of the Union of Soviet Socialist Republics at the Council meetings in protest against the failure of the Popular Republic of China to replace the previous Nationalist China in the permanent seat. Initially, with Resolution 83 of June 27, 1950<sup>22</sup>, the Council recommended that the Member States of the Organization provide South Korea with the necessary help to repel aggression and restore peace. A

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<sup>18</sup> A/RES/1991(XVIII). (1963, December 17). [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F1991\(XVIII\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F1991(XVIII)&Language=E&DeviceType=Desktop&LangRequested=False)

<sup>19</sup> Kirgis, F. L., & Jr. (1995). The Security Council's first fifty years. *The American Journal of International Law*, 89(3). (p. 506). <https://doi.org/10.2307/2204171><https://www.jstor.org/stable/2204171>

<sup>20</sup> A/RES/377(V). (1950). [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377\(V\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377(V)&Language=E&DeviceType=Desktop&LangRequested=False)

<sup>21</sup> Tomuschat, C. (2008). Uniting for Peace: General Assembly resolution 377 (V), New York, 3 November 1950. *United Nations Audiovisual Library of International Law*. <https://legal.un.org/avl/ha/ufp/ufp.html>

<sup>22</sup> UN. Security Council (5th year: 1950). (1965). Resolution 83 (1950) /: [adopted by the Security Council at its 474th meeting], of 27 June 1950. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/112026?v=pdf>

month later, on July 7, 1950, with Resolution 84<sup>23</sup>, the Council invited the States which had made themselves available to place their military forces and other forms of assistance, to unify their command under the leadership of the United States which was also authorized to act on behalf of the Organization. However, the return of the USSR representative to the Council in August halted further Council initiatives to manage the military operation aimed at ending the conflict. To address operational and legitimacy issues arising from the Council's military initiative in the absence of the USSR, the United States proposed Resolution 377 (V), which empowered the General Assembly to act in the event of a blockade of the Council. In particular, this resolution stipulates that if the Council fails to fulfill its primary responsibility for maintaining peace due to lack of unanimity among permanent members in the presence of a threat or breach of peace or of an act of aggression, the Assembly may address the matter and recommend measures to the Member States, including the use of armed force if necessary, to maintain or restore international peace and security. Essentially, through this resolution, the Assembly acknowledges its authority to compensate for Council inactivity in cases invoking Chapter VII of the UN Charter by recommending collective measures. The resolution authorizes actions of the Assembly through a special emergency session, either at the request by the majority of members of the Council designated for procedural matters (where the veto cannot be exercised) or by the majority of UN Member States. As of today, the General Assembly has convened eleven special emergency sessions, mostly at the Security Council's request, to address various crises and conflicts. During the Suez Crisis in 1956<sup>24</sup>, measures were recommended for ceasefire, troop withdrawal, and the reopening of the Suez Canal (ES-1), culminating in the creation of the first peacekeeping operation: the UNEF I. Subsequently, special sessions were held regarding the crisis in

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<sup>23</sup> UN. Security Council (5th year : 1950). (1965). Resolution 84 (1950) /: [adopted by the Security Council at its 476th meeting], of 7 July 1950. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/112027?v=pdf>

<sup>24</sup> UN. General Assembly (1st emergency special sess. : 1956). (1956). Resolutions adopted by the General Assembly during its 1st emergency special session from 1 to 10 November 1956 (A/3354). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/228961?v=pdf>

Lebanon in 1958<sup>25</sup> (ES-3); the Six-Day War in 1967<sup>26</sup> (ES-5); the issue of Palestine in 1980<sup>27</sup> (ES-7); the situation in the occupied Arab territories in 1982<sup>28</sup> (ES-9); and a series of sessions addressing Israel's illegal actions in East Jerusalem and the occupied Palestinian territories since 1997<sup>29</sup> (ES-10). On other occasions, the General Assembly has addressed crises such as those in Hungary in 1956<sup>30</sup> (ES-2); the conflict in Congo in 1960<sup>31</sup> (ES-4); and the illegal occupation of Namibia by South Africa in 1981<sup>32</sup> (ES-8). The sixth special emergency session in 1980 discussed the Soviet intervention in Afghanistan (ES-6)<sup>33</sup>. While there have been instances where the Assembly has resorted to coercive measures not involving the use of force under Chapter VII or recommended

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<sup>25</sup> UN. General Assembly (3rd emergency special sess. : 1958). (1958). Resolutions adopted by the General Assembly during its 3rd emergency special session from 8 to 21 August 1958 (A/3905). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/228959?v=pdf>

<sup>26</sup> UN. General Assembly (5th emergency special sess. : 1967). (1967). Resolutions adopted by the General Assembly during its 5th emergency special session, 17 June-18 September 1967 (A/6798). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/229364?v=pdf>

<sup>27</sup> UN. General Assembly (7th emergency special sess. : 1980-1982). (1981). Resolutions and decisions /: adopted by the General Assembly during its seventh emergency special session, 22-29 July 1980 (A/ES-7/14). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/195708?ln=en&v=pdf>.

<sup>28</sup> UN. General Assembly (9th emergency special sess. : 1982). (1982). Resolutions and decisions /: adopted by the General Assembly during its ninth emergency special session, 29 January - 5 February 1982. *United Nations Digital Library System* (A/ES-9/7). <https://digitallibrary.un.org/record/195706?v=pdf>.

<sup>29</sup> General Assembly calls for new momentum in stalled Middle East Peace Process, seeks to end Israeli Settlement Activity. *Meetings coverage and press releases*. (1997, November 13) (GA/9356). <https://press.un.org/en/1997/19971113.ga9356.html>

<sup>30</sup> UN. General Assembly (2nd emergency special sess. : 1956). (1956). Resolutions adopted by the General Assembly during its 2nd emergency special session from 4 to 10 November 1956 (A/3355). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/228962?v=pdf>

<sup>31</sup> UN. General Assembly (4th emergency special sess. : 1960). (1960). Resolutions adopted by the General Assembly during its 4th emergency special session, 17-19 September 1960 (A/4510). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/228965?v=pdf>

<sup>32</sup> UN. General Assembly (8th emergency special sess. : 1981). (1981). Resolutions and decisions /: adopted by the General Assembly during its eighth emergency special session, 3-14 September 1981 (A/ES-8/13). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/195707?ln=en&v=pdf>

<sup>33</sup> UN. General Assembly (6th emergency special sess. : 1980). (1980). Resolutions and decisions /: adopted by the General Assembly during its 6th emergency special session, 10-14 January 1980 (A/ES-6/7). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/14172?v=pdf>.

the establishment of consensus-based peace operations, these are situations where there is strong international consensus for such interventions. However, the Assembly's actions have frequently been cautious and ineffective, primarily due to the divergent positions among Member States and the issue of veto power held by the permanent members.

The Russian aggression has triggered one of the most serious crises in the history of the United Nations, especially alarming as it stems from the actions of a permanent member, namely Russia, to whom the Member States of the Organization have entrusted, along with the other permanent Members, the primary responsibility for maintaining peace. The eleventh special emergency session, denominated ES-11, was convened in February 2022 at the request of the Security Council due to the lack of unanimity among the permanent members in addressing the issue raised by Ukraine regarding the deteriorating situation in Crimea.<sup>34</sup> As of today, the ES-11 has convened multiple times and has passed six resolutions. On March 2, 2022, the Assembly adopted its first resolution<sup>35</sup> regarding the issue, condemning "the aggression of the Russian Federation against Ukraine, breaching Article 2, paragraph 4 of the Charter." It reiterated its dedication to Ukraine's sovereignty, independence, unity, and territorial integrity, urging Russia to immediately cease the use of force and fully withdraw its military from Ukrainian territory. Furthermore, it called on Russia to refrain from recognizing the self-proclaimed Donetsk and Luhansk republics and to adhere to international law principles outlined in the UN Charter and the Declaration on Friendly Relations<sup>36</sup>. The resolution urged both conflict parties to facilitate humanitarian aid to civilians and comply with international humanitarian law obligations. Essentially, the Assembly's first resolution

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<sup>34</sup> S/RES/2623(2022). (2022, February 27). Referred to the lack of unanimity of the permanent members regarding S/2014/136. (2014, February 28). [https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623\(2022\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623(2022)&Language=E&DeviceType=Desktop&LangRequested=False)  
<https://undocs.org/Home/Mobile?FinalSymbol=S%2F2014%2F136&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>35</sup> Aggression against Ukraine : resolution /: adopted by the General Assembly. (2022, March 2). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3959039>

<sup>36</sup> A/RES/2625(XXV). (1970). [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2625\(XXV\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2625(XXV)&Language=E&DeviceType=Desktop&LangRequested=False)

against Russian aggression comprised clear requests, especially directed at Russia, aiming to prompt a peaceful resolution to the conflict. The resolution garnered 141 votes in favor, with 5 against, 35 abstentions, and 12 absentees. Later, on March 24<sup>th</sup>, the Assembly adopted the second resolution<sup>37</sup> specifically addressing the humanitarian situation arising from the conflict. In this resolution, the Assembly called for the full protection of civilians, including medical and humanitarian personnel, journalists, and individuals in vulnerable situations. The voting pattern remained consistent with the previous resolution. With the third resolution<sup>38</sup>, approved on April 7<sup>th</sup>, the Assembly moved towards adopting measures aimed at sanctioning Russia for its failure to comply with the requests of the previous resolutions. Indeed, this resolution deals with the suspension of Russia's membership in the Human Rights Council. However, it receives less substantial support quantitatively: only 93 votes in favor, 24 against, 58 abstentions, and 18 absences. Moreover, the territorial integrity of Ukraine is the topic analyzed in the fourth resolution<sup>39</sup> adopted on October 12<sup>th</sup>. This resolution is related to Russian decisions, deemed illegitimate, regarding the illegal referendums conducted in September 2022 in the regions of Donetsk, Kherson, Luhansk, and Zaporizhzhia. In the resolution, the Assembly invokes principles of international law to protect Ukraine's sovereignty and territorial integrity, while simultaneously urging states, UN specialized agencies, and other international organizations to refrain from actions or transactions that could be interpreted as recognition of the altered status of these regions. The resolution received 143 votes in favor, 5 against, 35 abstentions, and 10 absences, reflecting broad consensus

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<sup>37</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, March 28). Humanitarian consequences of the aggression against Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3966630?v=pdf>

<sup>38</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, April 8). Suspension of the rights of membership of the Russian Federation in the Human Rights Council : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3967950?v=pdf>

<sup>39</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, October 13). Territorial integrity of Ukraine : defending the principles of the Charter of the United Nations : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3990673?v=pdf>

among Member States on this specific issue. The fifth resolution<sup>40</sup> adopted by the General Assembly on November 14<sup>th</sup>, received less support from Member States, likely because the measure was seen as an obstacle in order to promote a peaceful resolution of the conflict. It recognizes the need for a mechanism to repair damages caused by Russia. Hence, the support significantly decreased with 94 votes in favor, 14 against, 73 abstentions, and 12 absences. Finally, the sixth resolution<sup>41</sup> adopted on February 23, 2023, received broader consensus. With 141 votes in favor, 7 against, 32 abstentions, and 13 absences, the Assembly emphasized the urgent need to achieve a comprehensive, just, and lasting peace in Ukraine in accordance with the principles of the Charter. It urged Member States and other actors to double their efforts toward this collective goal. The Assembly reiterated the call for Russia to withdraw its troops, cease hostilities, and comply with all requests made in the previous resolutions. Another important aspect is the application of the law of State responsibility for crimes committed in Ukrainian territory through appropriate, impartial, and independent investigations and proceedings at national or international levels. However, the actions taken by the General Assembly during this crisis have remained well below the types of measures allowed under the Uniting for Peace Resolution 377 (V). The main issue is that the involvement of a permanent member with nuclear power generates difficulties in adopting punitive measures at the UN level since one of the principles of the Charter is the pacific settlement of disputes in order to maintain international peace and security.

Moreover, an important evolution in the role of the Security Council was made through the adoption of the UN World Summit Outcome Document in 2005<sup>42</sup>. It established an international norm defined as the Responsibility to Protect, known as R2P,

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<sup>40</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, November 15). Furtherance of remedy and reparation for aggression against Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3994481?v=pdf>

<sup>41</sup> UN. General Assembly (11th emergency special sess. : 2022). (2023, March 2). Principles of the Charter of the United Nations underlying a comprehensive, just and lasting peace in Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/4004933?v=pdf>

<sup>42</sup> A/RES/60/1. (2005, October 24). <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F60%2F1&Language=E&DeviceType=Desktop&LangRequested=False>

that seeks to ensure that the international community never again fails to halt the mass atrocity crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity. The concept emerged in response to the failure of the international community to adequately respond to mass atrocities committed in Rwanda and the former Yugoslavia during the 1990s. The International Committee on Intervention and State Sovereignty developed the concept of R2P during 2001. Following the adoption of this resolution in 2005, in 2007 the Secretary-General addressed a letter<sup>43</sup> to the President of the Security Council recognizing the need to further operationalized the principle of the Responsibility to Protect and designated a Special Adviser on the Responsibility to Protect with the main task of conceptual development and consensus building. Therefore, paragraphs 138 and 139 state that each individual State has the responsibility to protect its populations, and the international community, through the United Nations, has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter and in collaboration with the appropriate regional organizations, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

In general, the international legal system is dynamic and must constantly face challenges. The United Nations and the Security Council endeavor to address these challenges while adhering to the principles outlined in the United Nations Charter. However, the system's efficiency is primarily due to unequal representation in the Security Council and, most notably, an uneven distribution of powers within the Council, as just exemplified by the Russian-Ukrainian crisis.

#### **1.4. The need for reform: issues and criticism**

The previous section on the Security Council and the situations in which it may be involved has brought to light several issues regarding its composition and administration. Thus, this has led Member States to question their role on the international stage and thus

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<sup>43</sup> Secretary-General, U. (2007, December 7). Letter dated 31 August 2007 from the Secretary-General addressed to the President of the Security Council (S/2007/721). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/613310?v=pdf>



become aware of various problems regarding the representation of countries within the Council and those generated by the veto power. For instance, the ongoing conflict in Ukraine highlights the Security Council's inability to effectively respond when one of its permanent members goes to war in violation of the UN Charter, reigniting discussions about reforming the Council which has been a persistent subject of debate in the General Assembly since the early post-Cold War era, with calls for reform becoming more pronounced during international crises that underscore the structural weaknesses of the Security Council. Nearly eighty years after its establishment, it still consists of the same five permanent members, however, since 1945, significant global players have emerged, for instance, India or Brazil and Japan and Germany, the rehabilitated aggressors of World War II. Despite the UN's membership nearly quadrupling from 51 to 193 Member States due to decolonization and the dissolution of multiethnic states, the composition of the Council has only been expanded once, in 1963. Therefore, the need for reform is surely understandable, to exacerbate these frustrations there is the issue of the veto power which allows the P-5 to unilaterally block Security Council resolutions that contradict their national interests, as Russia has demonstrated concerning Ukraine. The main question that appears in this debate is whether the possibility of unilateral blocks makes the Council representative and efficient at the international level. Clearly, considering the recent global events just mentioned, the answer for most countries is no.

A turning point in the debate occurred with a speech of the President of the United States, Joe Biden, on September 22, 2022, to the General Assembly<sup>44</sup>. While reaffirming the longstanding U.S. support for "increasing the number of both permanent and non-permanent representatives," Biden introduced a new element: The United States now advocates not only for "permanent seats for nations we have long supported," such as Japan, Germany, and India, but also "permanent seats for the countries of Africa, Latin America, and the Caribbean." Biden's unexpected announcement marked the beginning of renewed multilateral diplomacy on the enduring and seemingly insoluble challenge of

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<sup>44</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

Security Council reform. Surely, Joe Biden has highlighted an important point in common between Member States, however, it is fundamental to focus on the ideas of the non-permanent members of the UN. For instance, African States have long advocated for the expansion and reform of the Security Council<sup>45</sup> due to several key convictions. Firstly, they argue that the current composition of the council does not adequately represent the world's population and fails to reflect contemporary geopolitical realities, particularly regarding the Global South, indeed, even if most UN Member States come from the Global South, it is still less represented in the Council, thus, Africa lacks proportional representation. This is perceived as a historical injustice, they argue that the Security Council must be adapted to address these contemporary challenges effectively, and this can only be achieved by ensuring that the council reflects the interests and perspectives of all humanity. Despite the challenges with the more represented Western World, the African Union remains committed to promoting multilateral cooperation and strengthening its representation within global governance institutions. Another important point of view is the one of India, supported by the United States to gain a permanent seat in the Council. The Indian ambassador, during the 74<sup>th</sup> session of the UN General Assembly in 2019<sup>46</sup>, emphasized the pressing need for a reform action in order to address the increasingly complex issues of international peace and security. From the Indian perspective the Council's inability to effectively address complex global issues is rooted in its lack of legitimacy and accountability. This critique underscores the inadequacy of the existing global governance structure to tackle challenges of the twenty-first century, the collective failure to deliver on the promise of reforming the Security Council has serious implications for not only the continuing relevance of global governance

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<sup>45</sup> Patrick, S., Mbete, S., Spektor, M., Guihong, Z., Novosseloff, A., Heusgen, C., Mukherjee, R., Lipsky, P. Y., Cabañas Izquierdo, M. R., Adebajo, A., Kolosovskiy, A., Ng, J., Singh, P., Yinanç, B., Gowan, R., & Dayal, A. (2023, June 28). UN Security Council reform: What the world thinks. *Carnegie Endowment for International Peace*. (pp. 10-14). <https://carnegieendowment.org/2023/06/28/un-security-council-reform-what-world-thinks-pub-90032#russia>

<sup>46</sup> India Statement by Ambassador Syed Akbaruddin, Permanent Representative. In 74th Session of the United Nations General Assembly, Agenda Item 122: Question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council. (2019, November 25). *Permanent Mission of India to the UN, New York*. <https://www.pminewyork.gov.in/pdf/uploadpdf/statements/1449022116.pdf>

institutions, but for the lives of millions of people worldwide. The ambassador recognized that adjusting existing multilateral architecture requires time and that it can be contentious, as there may be differences regarding the preferred outcomes of reform, however, what is not understandable is an unwillingness to follow basic ground rules of multilateral processes.

Moreover, another important point of view to analyze is the one of a member of the P-5: the Russian Federation. In March 2023 was approved a version of the Foreign Policy Concept of the Russian Federation<sup>47</sup> which connected the current official understanding of Russia's role in the modern world to its Soviet past. It states that Russia's place in the world is determined by its significant resources in all areas of living, its status of a permanent member of the Security Council, participant in the leading intergovernmental organizations and associations, one of the two largest nuclear powers, and the successor, continuing legal personality, of the Union of Soviet Socialist Republics. It emphasizes also that Russia, considering its decisive contribution to the victory in World War II and its active role in shaping the contemporary system of international relations and eliminating the global system of colonialism, is one of the sovereign centers of global development. Doing some steps back, Joseph Stalin, after some initial hesitation, enlisted the Soviet Union in the creation of the United Nations in the hopes of preserving Soviet influence and authority<sup>48</sup>, devoting his primary attention to the composition of the Security Council. Hence, from the very start, the Soviet Union did not hesitate to use its privileges in the Security Council, between February 1946 and October 1956, the Soviet Union was the only permanent member to use its veto, particularly fifty-seven times. Later, one day before Soviet president Mikhail Gorbachev

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<sup>47</sup> The concept of the Foreign Policy of the Russian Federation. *The Ministry of Foreign Affairs of the Russian Federation*. (2023, March 31). [https://www.mid.ru/en/foreign\\_policy/fundamental\\_documents/1860586/](https://www.mid.ru/en/foreign_policy/fundamental_documents/1860586/)

<sup>48</sup> Gaiduk, I. (2006, March 13). The Lost Battle: The Soviet Union and the United Nations under Stalin, 1945-1953. *Woodrow Wilson International Center for Scholars*. <https://www.wilsoncenter.org/event/the-lost-battle-the-soviet-union-and-the-united-nations-under-stalin-1945-1953>

resigned, then Russian president Boris Yeltsin sent a letter to the UN secretary-general<sup>49</sup>, informing him that the membership of the Union of Soviet Socialist Republics in the United Nations, including the Security Council would have been continued by the Russian Federation. During the 1990s, the P-5 rarely used their veto in the Security Council. In 2015, the Russian President Vladimir Putin addressed the UN General Assembly live for the last time<sup>50</sup>. He criticized the Western countries, particularly the United States, for sidestepping UN procedures, exemplified by actions like NATO's intervention in Kosovo in 1999 and the initiative of the U.S. president George Bush to invade Iraq without UN authorization. Furthermore, he strongly defended the veto power. Subsequently, at the opening of the 77th UN General Assembly in September 2022<sup>51</sup>, the Russian Foreign Minister Sergey Lavrov spoke in favor of more representation for Africa, Asia, and Latin America in the Security Council, mentioning India and Brazil as candidates for becoming permanent members. However, in April 2023<sup>52</sup> Russia's representative member to the United Nations, Vassily Nebenzia, was less forthcoming. He stressed the need to improve African representation, noting that there is no consensus on candidates for permanent membership and suggesting the possibility of a transitory model that would allow nonpermanent members to extend their terms in the Council. Other Russian officials said that Security Council expansion should be limited to no more

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<sup>49</sup> Note to the Director General from the Ministry of Foreign Affairs of the Russian Federation. (1991, December 26). *International Atomic Energy Agency*. <https://www.iaea.org/publications/documents/infcires/note-director-general-ministry-foreign-affairs-russian-federation>

<sup>50</sup> Sustainable Development, Climate Finance Take Centre Stage As General Assembly Opens Annual Debate. *Meetings coverage and press releases*. (2015, September 28). <https://press.un.org/en/2015/ga11692.doc.htm>

<sup>51</sup> Russian Foreign Minister Sergey Lavrov's remarks at the General Debate of the 77th Session of the United Nations General Assembly (New York, 24 September 2022). *Permanent Mission of the Russian Federation to the European Union*. <https://russiaeu.ru/en/news/russian-foreign-minister-sergey-lavrovs-remarks-general-debate-77th-session-united-nations>

<sup>52</sup> Nebenzia, V. A. (2023, April 3). Permanent Representative V.A. Nebenzia at an informal meeting of the UN General Assembly on the issue of fair representation in the UN Security Council, expanding its membership and related issues [Speech transcript]. *Journal of the United Nations All Meetings of the Day*. <https://journal.un.org/en/new-york/all/2024-05-10>

than twenty members overall<sup>53</sup>. Regardless of the messenger, however, one categorical imperative remains constant in Russia's stance: the current number of permanent members with veto rights must remain intact.

## **Conclusion**

This first chapter has provided a comprehensive examination of the United Nations Security Council, delving into its foundational principles, composition, functions, and the pressing need for reform. By exploring the main principles of the United Nations Charter and the provisions related to the Security Council's role, this chapter has underscored the Council's central mandate of maintaining international peace and security. Additionally, the analysis of the Council's composition, functions, and powers has shed light on its pivotal role in conflict resolution, dispute settlement, and collective security efforts. Moving on through the examination of the Council's role, Section 1.3 analyzed a fundamental evolution of its role in absence of Charter reforms: the Resolution 377 (V) proposed by the United States. This resolution empowered the General Assembly to act in the event of a blockade of the Council. It is a fundamental turning point for the maintenance of peace and security, indeed, there were made eleven special emergency sessions. However, all these resolutions are not an efficient tool in practice, as it was observed with the ES-11: the involvement of a permanent member, hence, with the veto power, generates difficulties in adopting punitive measures at the United Nations level since one of the principles of the Charter is the pacific settlement of disputes with the purpose of maintaining international peace and security. This surely shows the need for a reform of the Council. Thus, the last section has the purpose of showing the different points of view: firstly, the one of the African States, which are considered as non-emerging States; secondly, the one of India, which is one of the main candidates for becoming a permanent member; and lastly, the Russian Federation, one of the P-5 and the main protagonist of the debate. Therefore, the examination of several issues has underscored the ongoing debate within the UN regarding the Council's

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<sup>53</sup> Security Council Must Reflect Twenty-First Century Realities, Delegates Tell General Assembly, with Many Calling for Urgent Expansion of Permanent Seats. *Meetings Coverage and Press Releases*. (2020, November 16). <https://press.un.org/en/2020/ga12288.doc.htm>

effectiveness, legitimacy, and adaptability to contemporary global challenges. In conclusion, Chapter 1 serves as a foundational exploration of the Security Council. By elucidating the complexities and nuances of the Council's operations and the need for reform, this chapter sets the stage for a deeper understanding of the Council's significance in the global governance landscape and the ongoing efforts to enhance its capacity to address the complex security challenges of the twenty-first century.

## Chapter 2: Proposals to reform the composition of the Security Council

### Introduction

The debate surrounding the reform of the United Nations Security Council's composition has been ongoing for decades, reflecting the evolving dynamics of global politics and the need for greater representation within this crucial international body. This chapter delves into the various proposals and negotiations that have characterized this complex process, spanning multiple phases and involving numerous stakeholders.

The first phase of negotiations, initiated in 1993, unfolded within 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 (OWEG)*, established by General Assembly<sup>54</sup>. This phase saw extensive discussions on equitable representation, expansion of membership, and other pertinent issues related to the Security Council. Over a span of fifteen years, the *OWEG* witnessed the presentation of numerous proposals and positions from Member States, reflecting a wide range of perspectives and priorities. Key themes explored during this phase included principles guiding membership expansion, the role of permanent and non-permanent members, and criteria for selecting new members. Additionally, debates centered on the size and distribution of seats within the Council, with discussions on potential new categories of membership to bridge the gap between permanent and non-permanent statuses.

The second phase, marked by the *Inter-Governmental Negotiations (IGN)* since 2008<sup>55</sup>, aimed to build upon the discussions within the *OWEG*. However, despite efforts to reach consensus, significant differences persisted among Member States, hindering progress towards substantive reform. Many groups, including the G4, the African

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<sup>54</sup> UN. General Assembly. (1993, December 10). Question of equitable representation on and increase in the membership of the Security Council: Resolution adopted by the General Assembly (A/48/26). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/177987?v=pdf>

<sup>55</sup> Decision 62/557: *UN Documents: Security Council report*. (2008). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

countries group, Uniting for Consensus, the group of Small 5, and others, presented divergent proposals reflecting their respective interests and priorities. The ongoing debate within the *IGN* underscores the complexity of the reform process and the challenges inherent in reconciling diverse perspectives and interests. While some advocate for significant changes, including the expansion of permanent membership, others favor more incremental approaches focused on enhancing non-permanent representation. Despite the lack of consensus, the urgency of reforming the Security Council remains evident, particularly considering contemporary global challenges, as the current Ukrainian War, and the Council's evolving role in international peace and security. As discussions continue, the need for constructive dialogue, compromise, and creative solutions becomes increasingly apparent, underscoring the importance of addressing this critical issue within the broader framework of UN reform. Lastly, the concluding section delves into a critical analysis of the diverse proposals aimed at reforming the Council's composition, as discussed in preceding sections, aiming to offer a comprehensive insight into the ongoing international debate.

### **2.1. The first phase: negotiations within the OEWG**

The first phase of negotiations was held between 1993 and 2008. With the Resolution 48/26 of 3 December 1993<sup>56</sup> the General Assembly established an *Open-Ended Working Group* with the purposes of discussing on “equitable representation on and the increase in the membership of the Security Council”, named cluster I, and “other matters related to it”, named cluster II. Thus, this initial phase took place within this group named *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 (OWEG)*.

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<sup>56</sup> UN. General Assembly. (1993, December 10). Question of equitable representation on and increase in the membership of the Security Council: Resolution adopted by the General Assembly (A/48/26). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/177987?v=pdf>



In the first report<sup>57</sup>, issued in September 1994, the Open-ended Working Group conducted its inaugural round of substantive informal dialogues on six key clusters of themes. These clusters encompassed equitable representation on and expansion of the Security Council's membership, along with other relevant issues pertaining to the Council. Additionally, discussions were centered on enhancing the effectiveness and efficiency of the Security Council, ensuring decision-making aligned with Charter provisions, addressing election procedures and tenures, and exploring mechanisms for implementing changes and evaluating associated Charter amendments. During the fifteen years of negotiations within the *OWEG* were made many proposals, for instance, between March and September 1995, the Working Group held informal consultations on clusters I and II<sup>58</sup>. The permanent representatives of Finland and Thailand appointed as Vice-Chairmen, prepared two non-papers on the two clusters entitled "Observations on cluster I", dated July 12, 1995, and "Observations on cluster II", dated July 5, 1995<sup>59</sup>. These two "observations" were added to the report letter sent by the two Vice-Chairmen to the president of the General Assembly, moreover, it included various positions regarding the two clusters, such as the one of Argentina, Australia, a group of countries from Easter Europe, Belize, Cuba, Indonesia, Italy, Mexico, a Movement of Non-Aligned Countries, a group of Nordic countries, Singapore and, Turkey. Diving deeper on the debate on the

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<sup>57</sup> UN. General Assembly (48th sess.: 1993-1994). 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. (1994). Report of the Open-ended Working group on the question of equitable representation on and increase in the membership of the Security Council (A/48/47). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/163569?v=pdf>

<sup>58</sup> UN. General Assembly (49th sess.: 1994-1995). 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. (1996). 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 (A/49/47). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/243950?v=pdf>

<sup>59</sup> Finland, & Thailand. (1995, September 18). Letter dated 15 September 1995 from the Permanent Representatives of Finland and Thailand to the United Nations addressed to the President of the General Assembly (A/49/965). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/200154?ln=en&v=pdf>

first cluster, the specific categories of membership for the Security Council reform were extensively discussed.

Firstly, the analysis focused on the “Principles on Membership Expansion”, two key points were emphasized by delegations: Equitable Geographical Representation and Legitimacy, and Moderate Increase and Efficiency. The former stressed the importance of principles such as equitable geographical representation, legitimacy, and efficiency for the delegations. In particular, they highlighted the close connection between equitable geographical representation and legitimacy and observed that the composition of an expanded Council should accurately reflect the universal character of the United Nations and present-day realities. This would ensure the widest possible participation in the Council's work and decision-making process in an equitable manner. Indeed, it was noted that broader participation would enhance the credibility and legitimacy of the Security Council's decisions. However, size alone does not determine efficiency, thus, an increase in membership should be moderate in order to create an expanded Security Council that still maintain the ability to ensure efficiency. Singapore, for instance, highlighted during the debate that there should be a patient process of discussion since a forced peace, or an imposed majority would not work. This indicates a consensus among delegations that while expanding the Council's membership is important for representation, it should be balanced with maintaining the Council's effectiveness in decision-making processes.

Secondly, the focused moved towards the permanent membership. Discussions surrounding potential expansion of the Security Council's permanent membership revealed a spectrum of opinions among delegations. While some advocated, such as Malaysia, with the Razali Plan<sup>60</sup>, or Australia, for enlarging both permanent and non-permanent membership to better reflect global dynamics and questioned the relevance of permanent membership in today's world, others, as the Russian Federation, argued for maintaining the *status quo*. Hence, opponents countered that increasing permanent membership might not necessarily improve the council's efficiency. Concerning the establishment of the criteria for selecting new permanent members, the *Working Group* had various proposals. While Cuba, for instance, suggested using existing criteria from

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<sup>60</sup> Bourantonis, D., & Magliveras, K. (2002). The Enlargement of the UN Security Council: Reflections from the Current Debate. *Politics*, 22(1). (24–30). <https://doi.org/10.1111/1467-9256.00155>

the UN Charter, others proposed additional considerations. The delegation composed by Austria, Belgium, the Czech Republic, Estonia, Hungary, Ireland and Slovenia, proposed to consider the emergence of new economic and political powers as well as the increase in the UN membership. Later, Indonesia declared that the principle of equitable geographic representation should not constitute the sole criterion to determine eligibility for permanent membership, indeed, States must demonstrate their support for the United Nations as the primary multilateral organization for resolving conflicts and enhancing the credibility and effectiveness of its bodies, as platforms for global issue consultations and negotiations. Such a commitment, driven by a sincere dedication to an active and autonomous foreign policy uninfluenced by external pressures, requires ongoing and unwavering backing from governments and their people. This entails timely contributions to the UN budget. These included a demonstrated commitment to global peace and security, both militarily and non-militarily, along with factors such as population size and a country's track record of supporting UN initiatives financially and otherwise. Moreover, these discussions highlighted the complexity of determining qualifications for permanent membership and emphasized the need for careful consideration of various factors in any future expansion of the Security Council's permanent membership. Going forward, the *Working Group* consulted on the method by which new permanent members would be selected. Some delegations proposed election by the General Assembly, thus, a global selection, while Australia, Belize or Cuba, for instance, preferred the method of regional selection. To conclude the debate on permanent members, it was expressed the view that a possible increase in the permanent membership should be moderate. Hence, these discussions underscored the intricate balance between representation, legitimacy, and efficacy within the Security Council, highlighting the challenges inherent in reforming this vital institution of global governance.

The third topic of debate on the composition of the Council within the *Open-Ended Working Group* focused on non-permanent membership. In general, all agreed that there should be an increase in non-permanent membership and that equitable geographical representation should be the guiding principle. Moreover, the importance of ensuring that any increase in membership remains manageable and proportional was emphasized. Additionally, a fundamental position to cite is the one of the Non-Aligned

Movement<sup>61</sup>, which suggested that if consensus couldn't be reached on other categories of membership, expansion should temporarily focus solely on increasing the number of non-permanent members. To expand the non-permanent seats within the Council criteria must be established: the ones provided by Article 23 (1) were sufficient according to most delegations. However, regarding the elective system, the *Working Group* discussed whether the provision contained in Article 23 (2) of the UN Charter, on the ban on immediate re-election for non-permanent members, should be maintained. Particularly, the Non-Aligned Movement declared that Article 23 (2) may be examined in the context of an overall agreement on the expansion of the Council. The prevailing sentiment was that the provision should be examined in the context of the overall agreement on the expansion of the Council, particularly in connection to the decision on the creation of new categories of Council members. Moreover, the debate emphasized the issue of the tenure on the Security Council. While many shared the idea of keeping the two-year term, as the Italian Ambassador Paolo Fulci, others suggested that there might be countries with extended terms with a range between four and six years.

Subsequently, it was debated the possibility of creating new categories of membership within the Security Council. Several suggestions were made, all aiming to bridge the gap between permanent and non-permanent members. These proposals varied in specifics but generally suggested that these new members would have longer, or more frequent terms compared to non-permanent members. Some terms used to describe these proposed categories included "quasi-permanent," "semi-permanent," or "composite" members. While delegations such as the one composed by Austria, Belgium, the Czech Republic, Estonia, Hungary, Ireland and Slovenia, and Belize, objected to these proposals, others, as Australia, believed they merited further examination. These suggestions aimed to ensure that States with significant contributions to the UN's work could maintain a sustained presence on the Council, reflecting ongoing discussions about how to best reform and enhance the Council's effectiveness.

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<sup>61</sup> A movement born during the Cold War era that comprised 106 countries in 1995, while today 120 countries, 18 observer countries and 10 observer organizations, which are not formally aligned with or against any major power bloc, hence, they are from Africa, Central and South America, and Oceania.

The last point discussed concerned the Council's dimensions. After examining the various possibilities on permanent membership, non-permanent membership and a new possible category, the *Working Group* held a final debate in which it was emphasized that the size of an expanded Security Council should only be determined once consensus had been reached on all aspects of membership increase. Despite this, delegations expressed their preferred number of Council members, with suggestions ranging from 20 to 33, in particular, Cuba proposed a total membership of 23, highlighting the need for at least 2 seats for Africa, 3 for Asia and, 2 for Latin America and the Caribbean. However, most proposals tended towards figures in the low to mid-20s, for instance, the delegation of Austria, Belgium, the Czech Republic, Estonia, Hungary, Ireland and Slovenia suggested a composition from 20 to 25. Meanwhile, the stance of the Non-Aligned Movement advocated for a Council comprising at least 26 members.

The discussion ended with general comments and proposals by the various delegations. Indonesia and the delegation of Nordic Countries<sup>62</sup> argued that genuine reform of the Security Council necessitated an increase in both permanent and non-permanent members. Italy, for instance, disagreed, suggesting that expansion in only one category could still achieve reform objectives, preferring an increase solely in non-permanent membership. Regarding the ratio between permanent and non-permanent members in an expanded Council, opinions were divided. While some advocated for maintaining the current 2:1 ratio as Belize, others deemed it non-essential. Turkey proposed the reorganization of the current ratio between permanent and non-permanent members to a ratio of 1:5. In conclusion, many countries, such as Mexico, Italy, Cuba and, Indonesia, and various groups, such as the Non-Aligned Movement, have pointed out that a reform of the Council should entail an improvement of its working methods and other related issues, they obviously mentioned the veto power which attention will be devoted to in the next chapter.

The debate within the *OWEG* lasted for fifteen years, with meetings and sessions convened periodically to address the issue of Security Council reform. These discussions may span multiple sessions, with efforts to address the complexities of reforming such a critical component of the United Nations. Since April 2008, the four Vice-Chairpersons

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<sup>62</sup> It is a group composed by Denmark, Finland, Sweden, Norway and Iceland.

of the *Working Group* on Security Council reform, designated by the General Assembly President, have conducted extensive consultations with Member States<sup>63</sup>. They aimed to gather recommendations on how to proceed with the reform process. All expressed readiness for intergovernmental negotiations, with some seeing their positions as potential bases for compromise. There is a shared understanding that the current Security Council composition does not reflect global realities and needs significant adjustment, thus, maintaining the *status quo* is deemed unrealistic. Both expanding the Council and reforming its operational methods are considered crucial, integral to broader UN reform efforts.

Finally, in the last session<sup>64</sup> of the OEWG were held five meetings from November 2008 to January 2009, the discussion and adjustment of the report of the President of the General Assembly on the results of *Working Group* consultations by February 1, 2009, and later the adoption of the report. The Intergovernmental Negotiations were launched between February 1 and 28, 2009, thusly, started the second phase of negotiations.

Furthermore, an important moment to highlight was the creation in 2003 of another working group named *High Level Panel on Threats, Challenges and Change*. The UN Secretary General, Kofi Annan, emphasized the urgency of reforming the Security Council by creating this Panel with the task of scrutinizing potential threats to peace and security to address them in the most efficient manner<sup>65</sup>. Consequently, the group aimed

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<sup>63</sup> UN. General Assembly (62nd sess.: 2007-2008). 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. (2008). 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 (A/62/47). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/640637?v=pdf>

<sup>64</sup> UN. General Assembly (63rd sess.: 2008-2009). 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. (2009). 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 (A/63/47). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/664570?v=pdf>

<sup>65</sup> Paul, J. A. (2003, September 23). Secretary General Kofi Annan's address. *Global Policy Forum*. <https://archive.globalpolicy.org/reform/initiatives/panels/high/0923address.htm>

to assess the possibility of Council reform to achieve consensus before the World Summit 2005<sup>66</sup>. In December of the subsequent year, the Panel issued a report<sup>67</sup> suggesting two enlargement models<sup>68</sup> that proposed a distribution of seats among the four major regional groups: Africa, Asia and the Pacific, Europe, and America. The first model entailed the inclusion of six new permanent members without veto power. Additionally, three new non-permanent seats with two-year terms were proposed. On the other hand, the second model did not advocate for new permanent seats. Instead, it proposed adding a non-permanent seat with a non-renewable two-year term to the existing 10 seats. Moreover, it suggested creating a new category of eight non-permanent seats with renewable four-year terms. Although the Secretary General recommended the adoption of timely decisions before the 2005 Summit, this was not possible due to persistent differences between States. Indeed, the Summit itself, convened in New York in September 2005, ended without reaching an agreement<sup>69</sup>. In conclusion, this first phase was characterized by many attempts of reform, however, a solution was not founded due to many different perspectives and proposals of the various Member States or regional groups.

## 2.2. The second phase: the *Inter-Governmental Negotiations*

The second phase of debate started with Decision 62/557<sup>70</sup> in 2008 with the formula of *Inter-Governmental Negotiations (IGN)* which has been adopted in the General

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<sup>66</sup> Greco, E. (1996, October 24). La riforma della composizione del Consiglio di Sicurezza delle Nazioni Unite: il dibattito attuale e la posizione dell'Italia. *Rome, Italy: Istituto Affari Internazionali*. (Document IAI ; 9618). (pp. 85- 97).

<sup>67</sup> A/59/565. (2004, December 2). <https://undocs.org/Home/Mobile?FinalSymbol=A%2F59%2F565&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>68</sup> Blum, Y. Z. (2005). Proposals for UN Security Council reform. *The American Journal of International Law*, 99(3). (pp. 640-641). <https://doi.org/10.2307/1602295><https://www.jstor.org/stable/1602295>

<sup>69</sup> A/RES/60/1. (2005, October 24). (p. 32) <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F60%2F1&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>70</sup> Decision 62/557: *UN Documents: Security Council report*. (2008). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

Assembly, and that must, however, ultimately return to the *Open-ended Working Group* (OEWG), as stipulated. The first meeting was held on February 19, 2009.

Since 2008, the *IGN* formula has governed the ongoing discussion, session by session, addressing the five main negotiation pillars: Council membership categories, the veto issue, regional representation, the overall size of the expanded Council, its operational methods, and the relationship between the Security Council and the General Assembly. Engaging on these matters are primarily groups of Member States including the G4, the African countries group, Uniting for Consensus, the group of Small 5 and others emerged after 2008 such as the Arab group, the L96 and the Caricom.

The G4 comprises Germany, Japan, India, and Brazil, countries advocating for a seat in the permanent membership of the Security Council and supported by Joe Biden<sup>71</sup>, as previously explained in Section 1.4. Their proposal entails enlarging the Council's membership from 15 to 25, including 6 new permanent seats and 4 new non-permanent seats, non-renewable, distributed based on criteria of adequate geographical representation. The increase in both memberships is essential for a well-represented Council, hence for bridging the gap between international politics and the Council's composition, indeed, their suggestion<sup>72</sup> entails granting Africa 2 permanent seats and 1 non-permanent seat, Asia 2 permanent seats and 1 non-permanent seat, Latin America 1 permanent seat and 1 non-permanent seat, Western Europe 1 permanent seat, and Eastern Europe 1 non-permanent seat. Therefore, their explicit aim is to achieve a greater balance considering the altered political, demographic, and economic factors. This stance has garnered support, at least officially, from France and the United Kingdom, while other P-

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<sup>71</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

<sup>72</sup> Preschern, P. (2015, August 12). La riforma del Consiglio di Sicurezza dagli anni '90 ad oggi. *Rome, Italy: Istituto Affari Internazionali*. (p. 6). <https://www.iai.it/it/pubblicazioni/la-riforma-del-consiglio-di-sicurezza-dagli-anni-90-ad-oggi>



5 members have not shown similar favor<sup>73</sup>. Moreover, during the 74th session of the United Nations General Assembly on September 25, 2019<sup>74</sup>, the G4 Ministers reaffirmed their unwavering backing for Africa's inclusion in both the permanent and non-permanent segments of a reformed and expanded Security Council. They stressed that this increased representation is crucial to rectifying the historical inequality faced by the continent in terms of its under-representation on the Security Council.

Concerning the group of African States, in March 2005 the Africa Union adopted a common position, defined as “the Ezulwini Consensus”<sup>75</sup>, after a long deliberation on the Report of the High-level Panel on Threats, Challenges and Change. They highlighted that African States are the primary recipients of United Nations activities, yet they are the only ones, along with Latin American States, currently excluded from permanent membership. Thus, the proposal suggested an expansion of the Council’s members from 15 to 26<sup>76</sup>, with 11 permanent members, including not less than 2 from the African group, and 15 non-permanent members, including 5 African States, one for each sub-region: Northern Africa, Central Africa, Western Africa, Eastern Africa, and Southern Africa<sup>77</sup>. Moreover, the proposal entailed that the African Union assumes responsibility for nominating African representatives and determines the criteria for selecting African members, considering the representative nature and capabilities of those chosen. Subsequently, the

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<sup>73</sup> Nesi, G. (2023). Sezione I “Pace e Sicurezza Internazionali”. Quaderno 27: “L’ONU nei nuovi assetti sistemici internazionali: le riforme necessarie”. *Rivista Trimestrale della Società Italiana per l’Organizzazione Internazionale*. (p. 22).

<sup>74</sup> Amt, A. (2019, September 26). Joint Press Statement by the Foreign Ministers of the G4 countries - Brazil, Germany, India and Japan On United Nations Security Council Reform. *German Federal Foreign Office*. <https://www.auswaertiges-amt.de/en/newsroom/news/g4-security-council-reform/2260414>

<sup>75</sup> African Union, Executive Council. (2005, March 7-8). THE COMMON AFRICAN POSITION ON THE PROPOSED REFORM OF THE UNITED NATIONS: "THE EZULWINI CONSENSUS" (Document Ext/EX.CL/2 [VII]). *Center for UN Reform Education*. <https://old.centerforunreform.org/sites/default/files/Ezulwini%20Consensus.pdf>

<sup>76</sup> Royeppen, A. (2016). UNITED NATIONS SECURITY COUNCIL REFORM. In *United Nations @ 70* (pp. 5–8). *Institute for Global Dialogue*. <http://www.jstor.org/stable/resrep07780.6>

<sup>77</sup> Ghana, Nigeria, Senegal, & Africa, S. (2005, December 14). Reform of the Security Council : draft resolution /: Ghana, Nigeria, Senegal and South Africa (A/60/L.41). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/563402?ln=en&v=pdf>

Sirte Declaration<sup>78</sup> reaffirmed the strong commitment of the African Union to “ensure Africa's legitimate rights to a fair and equitable geographical representation” and emphasized that “the reform of the United Nations should be all-inclusive and encompass all components of the United Nations System, including the General Assembly and the Security Council”.

Nonetheless, internal divisions persist between Arab countries within the continent and other African States, hindering the formation of a cohesive strategy that could secure support from States beyond the African group. Therefore, this impediment diminishes the prospects of attaining a two-thirds majority of Member States as established by Article 108 of the UN Charter, explained in Section 1.1.

Moving towards, another fundamental group in the debate is the Uniting for Consensus. It was created on an Italian proposal in 2005<sup>79</sup> with the aim of achieving the widest possible consensus for all reforms pertaining to the UN Charter. According to their proposal<sup>80</sup> the Security Council would consist of 25 members, maintaining the permanent 5 and including 20 elected non-permanent members for a two-year term. Moreover, the text submitted<sup>81</sup> to the General Assembly included the suggested amendments to Article 23. In addition to the modification of the membership, in the second paragraph the group amended the restriction on the re-election of retiring members writing that non-permanent members may be eligible for immediate re-election, subject to the decision of their respective geographical groups. Furthermore, the text proposes amendments to Article

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<sup>78</sup> African Union. (2005). SIRTE Declaration on the reform of the United Nations (Assembly/AU/Decl. 2 (V)). *African Union Common Repository*. <https://archives.au.int/handle/123456789/286>

<sup>79</sup> Preschern, P. (2015, August 12). La riforma del Consiglio di Sicurezza dagli anni '90 ad oggi. *Rome, Italy: Istituto Affari Internazionali*. (pp. 6-7). <https://www.iai.it/it/pubblicazioni/la-riforma-del-consiglio-di-sicurezza-dagli-anni-90-ad-oggi>

<sup>80</sup> ‘Uniting For Consensus’ Group of States Introduces Text on Security Council Reform to General Assembly. *Meetings coverage and press releases*. (2005, July 26). <https://press.un.org/en/2005/ga10371.doc.htm>

<sup>81</sup> Argentina, Canada, Colombia, Rica, C., Italy, Malta, Mexico, Pakistan, Marino, S., Spain, & Turkey. (2005, July 21). Reform of the Security Council : draft resolution /: Argentina, Canada, Colombia, Costa Rica, Italy, Malta, Mexico, Pakistan, Republic of Korea, San Marino, Spain and Turkey (A/59/L.68). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/553853?ln=en&v=pdf>

27, paragraphs 2 and 3, and Article 109, paragraph 1, of the Charter, stipulating that the affirmative vote of 15 out of the 25 Council members would be required.

Subsequently, the group of Small 5 is composed by Switzerland, Singapore, Costa Rica, Jordan, and Liechtenstein. In the draft resolution sent to the General Assembly<sup>82</sup> the group proposes enlargement by establishing a new category of membership with a renewable mandate longer than two years, with the purpose of enhancing the representativeness. Simultaneously, it opposes expanding permanent membership to avoid exacerbating the current disparities among Council members. Moreover, the group invited the Security Council to consider the measures proposed in order to further enhance accountability, transparency, and inclusivity in its operations with the aims of strengthening its legitimacy and effectiveness.

The notable actors emerged in the *IGN* after 2008 include the Arab Group, the L 69, and the CARICOM. In the event of an expansion of both permanent and non-permanent seats, the Arab Group suggests<sup>83</sup> granting one permanent seat to an Arab State and ensuring proportional representation of Arab States among the non-permanent members. The L 96, which includes more than 40 developing countries, and the CARICOM, a group of Caribbean States, support the following additional permanent seats<sup>84</sup>: 2 for African States, 2 for Asia-Pacific States, 1 for Latin American and Caribbean States, 1 for Western European and Other States. Additionally, the L 69 proposes the creation of 16 new permanent seats distributed among the regions just mentioned, and the CARICOM suggests additional non-permanent seats: 2 for African States, 1 for Asia-Pacific States, 1

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<sup>82</sup> Rica, C., Jordan, Liechtenstein, Singapore, & Switzerland. (2006, March 17). Improving the working methods of the Security Council : draft resolution /: Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland (A/60/L.49). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/570979?v=pdf>

<sup>83</sup> Nesi, G. (2023). Sezione I “Pace e Sicurezza Internazionali”. Quaderno 27: “L’ONU nei nuovi assetti sistemici internazionali: le riforme necessarie”. *Rivista Trimestrale della Società Italiana per l’Organizzazione Internazionale*. (p. 24).

<sup>84</sup> Document IGN GA76. (2021, April 29). Revised Co-Chairs' Elements Paper on Convergences and Divergences on the question of equitable representation on and increase in the membership of the Security Council and related matters. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

for Eastern European States, 1 for Latin American and Caribbean States, 1 for Small Island Developing States (SIDS) across all regions containing SIDS.

Finally, the creation of the *Inter-Governmental Negotiations* was aimed at finding a definitive solution for the reform of the Security Council, however, this phase does not differ from what happened within the *OWEG* in the first phase of negotiations. In this new phase, marked by the "open-ended" participation of all Member States, proceedings occurred informally<sup>85</sup> and must return to the OEWG which is another informal forum, indeed, from a procedural point of view the two phases have no evident differences. Despite numerous attempts to draft structured negotiation texts, these efforts failed due to Member States' inability to reach even a preliminary consensus on the issue. Negotiations over recent years have thus been characterized by ups and downs, essentially reiterating the arguments of each group. There have been no developments capable of aligning the positions of the vast majority of the membership, necessary for adopting relevant resolutions or decisions<sup>86</sup>. Despite differences in viewpoints, all groups seem to concur on the extension of non-permanent members' terms to enhance stability and continuity in the Council's operations. However, substantial and seemingly insurmountable discrepancies emerged during the debates.

### **2.3. Critical analysis on the proposals to reform the composition of the Security Council**

Since 1993 the negotiations on the reform of the Council entailed various proposals, however, after almost thirty-one years the Members States of the United Nations were not able to find a solution. During the initial decade of the *Inter-Governmental Negotiations*, discussions were vigorous. Subsequently, they subsided due to discernible differences of opinion among the Member States. Nonetheless, the onset of the Russia-Ukraine conflict and the declaration of Joe Biden, on September 22, 2022, to

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<sup>85</sup> Decision 62/557: *UN Documents: Security Council report*. (2008, September 15). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

<sup>86</sup> Nesi, G. (2023). Sezione I "Pace e Sicurezza Internazionali". Quaderno 27: "L'ONU nei nuovi assetti sistemici internazionali: le riforme necessarie". *Rivista Trimestrale della Società Italiana per l'Organizzazione Internazionale*. (p. 24).

the General Assembly<sup>87</sup> reignited deliberations, as it underscored to the international community the efficiency of the Security Council, thereby significantly eroding its standing in the global arena. Hence, none of the proposals made by the groups involved in the debate reached a majority in the General Assembly due to various reasons. Firstly, the G4 has persistently advocated for permanent positions and has also campaigned for two seats to be allocated to Africa, asking for a total amount of 25, thus, adding 6 permanent seats and 4 non-permanent seats to the current system<sup>88</sup>. However, within this group there are controversial positions regarding compromise models: on the one hand Brazil, Germany and, Japan expressed their support suggesting longer-term non-permanent seats, on the other hand India had the opposite vision<sup>89</sup>. Lately, the African Group proposal<sup>90</sup> of 11 permanent members, including not less than 2 for the African group, and 15 non-permanent members, including 5 African States, was criticized since it generated regional rivalries within the African Union. Particularly, Nigeria and South Africa have shown willingness to join the G4 and relinquish the demand for the veto, perceiving it as "morally justifiable but politically ineffective". However, other African States have obstructed this attempt.<sup>91</sup> Another issue concerning their perspective of reform is the allocation of the two possible permanent seats for the African Union, indeed,

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<sup>87</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

<sup>88</sup> Preschern, P. (2015, August 12). La riforma del Consiglio di Sicurezza dagli anni '90 ad oggi. *Rome, Italy: Istituto Affari Internazionali*. (p. 6). <https://www.iai.it/it/pubblicazioni/la-riforma-del-consiglio-di-sicurezza-dagli-anni-90-ad-oggi>

<sup>89</sup> Lättilä, V., & Ylönen, A. (2019). United Nations Security Council Reform Revisited: A Proposal. *Diplomacy & Statecraft*, 30(1), 169. <https://doi.org/10.1080/09592296.2019.1557423>

<sup>90</sup> African Union, Executive Council. (2005, March 7-8). THE COMMON AFRICAN POSITION ON THE PROPOSED REFORM OF THE UNITED NATIONS: "THE EZULWINI CONSENSUS" (Document Ext/EX.CL/2 [VII]). *Center for UN Reform Education*. <https://old.centerforunreform.org/sites/default/files/Ezulwini%20Consensus.pdf>

<sup>91</sup> Welz, M. (2013). The African Union Beyond Africa: Explaining the Limited Impact of Africa's Continental Organization on Global Governance. *Global Governance*, 19. (pp. 425-441). <https://www.semanticscholar.org/paper/The-African-Union-Beyond-Africa%3A-Explaining-the-of-Welz/3e3c2dbceb698fa6e310b0ae3556b9db1c51d4fc#cited-papers>

it seems unlikely to find an agreement within the AU in order to establish these seats, moreover, granting a seat for the AU as a whole would be difficult due to the rivalries that may exacerbate for fundamental matters such as the use of the veto power. Thirdly, the United for Consensus group is the principal rival of the G4 due to their idea of increasing only the number of non-permanent seats from 10 to 20, hence, having a Council of 25 members including the P-5<sup>92</sup>. In this context the aim of the group is to achieve equal representation<sup>93</sup> in the Security Council also to small and medium size countries<sup>94</sup>, this would not be reached with the proposal of the G4 since, according to its criteria of adequate geographical representation, the representation would be divided between the areas of the world in which the powerful countries will probably prevail. Therefore, the main issue in this case would be the distribution of representation within the areas, consequently establishing whether a State or the whole area, for instance the European Union, will have a seat in the Council or in which cases the veto may be applied. However, as already explained for the African proposal, rivalries would arise in the various areas which would make it impossible to reach an agreement.

In summary, significant reform efforts would yield a Security Council resembling its current structure, with similar major deficiencies. At most, such reform would only marginally address existing flaws, potentially exacerbating dysfunction. Consequently, if the veto persists and extends to 6 new permanent members, as suggested by the G4, decision-making within the Security Council will become exceedingly challenging. With eleven permanent members in a reformed Council, unanimity among all eleven would be

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<sup>92</sup> 'Uniting For Consensus' Group of States Introduces Text on Security Council Reform to General Assembly. *Meetings coverage and press releases*. (2005, July 26). <https://press.un.org/en/2005/ga10371.doc.htm>

<sup>93</sup> Delegates in General Assembly urge galvanized action to make Security Council more representative, fit for tackling twenty-first century challenges. *Meetings coverage and press releases*. (2021, November 15). <https://press.un.org/en/2021/ga12384.doc.htm>

<sup>94</sup> Lättilä, V., & Ylönen, A. (2019). United Nations Security Council Reform Revisited: A Proposal. *Diplomacy & Statecraft*, 30(1), 169. <https://doi.org/10.1080/09592296.2019.1557423>

necessary for every resolution, thus, the problem highlighted by the L69 regarding the Council's inability in solving pressing issues of war and peace<sup>95</sup> would not be addressed.

## Conclusion

The prolonged negotiations surrounding the reform of the Security Council have spanned several phases, marked by intense debate and diverse proposals from Member States. The initial phase, conducted within the *Open-Ended Working Group* from 1993 to 2008, saw discussions on equitable representation and membership expansion. Many proposals emerged, reflecting differing perspectives on issues such as permanent membership, non-permanent membership, and the possible creation of new membership categories. Despite extensive deliberations, consensus remained elusive due to the complexity and divergent interests among Member States.

Transitioning to the second phase with the establishment of the *Inter-Governmental Negotiations* in 2008, efforts continued to address key pillars of reform, including membership categories, the veto, regional representation, the size of the Council, working methods, and the relationship with the General Assembly. The different groups analyzed presented their visions for reform, each advocating for distinct approaches to address the Council's inefficiencies. However, despite decades of negotiation and numerous proposals, consensus remains elusive. Divisions persist among Member States, particularly regarding the allocation of permanent seats, the extension of the veto, and the balance between permanent and non-permanent membership. Moreover, recent geopolitical developments, such as the Russia-Ukraine conflict and statements from world leaders, have reignited debate on the Security Council's efficiency and relevance. Yet, despite renewed attention, fundamental differences persist, preventing the emergence of a consensus-based solution.

In conclusion, the prolonged negotiations on Security Council reform have highlighted deep divisions among Member States. Despite renewed attention in recent years, proposals from groups, such as the G4, the African group, and Uniting for

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<sup>95</sup> General Assembly official records, 69th session : 49th plenary meeting, Wednesday, 12 November 2014, New York. (2014). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/786487?v=pdf>

Consensus, the Small 5, the L 69, the CARICOM, and the Arab group, have failed to gain majority support in the General Assembly. Without addressing fundamental issues, as the composition of permanent membership, a solution cannot be reached. Clearly, achieving consensus on Security Council reform will require continued dialogue and compromise among Member States to create a more representative and effective body capable of addressing global challenges.



# Chapter 3: Proposals to reform the powers of the Security Council

## Introduction

The United Nations Security Council stands as a cornerstone of global governance, tasked with maintaining international peace and security. At its core lies the unique privilege of the veto power, granted exclusively to its five permanent members. However, this power, enshrined in Article 27 of the UN Charter<sup>96</sup>, has sparked decades of debate, with demands for its reform resonating throughout the realm of international diplomacy. The origins of the veto power trace back to the formative years of the United Nations, rooted in the geopolitical realities of the post-World War II era<sup>97</sup>. Yet, its contentious nature has been a constant source of contention, raising questions about its compatibility with the UN's principles of sovereign equality among Member States<sup>98</sup>.

Throughout its history, the various proposals that have been put forward to reform the veto power, reflecting diverse viewpoints and approaches. From limiting its scope and application to extending it to new permanent members, the debate surrounding the veto power is multifaceted and complex. Moreover, the recent resurgence of discussions on the reform of the Council, catalyzed by the Russian-Ukrainian conflict and the subsequent statement made by the US President Joe Biden in September 2022<sup>99</sup>, has reignited global attention on the issue. As the international community grapples with its effectiveness in addressing contemporary challenges, the need for meaningful reform has never been more pressing. In this context, the last section of this chapter critically examines the different

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<sup>96</sup> *United Nations*. (1945). United Nations Charter, Art. 27. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>97</sup> Carswell, A. J. (2013). Unblocking the UN Security Council: the Uniting for Peace resolution. *Journal of Conflict and Security Law*, 18(3), 453–480. <https://doi.org/10.1093/jcsl/krt016>

<sup>98</sup> *United Nations*. (1945). *United Nations Charter, Art. 2*. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>99</sup> Thompson, S. K., Landgren, K., & Romita, P. (2022, September 30). The United Nations in hindsight: the long and winding road to Security Council reform. *Just Security*. <https://www.justsecurity.org/83310/the-united-nations-in-hindsight-long-winding-road-to-security-council-reform/>

proposals, shedding light on the debates, perspectives, and challenges shaping the future of global governance. Through an analysis of historical precedents, recent reform attempts, and the geopolitical dynamics at play, it seeks to provide insights into the ongoing quest for a more representative, transparent, and effective Security Council.

### **3.1. The veto power: its origins and issues**

The role of the five permanent members of the Security Council is based on the veto power, which is outlined in Article 27, paragraph 3, of the UN Charter. It states that the decisions of the Security Council on all matters, except the procedural matters that shall be made by an affirmative vote of nine members, shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI related to the Pacific Settlement of Disputes, and under paragraph 3 of Article 52, which is contained in Chapter VIII related to Regional Arrangements, a party to a dispute shall abstain from voting.

The origins of this power are dated to 1943 when US President Franklin Delano Roosevelt expressed his views that great powers have the task of maintaining international peace and security, indeed, he affirmed that as long as Britain, Russia, China and the United States (and their allies) represent more than three-quarters of the total population of the world and they are characterized by great military power stick together in determination to keep the peace, there will be no possibility of an aggressor Nation arising to start another world war.<sup>100</sup> His vision materialized into the formation of the permanent members of the United Nations Security Council, which later expanded to include France. According to the UN Charter, these states, as permanent members, were granted veto power over substantive votes. While this ensured their involvement in forming the organization in 1945, it has also sparked significant controversy and dissatisfaction over the years regarding the Security Council's effectiveness, notably in relation to the exercise of the veto power. During the early negotiations leading to the formation of the UN Charter, the United States, United Kingdom, Soviet Union, and China reached an agreement granting themselves veto power in the Security Council for

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<sup>100</sup> Roosevelt, F. D. (1943, December 24). Fireside Chat. *The American Presidency Project*. <https://www.presidency.ucsb.edu/documents/fireside-chat>

substantive votes<sup>101</sup>. However, a significant point of contention arose during their negotiations, primarily led by the US, USSR, and UK<sup>102</sup>: whether this veto power should extend to situations involving themselves<sup>103</sup>. The Soviet Union adamantly refused to agree to any plan that might deprive them of veto power, even in matters directly involving them. Initially, the US and UK were hesitant about this approach. However, during negotiations at the Yalta Conference in February 1945<sup>104</sup>, they ultimately acquiesced to the Soviet Union's stance. The USSR's position was based on the "principle of unanimity," which it argued necessitated consensus in all instances. It contended that without unanimity or consensus among the "great powers," there could be discord undermining international peace and security. Additionally, the veto power would allow the permanent members to maintain control over critical matters facing the newly forming organization. Therefore, the final procedure was agreed at Yalta<sup>105</sup>, by USSR, US and UK, with the veto available even when one of the P-5 is a party to a dispute.

During the United Nations Conference on International Organization, commonly referred to as the San Francisco Conference, the proposal to grant veto power to the Security Council's permanent members encountered significant opposition. This gathering convened fifty delegations from forty-eight countries at the War Memorial

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<sup>101</sup> Although France was accepted as a permanent member of the Security Council, France was not present during negotiations at the Dumbarton Oaks Conference or the Yalta Conference. Luck, E. C. (2006). *UN Security Council: Practice and Compromise*. *Routledge*.

<sup>102</sup> "China's role in the whole process was merely symbolic while France had no say." Paul, J. A. (2017). Of foxes and chickens. *Global Policy Forum*. <https://www.globalpolicy.org/en/article/foxes-and-chickens>

<sup>103</sup> Two shifts have occurred in the makeup of the permanent members of the United Nations Security Council. In 1991, the Russian Federation succeeded the seat formerly occupied by the USSR, and in 1971, the People's Republic of China assumed the seat previously held by the Republic of China (Taiwan) (United Nations Charter, Art. 23.1). Despite these transitions, the UN Charter continues to formally recognize the Republic of China and the USSR as the permanent members of the Security Council.

<sup>104</sup> The conference convened at the Black Sea resort of Yalta, situated in Crimea, with President Franklin D. Roosevelt representing the US, Prime Minister Winston Churchill representing the UK, and Premier Joseph Stalin representing the USSR.

<sup>105</sup> Ghere, D. (2010). Simulating the Cold War: The Yalta Conference. *Magazine of History*, 24(4). (pp. 46-51). <https://www.proquest.com/scholarly-journals/simulating-cold-war-yalta-conference/docview/761141755/se-2>

Opera House between April 25 and June 26 to finalize negotiations for the UN Charter<sup>106</sup>. As expected, small and middle-sized states expressed apprehension regarding the unequal distribution of power that would result from endowing the Security Council's permanent members with veto authority. Furthermore, the establishment of "permanent members" within the Security Council was perceived as emblematic of "victors' justice" and a breach of the principle of sovereign equality among states. The situation confronting most delegations in San Francisco posed a dilemma<sup>107</sup>: while they opposed the veto due to its inequity and potential to impede Council action when essential, they also recognized that the viability and efficacy of the United Nations relied significantly on ongoing cooperation among the major powers. Finally, the vote on the "unanimity principle", that is the veto provision, was approved with 33 Member States in favor, 2 against (Colombia and Cuba)<sup>108</sup> and 15 abstentions<sup>109</sup>.

### 3.2. Proposals to reform the veto power

During the two phases of negotiations explained in the previous Chapter, one of the main topics of debate, in addition to the one regarding the composition of the Council, was the power of veto. For instance, in the *OWEG* informal consultations on clusters I and II<sup>110</sup> held between September and March 1995, the permanent representatives of Finland and Thailand, appointed as Vice-Chairmen, prepared two non-papers on the two clusters entitled "Observations on cluster I", dated July 12, 1995, and "Observations on

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<sup>106</sup> Trahan, J. (2019). Existing legal limits to Security Council veto power in the face of atrocity crimes. *New York University. Cambridge University Press*.

<sup>107</sup> Luck, E. C. (2006). *UN Security Council: Practice and Compromise*. Routledge.

<sup>108</sup> Documents of the United Nations Conference on International Organization, San Francisco, 1945. (1945). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/1300969?v=pdf>

<sup>109</sup> Krasno, J.E., & Das, M. (2008). *The Uniting for Peace resolution and other ways of circumventing the authority of the Security Council*. Routledge.

<sup>110</sup> UN. General Assembly (49th sess. : 1994-1995). 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. (1996). 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 (A/49/47). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/243950?v=pdf>

cluster II", dated July 5, 1995<sup>111</sup>, that, in addition to the issue of the Council's composition analyzed in Section 2.1, discussed the "Voting procedure of the Security Council, including the veto"; the "Limitations in the scope and use of veto"; and finally, the "Extension of veto to possible new permanent members". Hence, during the debate, most delegations stressed that any genuine reform of the Council must address the veto issue. A significant number of delegations considered the veto outdated and advocated for its eventual elimination. They argued that the mere presence of the veto posed a constant threat to the decision-making process within the Security Council. Opponents of the veto contended that it was inherently undemocratic and ran counter to the principle of the sovereign equality of all Member States. Some believed that it significantly hindered the Security Council's work during the UN's first four decades. Nevertheless, supporters of the veto countered that it was never meant to be democratic but rather served as a useful mechanism to maintain unanimity among the Permanent Members and ensure the continued engagement of major powers in the Organization. They viewed the veto as instrumental in ensuring balanced decisions by the Council and providing stability, thereby preventing conflicts between major powers that could undermine the UN's collective security efforts.

Subsequently, many delegations suggested limiting the scope and application of the veto. Proposals included restricting its application in various scenarios, such as excluding veto power from decisions regarding the admission of new UN Member States; the investigative missions by the Council under Chapter VI; decisions under Article 40 of

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<sup>111</sup> Finland, & Thailand. (1995, September 18). Letter dated 15 September 1995 from the Permanent Representatives of Finland and Thailand to the United Nations addressed to the President of the General Assembly (A/49/965). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/200154?ln=en&v=pdf>

the Charter<sup>112</sup>; actions under Article 50 of the Charter<sup>113</sup>; recommendations for the appointment of the UN Secretary-General; matters related to humanitarian law, such as a decision to enforce a cease-fire; and disputes involving a permanent member. Additionally, some delegations proposed allowing veto use only for decisions made under Chapter VII of the Charter, while others suggested that two or more negative votes by permanent members should be required for a veto to be effective. However, a few delegations opposed any restrictions on veto use, arguing that it would be difficult in practice to distinguish between decisions made under Chapter VI and VII. Moreover, on the one hand certain delegations highlighted the complexity of limiting the veto considering the numerous legal, political, and substantive challenges and suggested focusing efforts on practical solutions rather than extensive debate. On the other hand, others noted recent instances of restraint by permanent members in using the veto as a positive development.

Finally, the last point of debate concerned whether potential new permanent members should be granted veto rights. Supporters argued for equal treatment, emphasizing that all permanent members, including potential newcomers, should have the same privileges and obligations. They contended that denying veto rights to new members would only partially address the existing imbalance in the Council. While opponents viewed extending the veto as reinforcing an undemocratic privilege and believed it could undermine the Council's efficiency and exacerbate regional imbalances. Some suggested that new members could voluntarily limit their veto use, but doubts remained about the effectiveness of such measures. Many delegations agreed that the

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<sup>112</sup> Article 40 states: “In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.” *United Nations*. (1945). United Nations Charter, Art. 40. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>113</sup> Article 50 states: “If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.” *United Nations*. (1945). United Nations Charter, Art. 50. <https://www.un.org/en/about-us/un-charter/full-text>

question of extending the veto should be decided only after reaching an agreement on admitting new permanent members and determining their roles.

To conclude, this debate was just an example of all the discussions held within the *OWEG*, however, as for the issue regarding the Council's composition, a solution was not reached and the second phase of negotiations started with the launching of the *Inter-Governmental Negotiations* between February 1 and 28, 2009, with Decision 62/557<sup>114</sup>. This phase was characterized by proposals by various group.

Firstly, the countries of the G4 suggested<sup>115</sup> that the veto power should remain exclusive to the existing five members for at least 15 years, with the possibility of expansion to include new permanent members afterward. However, India has raised concerns, contending that without the veto right for new permanent members, enhancing the Council's effectiveness would be challenging.

Secondly, the African Group does not present a unified position regarding the veto power due to internal contrast, however, "the Ezulwini Consensus"<sup>116</sup> of March 2005, issued by the African Union, rooted in Africa's historical underrepresentation and its evolving influence and outlines Africa's aspirations for fuller participation in the United Nations, particularly in the Security Council. The African Union aims for two permanent seats in the Security Council, each endowed with the full privileges of permanent membership, including the right of veto, alongside five non-permanent seats, while it holds reservations about the principle of the veto, it advocates for its equitable distribution

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<sup>114</sup> Decision 62/557: *UN Documents: Security Council report*. (2008, September 15). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

<sup>115</sup> Preschern, P. (2015, August 12). *La riforma del Consiglio di Sicurezza dagli anni '90 ad oggi*. Rome, Italy: *Istituto Affari Internazionali*. <https://www.iai.it/it/pubblicazioni/la-riforma-del-consiglio-di-sicurezza-dagli-anni-90-ad-oggi>

<sup>116</sup> African Union, Executive Council. (2005, March 7-8). *THE COMMON AFRICAN POSITION ON THE PROPOSED REFORM OF THE UNITED NATIONS: "THE EZULWINI CONSENSUS"* (Document Ext/EX.CL/2 [VII]). *Center for UN Reform Education*. <https://old.centerforunreform.org/sites/default/files/Ezulwini%20Consensus.pdf>

among all permanent members as a matter of fairness. The same idea is supported by the Arab Group<sup>117</sup>, although with less internal conflicts.

Lately, the Uniting for Consensus' idea is to amend Article 27, paragraphs 2 and 3, and Article 109, paragraph 1<sup>118</sup>, thus, requiring the affirmative vote of fifteen of the twenty-five members of the Security Council, according to their proposal on its composition<sup>119</sup>, instead of the actual requirement of nine affirmative votes over the fifteen members, including the permanent ones. Therefore, their main aim is the abolition of this power in order to have a representative Security Council based on equality and democratic principles. Moreover, the suggestion emphasized the necessity of enhancing the operational procedures of the Security Council in a transparent, inclusive, and accountable manner, which entails exercising restraint in employing the veto.

The Small 5 group is against the extension of the veto to new possible permanent members. Its goal<sup>120</sup> is the changing of the use of this power within the Security Council, it is suggested that when a permanent member exercises its veto power, it should provide a clear explanation for its decision. This explanation should be communicated at the time the relevant draft resolution is rejected in the Council, and a copy of it should be circulated as a Security Council document to all Members of the Organization. Furthermore, they recommended that no permanent member should cast a non-concurring vote, as outlined

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<sup>117</sup> Nesi, G. (2023). Sezione I “Pace e Sicurezza Internazionali”. Quaderno 27: “L’ONU nei nuovi assetti sistemici internazionali: le riforme necessarie”. *Rivista Trimestrale della Società Italiana per l’Organizzazione Internazionale*. (p. 29).

<sup>118</sup> Article 27 regards the voting system of the Security Council, while Article 109 regards the possible amendments to the UN Charter. *United Nations*. (1945). United Nations Charter, Art. 27, Art. 109. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>119</sup> ‘Uniting For Consensus’ Group of States Introduces Text on Security Council Reform to General Assembly. *Meetings coverage and press releases*. (2005, July 26). <https://press.un.org/en/2005/ga10371.doc.htm>

<sup>120</sup> Rica, C., Jordan, Liechtenstein, Singapore, & Switzerland. (2006, March 17). Improving the working methods of the Security Council :: draft resolution /: Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/570979?v=pdf>



in Article 27, paragraph 3, of the Charter, in cases involving genocide, crimes against humanity, and serious violations of international humanitarian law<sup>121</sup>.

Finally, according to the last two groups emerged in 2008, the L 69 and the CARICOM, the project renewing the Council aforementioned, entailed the abolition of the use of veto in the long term, proposing limitations in the short and medium term for decision concerning serious breaches of international norms<sup>122</sup>.

Another important proposal in this context was made by the Accountability, Coherence and Transparency Group (ACT)<sup>123</sup>, composed by 27 Members States, that on October 23, 2015, launched the *Code of Conduct regarding Security Council action against genocide, crimes against humanity and war crimes*<sup>124</sup>, signed by 121 Members States, including UK and France. The objective of this *Code of Conduct* is to urge all 15 members of the UN Security Council not to oppose any draft resolution aimed at preventing or halting atrocity crimes<sup>125</sup>.

In conclusion, the proposals to reform the veto power reflect diverse viewpoints and approaches. While some advocate for temporary limitations and explanations for veto usage, others call for its eventual abolition. These suggestions underscore the ongoing efforts to address the challenges of equitable representation, transparency, and effectiveness in the Security Council's decision-making processes.

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<sup>121</sup> Lund, J. S. (2010, January 19). Pros and cons of Security Council reform. Global Policy Forum. <https://archive.globalpolicy.org/security-council/security-council-reform/48674-pros-and-cons-of-security-council-reform.html>

<sup>122</sup> Nesi, G. (2023). Sezione I “Pace e Sicurezza Internazionali”. Quaderno 27: “L’ONU nei nuovi assetti sistemici internazionali: le riforme necessarie”. *Rivista Trimestrale della Società Italiana per l’Organizzazione Internazionale*. (p. 30).

<sup>123</sup> Cadin, R. (2022). La risoluzione 76/262 dell’Assemblea generale sulla psicanalisi del potere di veto. In: *Ordine Internazionale e Diritti Umani. Osservatorio sul Consiglio di sicurezza e i diritti umani 3/2022:(2022)*. (pp. 811-818). <https://hdl.handle.net/11573/1651883>

<sup>124</sup> *United Nations*. (n.d.). *United Nations Office on Genocide Prevention and the Responsibility to Protect*. <https://www.un.org/en/genocideprevention/security-council.shtml>

<sup>125</sup> A/70/621. (2015, December 14). <https://undocs.org/Home/Mobile?FinalSymbol=A%2F70%2F621&Language=E&DeviceType=Desktop&LangRequested=False>

### 3.3. Recent reform attempts in the light of the Ukrainian War

On February 24, 2022, discussions regarding the need for reform of the Council reignited. The attack by one of the permanent members, the Russian Federation, to another member of the United Nations, Ukraine, prompted the international community to question the legitimacy and effectiveness of the Council. Indeed, in April 2022, Ukrainian President Volodymyr Zelenskyy underscored this inefficacy<sup>126</sup>, questioning the Security Council's ability to provide the security it is tasked with ensuring<sup>127</sup>. With the Uniting for Peace Resolution of November 3, 1950<sup>128</sup>, the General Assembly was empowered to act in case of a blockade of the Council, hence, when the Council fails to fulfill its primary responsibility for maintaining peace due to lack of unanimity among permanent members in the presence of a threat or breach of peace or of an act of aggression. Indeed, the Assembly may address the matter and recommend measures to the Member States. As explained in Section 1.3, the last emergency session, the ES-11, was convened in February 2022, at the request of the Security Council since it was paralyzed by the veto of the Russia Federation, in addressing the issue raised by Ukraine regarding the deteriorating situation in Crimea.<sup>129</sup> As of today, the ES-11 has convened

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<sup>126</sup> Patrick, S., Mbete, S., Spektor, M., Guihong, Z., Novosseloff, A., Heusgen, C., Mukherjee, R., Lipsky, P. Y., Cabañas Izquierdo, M. R., Adebajo, A., Kolosovskiy, A., Ng, J., Singh, P., Yinanç, B., Gowan, R., & Dayal, A. (2023, June 28). UN Security Council reform: What the world thinks. *Carnegie Endowment for International Peace*. <https://carnegieendowment.org/2023/06/28/un-security-council-reform-what-world-thinks-pub-90032#russia>

<sup>127</sup> Smith, D. (2022, April 6). 'Where is the security?' Zelenskiy tells home truths to UN Security Council. *The Guardian*. <https://www.theguardian.com/us-news/2022/apr/05/volodymyr-zelenskiy-un-security-council-sketch>

<sup>128</sup> Tomuschat, C. (2008). Uniting for Peace: General Assembly resolution 377 (V), New York, 3 November 1950. *United Nations Audiovisual Library of International Law*. <https://legal.un.org/avl/ha/ufp/ufp.html>

<sup>129</sup> S/RES/2623(2022). (2022, February 27). Referred to the lack of unanimity of the permanent members regarding S/2014/136. (2014, February 28). [https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623\(2022\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2623(2022)&Language=E&DeviceType=Desktop&LangRequested=False)  
<https://undocs.org/Home/Mobile?FinalSymbol=S%2F2014%2F136&Language=E&DeviceType=Desktop&LangRequested=False>

multiple times and has passed six resolutions. The initial resolution<sup>130</sup> focused on Ukraine's sovereignty, independence, unity, and territorial integrity, urging Russia to immediately halt the use of force and completely withdraw its military from Ukrainian territory, particularly through peaceful means. The second resolution<sup>131</sup> addressed the humanitarian fallout from the conflict, while the third resolution<sup>132</sup> outlined measures aimed at sanctioning Russia for its failure to adhere to the requests outlined in the preceding resolutions. Additionally, the fourth resolution<sup>133</sup> delved into the issue of Ukraine's territorial integrity, and the fifth resolution<sup>134</sup> underscored the necessity of establishing a mechanism to address damages caused by Russia. Lastly, in the sixth resolution<sup>135</sup> passed on February 23, 2023, the General Assembly stressed the urgent need to achieve a comprehensive, just, and lasting peace in Ukraine in accordance with the principles of the Charter. It urged Member States and other stakeholders to redouble their efforts toward this collective objective. The Assembly reiterated its call for Russia to withdraw its troops, halt hostilities, and comply with all requests outlined in the preceding resolutions. Although non-binding, the resolutions have political significance as they

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<sup>130</sup> Aggression against Ukraine : resolution /: adopted by the General Assembly. (2022, March 2). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3959039>

<sup>131</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, March 28). Humanitarian consequences of the aggression against Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3966630?v=pdf>

<sup>132</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, April 8). Suspension of the rights of membership of the Russian Federation in the Human Rights Council : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3967950?v=pdf>

<sup>133</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, October 13). Territorial integrity of Ukraine : defending the principles of the Charter of the United Nations : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3990673?v=pdf>

<sup>134</sup> UN. General Assembly (11th emergency special sess. : 2022). (2022, November 15). Furtherance of remedy and reparation for aggression against Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/3994481?v=pdf>

<sup>135</sup> UN. General Assembly (11th emergency special sess. : 2022). (2023, March 2). Principles of the Charter of the United Nations underlying a comprehensive, just and lasting peace in Ukraine : resolution /: adopted by the General Assembly. *United Nations Digital Library System*. <https://digitallibrary.un.org/record/4004933?v=pdf>

detach the rest of the great powers from Russia's action and underline their willingness to act in compliance with the fundamental principles of the UN Charter<sup>136</sup>.

Furthermore, regarding attempts to reform the Council without amending the UN Charter, on April 26, 2022, the General Assembly adopted by *consensus*<sup>137</sup> the Resolution 76/262<sup>138</sup>, titled "Standing mandate for a General Assembly debate when a veto is cast in the Security Council". This resolution determines that the President of the General Assembly will call for a formal meeting within 10 working days following the veto by one or more permanent members of the Security Council in order to facilitate a debate on the situation prompting the veto, barring the Assembly's convening in an emergency special session for the same issue. Additionally, it mandates the inclusion of an agenda item titled "Use of the veto" in the provisional agenda of the seventy-seventh session of the Assembly. This item will persist on the agenda for deliberation in line with the resolution's provisions. This resolution is not directly related to the Russian-Ukrainian conflict as negotiations took place earlier, however, its adoption, that took place a few months after the start of the war, is significant. Despite not being binding, it establishes an important foundation for transparency among permanent members in the use of the veto power. Indeed, in various reform proposals within the *OEWG* and the *IGN*, greater transparency has always been requested, especially regarding the working methods of the Council. Moreover, the resolution was adopted by 83 Member States including France, United Kingdom, and United States, highlighting the widespread opposition to the use of veto power by the P-5. Therefore, the discontent of the majority of the Member States is

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<sup>136</sup> *United Nations*. (1945). United Nations Charter, Art. 1-2. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>137</sup> "The procedure for adopting international acts, treaty drafts, or resolutions of international bodies, in which approval occurs without a formal vote, upon presentation of the text by the president of the international body, typically accompanied by a statement from the president confirming agreement among the members. The act is thereby approved if no opposing votes are recorded." *Enciclopedia Giuridica*. (n.d.). *Consensus*. <http://www.enciclopediajuridica.com/it/d/consensus/consensus.htm>

<sup>138</sup> A/RES/76/262. (2022). <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F76%2F262&Language=E&DeviceType=Desktop&LangRequested=False>

rooted at the core of the United Nations system, and the debate has only reignited with the onset of the war and Russia's exercise of the veto.

### 3.4. Critical analysis on the proposals to reform the powers

The veto power is a privilege that was created by the permanent members in order to establish themselves in a position of control within the United Nations system, hence, in the world. However, its contentious nature is directly contradicted by the fundamental principle outlined in Article 2 of the UN Charter<sup>139</sup>: the sovereign equality of Member States. The central question in this debate revolves around how this principle can be upheld and implemented if the five major powers possess a privilege that renders them unequal, if not "superior", to others. The General Assembly, especially in the second phase of negotiations, discussed and tried to reach an agreement on the veto issue, indeed, the main mechanisms dealing with it are the Uniting for Peace Resolution<sup>140</sup> and the Resolution 76/262<sup>141</sup>. However, they have two different bases<sup>142</sup>: the first one has an institutional character and encourages the engagement of UN Member States by affirming their entitlement to address concerns in the event of a veto and to obtain clarifications from the permanent member responsible for it, indeed, it is used automatically and regularly. The latter, on the other hand, serves a functional purpose and seeks to enhance the effectiveness of United Nations efforts in international peace and security when the Council faces paralysis, thus, it has an occasional and extraordinary nature. Nevertheless, these two mechanisms are not decisive tools against the misuse of the veto power.

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<sup>139</sup> United Nations. (1945). United Nations Charter, Art. 2. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>140</sup> A/RES/377(V). (1950). [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377\(V\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F377(V)&Language=E&DeviceType=Desktop&LangRequested=False)

<sup>141</sup> A/RES/76/262. (2022). <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F76%2F262&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>142</sup> Cadin, R. (2022). La risoluzione 76/262 dell'Assemblea generale sulla psicanalisi del potere di veto. In: *Ordine Internazionale e Diritti Umani. Osservatorio sul Consiglio di sicurezza e i diritti umani* 3/2022:(2022). (pp. 811-818). <https://hdl.handle.net/11573/1651883>

The different suggestions regarding the reform of the veto power, explored in Section 3.2, can be categorized into three primary viewpoints: the first advocates for the retaining of the veto for the P-5 while adding new non-permanent seats to the Council, the second perspective suggests extending this power to all new permanent members, and the last proposal concerns the abolition of the veto, however, the debate seems not to be open to this possibility.

The first perspective concerns the possibility of expanding veto authority to Members States beyond the P-5, aiming to achieve a more equitable distribution of power globally. Advocates of this perspective, such as the African Group, the Arab Group and the G4 (with the reserve of leaving it to the P-5 for at least fifteen years), argue that maintaining the current *status quo* would result in the exclusion of emerging powers and original founding States from key decision-making processes as the number of UN Member States continues to grow. Conversely, this kind of reform is seen as a means to facilitate power transitions and enhance the collective response to international security challenges, thus better serving the goals of peace and global security<sup>143</sup>.

On the other hand, some States, such as the group of the Small 5, argue that extending the veto power to other members would only increase the risk of decision-making stalemates and conflicts between permanent members and the non-permanent ones, exacerbating internal divisions within the international community. Nevertheless, the maintenance of this system of P-5, even with the enlargement of the non-permanent seats, would not be a definitive solution since the main topic of discussion is the inequality of States due to the exercise of the veto. This proposal may be exhaustive only if aligned with reforms on the working methods of the Council and restrictions to the use of veto, as proposed by the Small 5<sup>144</sup>, by the L 69 and the CARICOM concerning a short- or

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<sup>143</sup> McDonald, K. C. (2010, November 10). UN Security Council enlargement and U.S. interests. *Council on Foreign Relations Press*. <https://www.cfr.org/report/un-security-council-enlargement-and-us-interests>

<sup>144</sup> Lund, J. S. (2010, January 19). Pros and cons of Security Council reform. *Global Policy Forum*. <https://archive.globalpolicy.org/security-council/security-council-reform/48674-pros-and-cons-of-security-council-reform.html>

medium-term reform, and by the ACT group through the *Code of Conduct*<sup>145</sup> launched in 2015.

Concerning the abolition of veto, many Member States are in favor of it, or at least are calling for a limitation of its use. For instance, in the 1990s, 185 Member States declared the veto as inequitable<sup>146</sup> and in 2013 the Pakistani Ambassador to the UN, Ahmad Kamal, criticized the veto as “anachronistic and undemocratic”<sup>147</sup>. However, an abolition seems unlikely since this kind of reform faces challenges not just due to the P-5's ability to resist and block such decisions<sup>148</sup> but also because of the likely disruption of certain international balances that would result from it<sup>149</sup>. For instance, in 2007 the Russian Deputy Foreign Minister, Vladimir Titov, declared that the threat of a veto would “stimulate the sides to find a mutually acceptable mechanism”<sup>150</sup>. In the light of this declaration and the subsequent use of the veto power for the Ukrainian War, it seems almost impossible to obtain an abolition of this privilege. Furthermore, reference was made to the fall of the League of Nations, attributed to the refusal of certain great powers, such as the United States, to join the organization. Accordingly, the abolition of the veto could potentially lead to similar scenarios, wherein certain Member States may withhold financial support for actions they do not agree with. This could result in their withdrawal from the United Nations, potentially prompting other countries to follow suit, for instance

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<sup>145</sup> A/70/621. (2015, December 14). <https://undocs.org/Home/Mobile?FinalSymbol=A%2F70%2F621&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>146</sup> Weiss, T. G. (2005). Overcoming the Security Council reform impasse: the implausible versus the plausible. *Dialogue on Globalization, Occasional Papers, New York. Friedrich-Ebert-Stiftung*. [https://library.fes.de/cgi-bin/populo/digbib\\_en.pl?t\\_dirlink=x&modus=&f\\_IDR=I+50099](https://library.fes.de/cgi-bin/populo/digbib_en.pl?t_dirlink=x&modus=&f_IDR=I+50099)

<sup>147</sup> Vicente, A. (2013). United Nations Security Council Reform: The question of the veto power. Multilateral Diplomacy Summer School–Student Papers, 19. *United Nations Institute for Training and Research*.

<sup>148</sup> *United Nations*. (1945). United Nations Charter, Art. 108-109. <https://www.un.org/en/about-us/un-charter/full-text>

<sup>149</sup> Nesi, G. (2023). Sezione I “Pace e Sicurezza Internazionali”. Quaderno 27: “L’ONU nei nuovi assetti sistemici internazionali: le riforme necessarie”. *Rivista Trimestrale della Società Italiana per l’Organizzazione Internazionale*. (p. 30).

<sup>150</sup> Dempsey, J. (2007, April 25). Russia waiting for UN resolution on Kosovo. *The New York Times*. <https://www.nytimes.com/2007/04/25/world/europe/25iht-kosovo.4.5438714.html>

the United States and other Western nations. However, it is improbable that any member would risk leaving the UN, as it would probably undermine their legitimacy. Nonetheless, the possibility cannot be entirely discounted, particularly given the UN's capacity to take such actions.<sup>151</sup>

Another point worth noting is the deterrence of nuclear power by all the P-5, which grant them the capability to commence a comprehensive nuclear conflict. Hence, retaining the veto power is crucial to empower them to diplomatically halt measures deemed threatening. This approach helps prevent discontent among these nuclear powers, mitigating the risk of escalating international tensions and the potential outbreak of a nuclear war.

To sum up, the ongoing negotiations are marked by controversy, particularly exacerbated by the application of the veto by the Russian Federation, highlighting the need for Security Council reform.

## **Conclusion**

In conclusion, the ongoing debate over reforming the powers of the Security Council reflects the complex and multifaceted nature of the United Nations system. Particularly, the veto, that is the main power of this fundamental body of the UN and which is detained only by the P-5, has been subject of discussions since its creation in 1945. Indeed, various proposals emerged: from the limitation on its application to its possible abolition.

The recent resurgence of discussions evidenced by the Russian-Ukrainian conflict and the subsequent declaration of Joe Biden, underscores the urgency and importance of addressing the Council's effectiveness in addressing contemporary global challenges: the veto is seen as a limitation in order to pursue this objective. The critical analysis on the proposals, made in Section 3.4, reveals, firstly, a controversy in the UN system, thus, an

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<sup>151</sup> Okhovat, S. (2011). United Nations Security Council: Its Veto Power and Its Reform (Working Paper No. 15/1). *Centre for Peace and Conflict Studies*. (p. 8). <https://www.yumpu.com/en/document/view/11403593/the-united-nations-security-council-its-veto-power-and-its-reform>



important question emerges: how can the largest international organization be founded on a principle, such as that of sovereign equality established by Article 2(1), and not respect it in its most powerful body? After a long analysis, starting from the origins of this power, emerged that the power of veto was created in order to maintain an equilibrium between the five major powers and to impose themselves as great powers for a long term. Moreover, it is important to highlight that the P-5 impose their power not only to UN members but also to countries that are not part of it, indeed, they can exercise the veto on a country's application for membership and, in this way, influence their international relations with the rest of the international community. Finally, the focus on the various proposals to reform the veto power highlighted that while some advocate for maintaining the *status quo* of the P-5, adding only non-permanent seats to the Council, others argue for creating new permanent members with the same privileges of the P-5. Meanwhile, there are those who call for the abolition of the veto, however this suggestion faces significant challenges and resistance. To conclude, the most feasible suggestion in the short term might be the one proposed by the Small 5<sup>152</sup>, the L 69, the CARICOM and the ACT group. It entails reforms on the working methods and restrictions to the use of veto in the purpose of balancing the powers within the Security Council. Considering the pressing need for collective action to address global crises, the debate over reforming the Security Council's powers is likely to continue aiming at finding a solution in order to face in an efficient way all the conflicts and crisis that the world is experiencing in this era.

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<sup>152</sup> Lund, J. S. (2010, January 19). Pros and cons of Security Council reform. *Global Policy Forum*. <https://archive.globalpolicy.org/security-council/security-council-reform/48674-pros-and-cons-of-security-council-reform.html>

## Conclusions

From what had been said so far, the urgency for a reform of the United Nations Security Council in order to address contemporary challenges effectively and to represent equally the geopolitical asset of the world is self-evident. Since the Council plays a fundamental role on the international sphere and detains the primary responsibility for the maintenance of international peace and security, it should reflect global realities. In the purpose of analyzing the debate born in 1993 with 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*<sup>153</sup> and intensified in 2008 with the *Inter-Governmental Negotiations*<sup>154</sup>, the aim of the first chapter was to provide an in-depth analysis on the main principles of the United Nations enshrined in the first two articles of the United Nations Charter, on the provisions related to its reform, and finally, on the role of the Council established by Chapters V, VI, VII, and VIII of the Charter. Moreover, since an amendment of the Charter, according to Articles 108 and 109, requires a vote of two-thirds of the members of the General Assembly and a ratification in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council, an immediate reform would be difficult to achieve. Nonetheless, its functions evolved through various resolutions, analyzed in Section 1.3, with the objective of granting efficiency, for instance in case of a stalemate of the Security Council. To emphasize the strong request for renewing this fundamental body, attention was devoted on the reasons behind this request, emphasizing the various issues and criticisms emerged during the decades of negotiations.

Subsequently, the task of the second chapter and of the third chapter was to properly focus on the proposals to reform respectively the composition and the powers of the Council, thus, highlighting the proposals and discussions made during both the first and the second phase of negotiations. An important step within the two phases was made

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<sup>153</sup> UN. General Assembly. (1993, December 10). Question of equitable representation on and increase in the membership of the Security Council: Resolution adopted by the General Assembly (A/48/26). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/177987?v=pdf>

<sup>154</sup> Decision 62/557: *UN Documents: Security Council report*. (2008). <https://www.securitycouncilreport.org/un-documents/document/decision-62-557.php>

when, after many years of discussions, the debate finally culminated in official proposals made by the various groups. Indeed, the most feasible and plausible suggestions, such as the one of the G4, the Uniting for Consensus, the Group of African Nations, the Arab Group, the group of Small 5, the CARICOM and the L69, have been treated, and also analyzed from a critical point of view in both the last sections of the chapters. However, as emphasized in both, a solution was not reached. Hence, the delves on the veto power and on its possible reform emphasized many issues. Thus, through the emphasis, in Section 3.3, on the recent reform attempts in the light of the Ukraine War, which represented the culmination of the debate, and through the investigation on the origins of this powerful tool, emerged that the criticism regarding the unequal representation of the Council is well founded. Indeed, the vote on the "principle of unanimity"<sup>155</sup> of 1945 was implemented only by 50 members who were then part of the United Nations, and who were veterans of two world wars. This clearly represent the most criticized issue, which is the non-equitable geographical representation, indeed, the 50 members that voted at the origins represent only the 26% of the total amount of members today.

In general, since the beginning of the debate, there has not been a strong evident desire by the various Member States to reform and renew the Council. The first phase was characterized by long discussions which created greater division between the various Member States, particularly among the most influential. The second phase, however, was more exhaustive, many States aligned their visions by forming groups with official proposals, however, even within these groups there are internal divisions, it is probably linked to the relations between the countries of a group and the most influential and powerful Member States. This is evident in the group of African States, indeed, two countries belonging to this group, namely Nigeria and South Africa, have shown willingness to join the G4 (India, Germany, Brazil, Japan)<sup>156</sup> as their ideas are more aligned with those of this group. Furthermore, they have strong relationships with many

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<sup>155</sup> Documents of the United Nations Conference on International Organization, San Francisco, 1945. (1945). *United Nations Digital Library System*. <https://digitallibrary.un.org/record/1300969?v=pdf>

<sup>156</sup> Welz, M. (2013). The African Union Beyond Africa: Explaining the Limited Impact of Africa's Continental Organization on Global Governance. *Global Governance*, 19. (pp. 425-441). <https://www.semanticscholar.org/paper/The-African-Union-Beyond-Africa%3A-Explaining-the-of-Welz/3e3c2dbceb698fa6e310b0ae3556b9db1c51d4fc#cited-papers>

Member States. For instance, South Africa is linked with India and Brazil, belonging to the G4, and with two permanent members as Russia and China through the *BRICS* group (Brazil, Russia, India, China and South Africa) and has created the *Forum on Africa-China Cooperation* (FOCAC) with China. Another instance is surely the relationship between the United States and Western Europe that strengthened at the end of World War II and into the Cold War era. These examples aim to emphasize that the Security Council is not only a body that applies norms of international law, but has been based, since its creation, on relations between the various countries, therefore, it is evident that, in the event of a voting for a possible reform, many Member States will focus on their own interests and alliances rather than on the representation of smaller or developing countries. Surely, a total reform in the short term is excluded due to the current historical moment and the current conflicts in the world, which clearly do not only concern the parties involved in the conflicts but most of the world's countries since the world we live in is a globalized world based on relations between powers. However, in order to face current global challenges an immediate reform on the working methods and restrictions to the use of the veto power may be useful to have a more balanced distribution of powers within the current members of the Security Council. Concerning a long-term reform on the composition it cannot be excluded since most of the Member States expressed their willingness to find a solution. An enlargement of non-permanent seats might be the most probable solution since it will not influence the Permanent-5, while a total adjournment of the Council's seats based regional representation seems unlikely due to the opposition that may be expressed by the permanent members.

Additionally, a reform of the Council does not guarantee the establishment of a fully efficient United Nations system: it may not be the most favorable solution. Indeed, it may alter the world's equilibrium, and, through the creation of new seats, it might solve the problem of equitable representation, however, it may create rivalries between the represented regions since the representation's criteria might be established on different variables, such as the population or the Gross Domestic Product, or the contribution to the activities of the United Nations and the budget contribution. Moreover, it would be more difficult to implement an agreement or a norm if the Council has a large number of seats. It would be much more complicated to act on a matter of an immediate or urgent

nature if there the need of consensus by a great number of members of the Security Council.

In conclusion, the entire analysis makes clear the persistent need to recreate and renew this fundamental organization that must truly reflect global realities and represent all Member States equally. A renewed Security Council should be the starting point for renewing the entire system according to international law, and in particular according to the principles enshrined in Articles 1 and 2 of the United Nations Charter, and according to international relations in today's world, in the purpose of making it fair, efficient, transparent and equitable.

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