

THE UN SECURITY COUNCIL REFORM AND THE EU'S COMMON FOREIGN POLICY

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Part I

The need for the UN Security Council reform

At present, the critical need for the United Nations Security Council reform is being expressed by a wide range of nations at the United Nations. The necessity for urgent reform is caused and increasingly justified by multiple factors.

The UN Security Council came into being following the end of the Second World War as an organ reacting to threats against international peace and security. Despite the tectonic transformations of the international system, this institution remains unchanged. These transformations have embraced not only the nature of the threats and challenges, but also the United Nations' framework in terms of the distribution of power.

In the face of the new agenda it has become apparent that the Council has been “inconsistent at best in applying legal principles; its decision-making procedures are not inclusive, transparent, or based on egalitarian principles; its decisions are frequently clouded by the threat of outside action; and the morality of its (non)-actions is widely debated”¹. In other words, the authority and legitimacy of this institution is ascribed to its capacity to generate solution models for the contemporary challenges and threats to international peace and security. What does the legitimacy of this body mean? People in various parts of the world may believe that their governments should obey decisions of the Security Council because they were made through a process that is normatively as well as legally acceptable. Or they may regard its decisions as legitimate insofar as they are justified on the basis of principles – such as collective opposition to aggression – that they regard as valid².

Over the recent period one of the pivotal contestations of the legitimacy of the UN Security Council originates from the lack of equitable representation. The UN Charter stipulates membership in the Security Council based on geographical balance as well as contribution of member-states to maintaining peace and security³.

In view of the moderate financial and military contribution of certain permanent members in comparison with some aspirant states the UN High-Level Panel on Threats, Challenges and Change even questions the “legitimacy” of the formers' preferential status⁴. For this reason, it is increasingly believed that the Security Council resembles rather a club of privileged states than a representative instance of the contemporary world⁵.

In terms of more equitable representation we are facing the issue of “broader membership” in the UN Security Council but specifying the limits of the enlargement. The expansion of the Council up to 24 members is considered as one of the probable solutions by the above-mentioned High-Level Panel on Threats, Challenges and Change.

Accordingly, *Plan A* calls for creating six new permanent members, plus three new non-permanent members reaching 24 seats in the council. An alternative *Plan B* calls for creating eight new seats in a new class of members, who would serve for four years, plus one non-permanent seat, for a total of 24.

This plan is drafted with the aim of more reasonable geographical distribution and a better balance of powers. The argument that a larger membership is necessary if the Security Council is to have a representative nature is valid. Nevertheless, those who have observed the history of expansion of international institutions do not always witness proportional changes in the ability to produce results by the restructured bodies. Thus, those who reject calls for a reform and expansion of the permanent membership of the Security Council often rest their arguments on the importance of effectiveness. Yes, reform might promote representation, but at what cost? If a Council of 25 or 26 is even less able to act effectively than the current arrangement, then how has this increased the legitimacy of the organization? Does not such reform carry with it the risk of repeating the very mistakes of the League that the founding fathers of the UN were so anxious to avoid?⁶

For his part, Kofi Annan pointed out that an effective reform that would strengthen the Security Council cannot be limited only to an increase in membership⁷. Moreover, there is no consensus whether the Security Council’s enlargement should comprise new permanent members or lead to a broader non-permanent membership.

The claim for broader regional representation is complemented by another issue: improvement of the Council’s working methods, particularly its relation with the General Assembly in terms of cooperation and accountability between the two bodies.

The term “accountability” implies that some actors have the right to hold other actors to a set of standards, to judge whether they have fulfilled their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met. Accountability presupposes a relationship between power-wielders and those holding them accountable where there is a general recognition of the legitimacy of (1) the operative standards for accountability and (2) the authority of the parties to the relationship (one to exercise particular powers and the other to hold them to account). The concept of accountability implies that the actors being held accountable have obligations to act in ways that are consistent with accepted standards of behavior and that they will be sanctioned for failures to do so⁸.

International institutions are blamed for stepping into domestic policy. As a rule, we face the question “to whom are they accountable?” As for the UN Security

Council, it “was structured by the victors of the Second World War to reflect the balance of power at that time. Each of the permanent members has the power to veto an action or resolution undertaken by the Council. All other states are represented in constituency groups and only modest steps have been taken to improve the transparency and accountability of the Council to all its members”⁹.

The need for reconsidering the Council’s working methods is reinforced by the fact that on certain occasions it was considered to have “encroached” into the activities of the ECOSOC and General Assembly by holding meetings on gender rights, HIV/AIDS, terrorism and U.N. procurement and peacekeeping. This inevitably caused resentment of the 130-member Group of 77, the largest single coalition of developing countries.

The Security Council’s primary responsibility concerns mainly the maintenance of international peace and security (as was defined in the U.N. Charter). All other issues of economic and social development are allotted by the Charter to the General Assembly and the Economic and Social Council (ECOSOC).

On the other hand, it would be unfair to maintain that the powerful collective body of the UN has not accomplished any results during the years that the reform is under question. For instance, to much extent as a result of the 1993 Open-ended Working Group¹⁰ recommendations there were made some changes of transparency and openness in the Council’s procedures, namely the increase of public meetings and access to the information on the Council’s activities as well as closer cooperation with non-council members and NGOs.

Over the last decade, the council president (a position that rotates each month) has adopted the practice of regularly briefing non members and the press about private consultations, meaning that information rather than rumor circulates. Provisional agendas and draft resolutions also are now distributed rather than kept under lock and key. The council routinely holds consultations with senior UN staff and countries that contribute troops to UN efforts and has also convened several times at the level of foreign minister or head of state in an effort to increase the visibility of important deliberations and decisions¹¹.

What is serving as an obstructive force of the overall reform process? It is believed that the possession and the use of the *veto* by the permanent members eliminate the constructions of the efficient and democratic framework of the Council’s activities. As an actual fact the veto makes the frequently stalemated decision-making process even worse. More increased would be the United Nations’ ability “to get action on Darfur or Iran if it did not face the threat of a Russian or Chinese veto. Diplomacy would have genuine chance to work, in which all the nations on the Security Council would count”¹².

The majority of UN member states support the abolition of the veto prerogative. One could distinguish the Group of Non-Aligned Nations, the African Union, the Arab League, as well as many other western countries as promoters of the proposal¹³.

As for High-Level Panel on Threats, Challenges and Change, it has nonetheless recognised that despite its anachronistic character there is “no practical way of changing the existing members’ veto powers”. As an alternative to it might be limitations “to matters where vital interests are genuinely at stake”, under which in practice we understand cases of genocide and large-scale human rights violations. Within the so-called proposed system of “indicative voting” members of the Security Council could call for a public indication of positions on a proposed action. And the actual vote would be preceded by a non-binding voting round with the objective to make the Council’s decision-making procedure less secretive and to increase the accountability of the veto use¹⁴.

Part II

The need for a common EU approach to the UN Security Council reform

The 2003 Iraq War revealed profound divisions within Europe over the collective conduct in international affairs. Although there was a consensus in Europe that a certain international action over Iraq was necessary, leading member states pursued divergent foreign policy orientations that brought to the construction of “Old Europe” and “New Europe” epithets by the neo-conservatives. As a result, the absence of the joint European response caused the impression of the European Union’s incapability of elaborating a single foreign policy.

In this article I would like to make special emphasis on the necessity of the European Union’s single voice regarding the UN Security Council reform. In the light of the split-up within Europe during the Iraqi intervention, it is a high responsibility for the EU to demonstrate the international community its potency and vigour to produce a single proposal of re-invigoration of such an essential global governance mechanism as the UN Security Council first of all prevailing over its internal divergences.

Each member state of the European Union realizes that collective actions are needed to provide effective reactions to proliferating challenges and threats facing the contemporary world, which now concern the entire international community. For instance, France considers “effective multilateralism” (especially expressed in the United Nations) to be a key instrument for deliberating and acting on contemporary problems in their entirety and complexity. The concept of “effective multilateralism” is becoming increasingly indispensable if the EU wishes to successfully attain its objective to assert European identity, in contrast to American foreign policy, following the crisis over Iraq.

Until today the EU has certainly reached consensus on numerous UN reform agenda points (e.g. the appointment of an Under Secretary General charged of economic and social cooperation). For example, in 1997 the European Union prepared coherent and detailed EU proposals on UN reform. The EU proposed the streamlining and possible merger of some of the UN’s 41 bodies setting priorities independent of each other.

The role of the EU member states has been very important in the adoption by UNESCO of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, in the debates leading to the creation of the new Human Rights Commission, in debates about UN reform in ECOSOC, and in many other cases. As a result of the active participation in the process of reenergizing the UN, on 23 February 2006, twelve European donor countries (forming together with Canada the G13) distinguished a circle of key issues for strengthening the UN operational system.

Or, if we examine at the country level, one may point out that Belgium had prepared a paper on a “redesign of the UN development architecture”, the Netherlands

on “a UN operational system for development fit to face the challenges of reaching the MDGs” in 2005. At the same time, the EU was firm in rejecting suggestions that reform should be used to cut the UN’s annual budget.

But as for the Security Council reform, the most sensitive element of the reform process, it is not enough that they agree that the Council’s institutional structures reflect outdated post-1945 geopolitical realities. There are two EU member states that hold permanent seats in the Security Council, as well as prime positions among the five biggest arms traders in the world, together with the other permanent members. Another European state – Germany, the third largest contributor to the UN regular budget, has aspired for over a decade for integration into the permanent group of the Council.

For their part, Great Britain and France initially were reluctant to accept the idea of additional permanent seats. It was clear from the beginning that any such addition would give testimony to a relative loss of global power of the United Kingdom and France and might also increase Germany’s regional influence in Europe, thus adding to the perceived imbalance that was brought about by Germany’s reunification in 1990¹⁵. However, in the 1990s both states became strong supporters of Germany’s candidacy.

The aspirations of Germany (as well as of Japan) are reasonably explained by the “realist” approach that argues that the Security Council must reflect the actual distribution of wealth and power in the world, not abstract ideas of fairness and justice.

In this regard, Germany (as well as all other aspirant candidates) has argued that there can be no discrimination between first-rate and second-rate permanent members. Thus, the veto power should also be awarded to possible newcomers: new permanent members should have the same responsibilities and obligations as the current permanent members.

But in response to the fears of the rise of another veto holder, Germany has pledged its support for the pragmatic restrictions on the veto use as proposed by the “Group of Ten”. To this, Germany has added the recommendation that States should explain the use of the veto to the General Assembly, and that new permanent members should not be allowed to use the veto during an interim period of 15 years¹⁶.

In many regions certain nations appear concerned that if a nation from their region gains the additional power due to a permanent Security Council seat, it will shift the power balance in the region in an undesirable way. Thus Italy, the Netherlands and Spain have opposed to a bid of Germany forming the so-called *Uniting for Consensus*. This group of states line up with many other ones asserting that the expansion of the Council aimed at more representativeness will deepen inequality, instead of crediting the body’s procedures with a more democratic character.

Since 1992 Italy has presented its own proposal, together with other countries, based on the introduction of semi-permanent membership. Instead of including Germany, these countries have suggested a single permanent seat for the EU and more input by developing countries. But the veto-wielding permanent seats are considered by Paris and London as a vital symbol of foreign policy and national sovereignty. On the other hand, as is the general rule for the United, only states can be member of the Security Council. This serves as an institutional impediment to the European Union actorness in this UN body.

What should be noted is that the single EU seat is in complete alignment with the efforts of the Union to establish the Common Foreign and Security Policy (CFSP). Among its supporters are Xavier Solana, EU's High Representative for CFSP and the EU Commissioner for External Relations Dr. Benita Ferrero-Waldner. In search of a cohesive European approach in the Security Council this merger is expected to be instrumental for strengthening of the European voice in international fora.

Germany would also accept a common European seat, but as long as there is little sign that France and the UK will give up their seats, Germany insists on having its own seat. There have also been suggestions that the French should pool their vote with Germany in the Franco-German EU integrationist tradition and the UK would represent the EU tradition of less integrationist views.

The positions of Germany and Italy over the scope of the eventual expansion are at variance (Germany today proposes to expand the Council to 22 members, whereas Italy backs the admission of 10 non-permanent seats). Legitimacy comes from efficiency and effectiveness but in its turn the expansion yet does not result in efficiency. At the UN, an enlarged ECOSOC serves as a clear example of how greater size detracts from effectiveness. In his famous essay, historian C. Northcote Parkinson through the history of the British cabinet demonstrated what happens when a body goes past the most efficient size. As a result, the body becomes dysfunctional and irrelevant. An enlarged Security Council might eventually reinforce the power of the Permanent members rendering the elected members more powerless. We think that the EU should be able to produce and champion the proposal concentrated on the *proportionality* of representation and efficiency.

To conclude, both the European Union and the United Nations are key components of the multilateral system. The EU has a solid ground for dynamism in offering the reform proposals. As a major entity that collectively contributes 40-50% of the UN budget, the EU has the legitimate right to put forward reform proposals in order to enhance the representativeness, transparency and efficiency of the system. Furthermore, the Union is in quite a favourable position of "overrepresentation", that means two permanent members, and, at any given time, up to four elected members. For instance, for the whole 2007, five of the 15 members of the Security Council were members of the EU (France, the UK, Italy, Belgium and Slovakia).

If the EU manages to opportunely deliver a coherent Security Council reform plan supported by the majority of the General Assembly (instead of mosaic of narrow national interests), this will raise the prestige and influence of the EU as a global actor. Overall, it will be a brilliant step in the evolution of such an important pillar of the EU, as the Common foreign and security policy.

In this paper the author is not willing to assert that the best way of reforming the Council is its enlargement being conscious of possible consequences that more permanent members might multiply the deformities of permanency.

It is to a large extent due to permanency of membership that the Council became inflexible and unable to accommodate change. The principle of permanent membership is unable to provide avenue for normal evolution as states' status and power rises and declines in the international system. One UN delegate called the permanent members as the "H-5" (Hereditary Five).

Although Germany claims not to use veto for fifteen years in case of admission, new veto-yielding states might eventually prevent the Council from acting on important matters of peace and security that fall within their national interest.

But fundamental changes at the Security Council are required in particular in the face of certain opinions that the United Nations should be eliminated entirely unless it has been transformed into a full-fledged world government. Some European officials even warn that "no international organisation is indispensable", that the public's message for multilateral organisation is "Prove your added value or be sidelined".

At the same time in reply to such radical opinions it would be appropriate to make reference to the statement of Jacques Chirac that there is no alternative to the United Nations. But in the face of today's challenges, this fundamental choice inevitably calls for a far-reaching reform of the Organization. For its part, the EU should insist on influencing the way the UN runs its affairs, contributing to the shaping of policy, rather than just "writing the cheques". Member states of the EU should do better to publicise the positive role that it plays in world affairs, if it is to regain some of the public confidence that was not obvious during the recent referenda on the Constitutional Treaty for Europe.

We expect likewise that the EU will remain as a driving force in the implementation of important UN initiatives in the field international security.

Notes

¹ Voeten, Eric. (2005). The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force. *International Organization*, 59, pp.527-557.

² Keohane, Robert. (2002). *Power and Governance in a Partially Globalized World*. Routledge. p. 279.

³ Charter of the United Nations, Chapter V, article 23.

⁴ See Report of the High- Level Panel on Threats, Challenges and Change, "A more secure world: our shared responsibility", 2 December 2004, UN Doc A/59/565, para 246.

⁵ Deldique, Pierre-Edouard. (2003). *Faut-il supprimer l'ONU?* Hachette Littératures, p. 276.

⁶ Hurrell, Andrew. (2007). *On Global Order: Power, Values, and the Constitution of International Society*. Oxford University Press, p.87.

⁷ Report of the Secretary General, 'Strengthening of the United Nations: an Agenda for Further Change', 9 September 2002, UN doc A/57/387, para 20.

⁸ Grant, Ruth and Keohane, Robert. (2005). Accountability and Abuses of Power in World Politics. *American Political Science Review*, 99: 29-43.

⁹ Wood, Michael (1996) 'Security Council: procedural developments', *International and Comparative Law Quarterly*, 45, pp. 150-61.

¹⁰ As a result of the pressure of the Non-Aligned Movement, the General Assembly in 1993 established an "Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Related Matters".

¹¹ Weiss, Thomas. (2003). 'The Illusion of UN Security Council Reform', *The Washington Quarterly*, 26:4, pp. 147-161.

¹² Ikenberry, John and Slaughter, Anne-Marie. (2006). 'A Bigger Security Council, With Power to Act', *International Herald Tribune*, September 26.

¹³ See Winkelmann I. (1997). 'Bringing the Security Council into a new era', *Max Planck Y.B.*, 75-83.

¹⁴ See Report of the High Level Panel on Threats, Challenges and Change, 'A more secure world: our shared responsibility', 29 November 2004, available at <http://www.un.org/secureworld/>, par. 256-257.

¹⁵ Fassbender, Bardo. (2004). Pressure for Security Council Reform. In David M.Malone (Ed.), *The UN Security Council: From the Cold War to the 21st Century*. Lynne Rienner Publishers, London.

¹⁶ See also Weisman, S. (2005). 'U.S. firm in rebuff of German bid at UN', *International Herald Tribune*, 9 June.