The illusion of UN Security Council reform

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Can changing the membership or procedures of the United Nations Security Council improve its credibility? In the controversy surrounding a possible UN imprimatur for the use of force against Iraq, the debate over the council's credibility shifted from the question of adequate representation to whether the group can constrain U.S. power. Now, the obstacles to Security Council credibility go beyond issues of process—exclusive permanent membership and the right to veto—to include unparalleled U.S. military might. With the exception of the 1965 expansion from 11 to 15 members, efforts at Security Council reform since the organization's inception in 1945 have repeatedly proved implausible; today, uncontested U.S. power makes such efforts largely irrelevant.

At the same time, in choosing among available tactics and strategies, Washington should think twice about acting alone. Making better use of the Security Council in its current form—indeed, of the UN system more broadly—is usually in U.S. interests and should remain the preferred policy option.

The Historical Failure of Reform

The principle of UN Charter reform, which includes altering everything from institutional purposes and structures to more mundane operating procedures, retains salience for diplomats in New York as a formal agenda item as well as an informal and enduring cocktail party pastime. In practice, however, substantive and substantial reform has proved virtually impossible. In fact, only three amendments have been made to the UN Charter in almost 60 years—and all dealing only with seat numbers in two of the six principal

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organs, once for the Security Council and twice for the United Nations Economic and Social Council. Use of the term “reform” is applied often and far more broadly than constitutional changes to UN policy; for example, at the outset of their terms, UN secretaries general routinely initiate so-called reform measures that merely involve personnel changes and management shell games.¹

The history of reform efforts geared toward making the Security Council more reflective of growing UN membership and of changing world politics since the organization’s establishment conveys the slim prospects for meaningful change. UN founders deliberately divided member rights and roles by establishing a universal General Assembly with the most general functions and a restricted Security Council with executing authority for maintaining the peace—unanimity among the great powers was a prerequisite for action. This arrangement was designed to contrast with the Council of the League of Nations, a general executive committee for all of the organization’s functions that failed miserably in the security arena because it required agreement from all states. Eternal seats for the era’s great powers—the United States, the Soviet Union, France, the United Kingdom, and China—now known as the Permanent 5 (P-5) with the right to veto decisions of substance, was an essential component of the original 1945 deal.

At the San Francisco conference where the UN Charter was drafted, delegates who were dissatisfied with a revival of a kind of nineteenth-century Concert of Europe—with more powerful states given special roles—but also did not wish to impede the effective creation of the new world body expected that a review conference for all UN member states would be convened relatively quickly to discuss changes in the charter and organizational structures. Although Article 109 reserved the possibility of a General Conference “for the purposes of reviewing the present Charter,” the P-5 preferred setting the bar high for any changes.² They not only resisted efforts to convene such a conference but also clearly communicated their intention to safeguard their veto rights. The increasing polarization of UN member countries during the Cold War in the 1950s prevented such a gathering then, and none has been convened since.

As originally defined in the UN Charter, the composition and decisionmaking procedures of the Security Council were increasingly challenged as membership steadily and dramatically grew following the acceleration of decolonization. Between the UN’s establishment in 1945 and the end of the

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first wave of decolonization in 1963, the number of UN member states swelled from 51 to 114. Only six countries from Africa and Asia were UN members originally, while two decades later, more than half of the UN’s membership were from these two developing continents. As a result, these newly decolonized countries demanded a better reflection of their numbers and priorities in the Security Council and throughout the UN system.

Most governments rhetorically support the mindless call for equity, specifically by increasing membership and eliminating the veto. Yet, no progress has been made on these numerical or procedural changes because absolutely no consensus exists about the exact shape of the Security Council or the elimination of the veto. True, the council does not reflect the actual distribution of twenty-first-century power, yet reform proposals emanating from diplomats and analysts have never addressed the true imbalance between seats at the table and actual military capacity outside of the Security Council chamber. They have sought to address, instead, the imbalance between the total number of countries in the world and Security Council membership as well as to dispute the absolute veto right held by five countries.

The only significant reform of the Security Council came to pass in 1965, after two-thirds of all UN member states ratified and all five permanent members of the Security Council approved Resolution 1990 (adopted by the General Assembly in December 1963) which proposed enlarging the Security Council from 11 to 15 members and the required majority from 7 to 9 votes. The veto power exclusively reserved for the P-5 was left intact.

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The question of whether the Security Council should reflect the growing membership of the UN, let alone the lofty language of the UN Charter’s Article 2, emphasizing “the principle of the sovereign equality of all its Members,” resurfaced in the 1990s, paradoxically, as a by-product of the initial successes of the Security Council in the early post–Cold War era. The P-5 countries, increasingly on the same wavelength, reached consensus privately before going to the Security Council as a whole on a range of issues. Yet, the logic of the axiom “if it ain’t broken, don’t fix it” gave way to grumblings about representation. Again, the argument for expansion was linked to equity, not to practical impact.

A series of decisions about beefed-up peacekeeping operations in areas that had formerly paralyzed the council, including several flash points of former East-West tensions (Afghanistan, Namibia, Kampuchea, and Nicara-
guan) and the end of the Iran-Iraq War, seemed to usher in a new era of Security Council activism and UN authority for decisionmaking about international peace and security. Such decisions set precedents for the council to take action against Iraq for its invasion of Kuwait in 1991 and then to override Iraqi sovereignty by providing succor to the Kurds and imposing intrusive measures on the regime in Baghdad.4

Suddenly, the Security Council was acting as had been originally intended. Sovereignty was no longer sacrosanct.5 Excluded countries wanted a part of the action, to defend their own viewpoints from the risk of being ignored by a new sort of P-5 condominium. Moreover, consensus was the order of the day and casting vetoes appeared unseemly and anachronistic; only 12 substantive vetoes were invoked between January 1990 and June 2003 in contrast to the 193 over the preceding 45 years.6

In January 1992, newly elected Secretary General Boutros Boutros-Ghali began his term with the first-ever summit of the Security Council and shortly thereafter published his bullish An Agenda for Peace,7 which spelled out an ambitious agenda for the UN’s role in the maintenance of international peace and security. In looking ahead to the UN’s half-century anniversary in 1995, a symbolically appropriate moment appeared on the international radar screen. “Was it not time to restructure the Security Council’s composition and revise its anachronistic procedures so that matters of right would take precedence over matters of might,” or so went the conventional wisdom and proposals from the 38th floor of 1 UN Plaza and from eminent individuals.8

Two Timeless Procedural Obstacles

The logic behind the call in the early 1990s to recognize the changed world by setting aside the veto and doubling the number of permanent Security Council members—with Germany and Japan making particularly strong cases for membership, along with developing-country giants, such as India, Egypt, Brazil, and Nigeria—to reflect the new world order ran into two immediate problems.9

The Veto

Citing the need to avoid conditions that led to the downfall of the League of Nations, the P-5 insisted on having individual vetoes over UN Charter amendments. Article 108 effectively provides each permanent member with a trump card that can overrule any efforts to weaken its formal power, although virtually all of the other 186 member states criticize the veto as in-
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The veto has been and remains an obstacle to reform both because of the P-5’s vested interests in preserving power and because no provision in the charter requires them to relinquish this right.

In their pursuit of raisons d’État, states use whatever institutions are available to serve their interests. Although arguably the United Kingdom and France as well as Russia are no longer considered major powers, their permanent status with vetoes gives them a substantial voice in international politics. As evidenced by the debate over Iraq, enhancing the Security Council’s role is a primary objective of French and Russian foreign policies, giving these countries a say about where and how U.S. military power will be projected so long as Washington works through this framework. The P-5 countries, including the United States, are, in essence, guarding themselves; they will not give up their vetoes easily.

**Membership**

Political paralysis, when it comes to deciding on candidates for either permanently rotating or new permanent seats on the Security Council—the latter with or without vetoes—has further prevented successful Security Council reform. Increasing membership numbers beyond the current 15—5 permanent and 10 nonpermanent members serving rotating two-year terms—seems relatively unobjectionable to promote and reflect greater diversity. At the same time, those more interested in results than in process were quick to point out that a Security Council of 21 or 25 members would hardly improve effectiveness—a “rump” General Assembly certainly would have increased the chances for what one observer poetically called a Sitzkrieg over Iraq.11

Moreover, the group would be too large to conduct serious negotiations and still too small to represent the UN membership as a whole. Thus, the apparent agreement about some expansion to accommodate more seats at the table for the clearly underrepresented “global South” does not translate into consensus about which countries would be added.12

Even more difficult has been reaching agreement on new permanent members. If dominance by the industrialized countries was the problem, why were Germany and Japan obvious candidates? Would Italy not be more or less in the same league? Would it not make more sense for the European Union to be represented (rather than Paris, London, Berlin, and Rome individually)? How did Argentina feel about Brazil’s candidacy? Pakistan about...
India's? South Africa about Nigeria's? How did such traditional UN stalwarts as Canada and the Nordic countries feel about a plan that would leave them on the sidelines but elevate larger developing countries, some of which represent threats to international peace and security? Moreover, if the veto was undemocratic and debilitating for the Security Council's work, should this privilege be given to new permanent members? Would that not make the lowest common denominator lower still?

Since its establishment in 1993, the entity with the lengthiest name in the annals of multilateral deliberations—the Open-Ended Working Group on the Question of Equitable Representation and Increase in the Membership of the Security Council and Other Matters Related to the Security Council—risks also setting a record for continuing to go nowhere for the longest period of time. This entity is a microcosm of a perpetual problem in the organization as a whole: the UN is so consumed with getting the process right that it often neglects the consequences.

**Beyond Process: Adjusting to a New World**

More recently, a third problem has arisen: Washington's emergence as what former French foreign minister Hubert Vedrine aptly dubbed the hyper-puisance. Bipolarity has given way to what was supposed to be U.S. primacy, but the demonstrated military prowess in the war on Iraq made it crystal clear that primacy was a vast understatement. Scholars discuss the nuances of economic and cultural leverage resulting from U.S. soft power, but the hard currency of international politics undoubtedly remains military might. Before the war on Iraq, Washington was already spending more on its military than the next 15-25 countries combined (depending on who was counting); with an opening additional appropriation of $79 billion for the war, the United States now spends more than the rest of the world's militaries combined.

With a U.S. global presence as great as that of any empire in history, Security Council efforts to control U.S. action are beginning to resemble the Roman Senate's efforts to control the emperor. Diplomats at UN headquarters have almost unanimously described the debate surrounding the withdrawn resolution before the war in Iraq as "a referendum not on the means of disarming Iraq but on the American use of power." Complicating the picture further were splits among Europeans about the future design and leadership of the continent, with the EU's Common Security and Defense Policy and NATO joining the Security Council as victims.

Today, there are two world "organizations": the UN—global in membership—and the United States—global in reach and power. Jostling about UN
Charter reform is a mere distraction. Critics of U.S. hegemony argue that the exercise of military power should be based on UN authority rather than capacity, but in reality, the two concepts are inseparable. As the UN's coercive capacity is always on loan, UN-led or UN-approved military operations take place only when Washington signs on. The value added by the participation of other militaries is mainly political; it is not meaningful in any operational way for enforcement (as opposed to traditional peacekeeping). This reality will not change until Europeans spend considerably more on defense so that they too have an independent military capacity. This argument will remain valid even if a new transatlantic bargain is struck about combining complementary U.S. military and European civilian instruments toward combating common security threats.\(^\text{17}\)

If the Security Council is to enforce its collective decisions, U.S. participation is, at present and for the foreseeable future, a sine qua non. If its purpose is to prevent Washington from doing what it has decided is vital to U.S. interests, only a hopeless romantic would claim this is feasible. Although perhaps understandable as a visceral reaction, the idea that the remaining superpower will continue to participate—politically or financially—in an institution whose purpose has become to limit its power has no precedent.

If the Security Council continues to materially disagree with U.S. foreign policy on critical issues with any frequency, the UN could come to resemble its defunct predecessor, the League of Nations. In this, President George W. Bush was on target in his September 2002 address to the General Assembly: "We created the United Nations Security Council, so that, unlike the League of Nations, our deliberations would be more than talk, our resolutions would be more than wishes."\(^\text{18}\) The Bush administration's National Security Strategy of the United States of America was published later that same month and could not be clearer: "[W]e will be prepared to act apart when our interests and unique responsibilities require."\(^\text{19}\) In short, the Bush administration—and any U.S. administration—will never allow international institutions to limit actions that the United States deems necessary for its national security.

The future challenge for UN proponents is twofold: to determine when the Security Council will act as a multiplier for U.S. power and to persuade the United States that acting multilaterally will be in its interest. The trick is to determine in which situations Washington and the world organization will act in concert, that is, when will U.S. tactical multilateralism kick in?
Evolutionary, Not Revolutionary, Change

Although rhetorical fireworks over the last decade have not led to UN Charter reform, they undoubtedly have made possible pragmatic modifications in the Security Council’s working methods. New council procedures initiated by member states respond in concrete, if small, ways to the need for more openness and accountability as well as for more diverse inputs into decisionmaking. Thus, they have taken steps to improve the democratic accountability of the Security Council.

Over the last decade, the council president (a position that rotates each month) has adopted the practice of regularly briefing nonmembers 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 decisions.

When requested, the UN secretariat has in the last couple of years begun to organize missions by Security Council representatives to countries or regions in crisis to permit better exposure to a range of views and to provide firsthand experience on the ground. Under the so-called Arria formula, named after former Venezuelan ambassador Diego Arria who in 1993 arranged an informal meeting with a visiting priest to discuss the conflict in the former Yugoslavia, an individual member of the Security Council can invite others for a candid exchange with independent experts and civil society. There have also been more formal meetings with heads of UN units or organizations as well as private retreats with the secretary general and his senior management team.

The reform debate has also led to other proposals that stop short of charter amendments and provide alternative formulas to finesse the issue of the veto. The P-5 could voluntarily exercise greater restraint, for example, by restricting the exercise of the veto only to matters that fall under the obligatory provisions of enforcement decisions taken under Chapter VII of the charter. For cases of humanitarian intervention, the P-5 could abstain where vital interests are not involved. Such restraint would offer no guarantees, of course, and would also set an unusual precedent of calling on selected states to give up rights acquired by treaties. Alternatively, coalitions of states might seek institutional moral stamps of approval outside the Security Council. The Kosovo Commission, an independent group of human rights proponents, made this point most distinctly by arguing that NATO’s...
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1999 humanitarian war was "illegal" (because it had no Security Council authorization) but "legitimate" (because it was ethically justified).25

Another means of skirting the veto entails adopting "the General Assembly in Emergency Special Session under the 'Uniting for Peace' procedure."26 Although this process has been used only three times to authorize military action—the last in the early 1960s for the Congo—it employs the idea of coalitions of the willing, which after all is one of the oldest aims of diplomats. Biting boycotts, for example, were set up against Italy by the League of Nations in the Abyssinian case of the late 1930s and by the UN against South Africa until the end of apartheid in the early 1990s. The original "Uniting for Peace" resolution even contained a clause referring to the voluntary creation of a UN force in cases where the Security Council was unable to act, that is, when it was paralyzed by the veto.

Acting through the General Assembly can be useful to circumvent a veto-wielding member of the Security Council in the clear international minority, but such a route has its limits. Once a security matter has been brought before the General Assembly, the main hurdle it faces is the requirement to have a two-thirds majority of members present and voting. Although the decision on the matter would only be a "recommendation" (whereas the Security Council's decisions are obligations), the necessary backing in the General Assembly might have a moral and political weight sufficient to categorize the use of force as "legal" even without the Security Council's endorsement. In such a case, the action would certainly be regarded as legitimate.27

Views are divided about the wisdom of raising the use of force outside the Security Council. Many countries, particularly some European and developing countries, are reluctant or even unwilling to acknowledge the legitimacy of military force that is not specifically sanctioned by the council, even for humanitarian purposes.28 For these countries, the international political process in the Security Council, however flawed and even without reform, is at least regulated. Indeed, for a growing number of legislators in the West, a bona fide Security Council authorization is essential to secure their consent to deploy national military forces. Setting aside this procedure, as NATO did in the case of Kosovo and the United States and United Kingdom did in the case of Iraq, threatens the fragile rules that underpin international society.29

In examining the legal gymnastics used to justify the use of force in Iraq, Duke University professor of law Michael Byers has recently made a case for...
“exceptional illegality.” Rather than try to change long-standing and basically effective rules, he asks “whether, in truly exceptional circumstances where a serious threat exists, no invitation can be obtained, and the council is not prepared to act, states should simply violate international law without advancing strained and potentially destabilizing legal justifications.”

That is one possibility, but in any event, adaptations in actual Security Council behavior, rather than formal modifications or reforms to either its membership or procedures, are more likely to preserve and improve Security Council credibility. Attempts to formally reform the council are unlikely to make a dent in the way that states approach decisionmaking in it. The gains made in transparency in the past are not trivial, but more than 10 years of discussion have led to no reforms to the UN Charter. This time will be no different.

**Initiative Stays in Washington, Not New York**

In the contemporary world, the Security Council should retain, as specified in the UN Charter, the “primary responsibility for the maintenance of international peace and security.” Yet, it will also retain the same permanent members with vetoes and, in all likelihood, the same number of nonpermanent members. “The key issue for the council,” as the International Peace Academy’s president David Malone tells us, “is whether it can engage the United States, modulate its exercise of power, and discipline its impulses.”

Will the inability to reform the UN Charter compromise the credibility of the Security Council, particularly regarding matters shaping the future use of force? The answer is “probably not” or at least “no more than in the past.” Changing the composition of the Security Council would not, in any case, overcome its core weaknesses—the veto and almost total reliance upon U.S. military power. In short, the Security Council will remain the first port of call for authorizing the use of military force. The former foreign minister of Australia and president of the International Crisis Group, Gareth Evans, has pointed to the more difficult question: “whether it should be the last.”

Washington and the other permanent members would certainly answer “no.” Major powers normally pursue their self-determined interests in their backyards without the UN’s blessing—look no further than Côte d’Ivoire, Sierra Leone, Chechnya, or Xinjiang. The U.S. backyard, however, is considerably bigger than that of most other nations, and the ability of the United States to project military power worldwide is unparalleled. Friends and foes alike are uncomfortable with Washington’s present gear: what the EU commissioner for external relations Chris Patten has dubbed “unilateralist overdrive.”
Washington should recall that the Security Council not only can enhance the legitimacy of U.S. actions but also can help share global risks and burdens, such as stabilizing postwar Iraq once sanctions were lifted by the Security Council. Recalling that the Somalia syndrome was a dominant domestic factor in the United States in the 1990s, it is likely that prospects for fiscal relief and limiting casualties will become more attractive to U.S. public opinion and limit U.S. enthusiasm for future unilateral operations. If the U.S. economy remains sluggish and preemptive self-defense against rogue states expands, the UN will appear more and more appealing.

In certain cases, U.S. interests can be best pursued through multilateral decisionmaking. The choice is not between the UN as a rubber stamp and a cipher—between the axis of subservience and the axis of irrelevance. Rather, depending on the issue, the stakes at hand, the positions of other potential allies, and the plausibility of collective military action, Washington, because of its power, has the historically rare opportunity to act either unilaterally or multilaterally.

Acting through the Security Council is always a policy option but should not be a road that Washington always, or never, takes. Clearly, no U.S. administration will permit the council to stand in the way of pursuing the country's perceived interests in national security. Yet at the same time, the Security Council often may serve vital interests as well as give the United States cause to proceed cautiously and with international acquiescence, if not jubilant support.

The war on terrorism provides an evident example of overlapping U.S. and international security interests. Fighting this plague obviously requires cooperation across borders if policies are to be even modestly successful in stopping financial flows to terrorist organizations or improving intelligence. The Security Council, for example, responded instantly to the attacks on the World Trade Center and the Pentagon by passing an unequivocal condemnation of terrorism in Resolution 1368 on September 12, 2001. The text is remarkable for its brevity yet broad scope, with a clear recognition of "the inherent right of individual or collective self-defense in accordance with the Charter," which helped enhance the legitimacy of, and support for, operations in Afghanistan. It also improved the prospects for other types of international cooperation, such as sharing intelligence and halting money laundering. Only two weeks later, the Security Council adopted Resolution 1373, a landmark in uniformly obligating all member states under Chapter
VII of the UN Charter to deny terrorists, regardless of their cause, location, or timing, the means to carry out their destructive tactics.\textsuperscript{36}

Other examples of shared interests include confronting the global specter of infectious diseases (including the spread of HIV/AIDS, the Ebola virus, and SARS) as well as revived weapons inspections and postconflict reconstruction in Iraq. The UN's growing involvement in postwar Iraq has important symbolic benefits as well as real ones, as do international efforts to confront pandemics. Yet, more than lip service must be paid to the interests of other countries. Unless Washington is prepared to bend on occasion and to contribute to solutions in other regions and countries, these governments are unlikely to sign on when their helping hands are necessary for U.S. priorities.

Washington's multilateral record in the twentieth century conveys "mixed messages," as Columbia University's Edward Luck reminds us.\textsuperscript{37} On the one hand, the United States has been the prime mover in creating virtually all of the current generation of intergovernmental organizations—from NATO to the Bretton Woods institutions to the UN family. On the other hand, the United States has often kept its distance and even withdrawn from the International Labor Organization and the UN Educational, Social, and Cultural Organization; and recently, of course, several new initiatives (including the Kyoto Protocol, the Statute on the International Criminal Court, and the ban on antipersonnel landmines) have been met with at best a cold shoulder or at worst outright hostility. This historical pattern of ambivalence is not about to change, given today's Security Council, especially because U.S. military predominance exists side by side with a growing presumption by officials and publics in other countries in favor of more inclusive decisionmaking in multilateral forums, especially about the deployment of military force.

Style is also of consequence. In debating the authorization of force in Iraq, determining whose behavior—that of Washington or Paris—was more churlish proved difficult. The United States nonetheless proceeded to carry out a very risky venture with little diplomatic and material support. Might a slightly more tolerant administration with a greater forbearance for working within the UN system have produced a viable Security Council resolution? When pursued creatively, the leverage of U.S. power can be employed to bring others on board, and diplomacy can succeed. For example, the unpopular proposal to reduce Washington's contribution to the UN budget was finally pushed through by consensus in December 2000 as a result of the agile leadership of Ambassador Richard Holbrooke and unusual financing provided by Ted Turner. Although the stakes were obviously lower in that case, resolving the problem was not a cakewalk either. Yet, in contrast to the fiasco over Iraq, U.S. diplomacy worked.\textsuperscript{38}
The apparently growing U.S. appetite for unilateral action has caused painful indigestion among internationalists at home and allies abroad. The UN’s menu offers more choices than the Bush administration realizes for “multilateralism à la carte,” as proposed by former U.S. director of policy planning Richard Haass. Seats at the Security Council table have been the principal focus of reform discussions in New York, but their significance is largely illusory given the centralization of power in Washington. The country that actually orders from the menu and picks up the tab remains key. At the same time, a more gracious host would be desirable as the United States should preserve the multilateral option of the Security Council, and of the UN more generally, which normally serve the United States’ as well as broader international interests.

Notes


26. ICISS, Responsibility to Protect, p. xiii.

27. For an extended argument related to humanitarian intervention, see Thomas G.
Weiss and Don Hubert, *The Responsibility to Protect: Research, Bibliography, and Background* (Ottawa: ICSS, 2001), chaps. 6 and 7.


32. Gareth Evans, “The Responsibility to Protect and September 11” (speech sponsored by the Department of Foreign Affairs and International Trade, Ottawa, December 16, 2002).


34. For details of this argument, see Mats Berdal, “The UN Security Council: Ineffective but Indispensable,” *Survival* 45, no. 2 (summer 2003): 7–30.


