



# MUNLAWS 2022

FACULTY OF LAW, UNIVERSITY OF LJUBLJANA

## United Nations **SECURITY COUNCIL**

### **STUDY GUIDE**



Prepared by Metka Vodušek and Vid Lobnik  
**September 2022**

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Faculty of Law, University of Ljubljana

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*Ljubljana, September 2022*

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## TOPIC ONE

### **ADDRESSING THE SITUATION IN UKRAINE**

*By Vid Lobnik*

## I. INTRODUCTION

Ukraine is the largest country by land area that is wholly situated in Europe. For centuries, the present-day country had been ruled by foreign powers, namely Lithuania and the Polish-Lithuanian Commonwealth as its successor, the Russian Empire, the Crimean Khanate as a protectorate of the Ottoman Empire, and Austria-Hungary, but also by the domestic self-governing territory known as the Cossack Hetmanate or the Zaporizhian Host. With the etymology of its name related to the word for borderland,<sup>1</sup> Ukraine had historically been a territory on the edge of the mentioned empires on which several conflicts took place.

Having briefly gained independence after the treaty of Brest-Litovsk in the First World War, its land was again taken over by the bordering powers – the Russian Soviet Republic (later the Soviet Union) and the Second Polish Republic with the Peace of Riga.<sup>2</sup> Existing for some 70 years as a federal entity of the Soviet Union, the country regained independence in 1991, after the collapse of the communist superpower. The last two decades gave rise to instability in the country in the form of separatist groups advocating for the unification with the Russian Federation in the country's easternmost region of Donbas. Combined with the territorial and strategic ambitions of Russia, the situation ultimately culminated in the ongoing invasion of Ukraine. The future of Ukraine thus remains uncertain as it is subject both to aggression from the East, questioning its very existence, as well as influences from the West.

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<sup>1</sup> See, for example, <https://www.etymonline.com/word/ukraine> (Accessed 30 July, 2022).

<sup>2</sup> Treaty of Riga, *Britannica*. Available at: <https://www.britannica.com/event/Treaty-of-Riga> (Accessed 18 August, 2022).

## II. THE CURRENT SITUATION

### The Fight for Ukrainian Statehood

The ongoing conflict in Ukraine seems to be more than just a war for territory: it seems that from Russian President Vladimir Putin's point of view, the whole existence of the Ukrainian nationality is more or less artificial and a creation of the October Revolution of 1917, crediting Vladimir Lenin as its creator.<sup>3</sup> In his article "On the Historical Unity of Russians and Ukrainians,"<sup>4</sup> Putin (2022) claims that Russia and Ukraine are parts of the "same historical and spiritual space" which has fallen apart due to a foreign *divide et impera* policy against people who had always considered themselves Orthodox and Russian, and had always spoken a dialect of the Russian language.

Understanding the question of Ukrainian national identity may not seem of immediate geopolitical importance but is a necessary consideration when evaluating the situation in Ukraine – the failure of the Russian troops to capture Kyiv and force the country into capitulation despite opposite predictions even from Ukraine's subsequent allies<sup>5</sup> is a result of Ukrainians' fierce resistance against the invasion which shows their willingness to preserve their statehood. As famously stated by Ernest Renan, a nation is a daily plebiscite, and Ukraine seems to affirm this thesis.<sup>6</sup>

A way of questioning Mr Putin's claims of Russo-Ukrainian cultural unity is therefore the analysis of Ukrainians' self-identification. According to a census conducted in 2001, almost 78% of the population identified as ethnically Ukrainian. The second place was held by the Russian community, representing around 17% of the population. At this point, it should be stated in a preliminary manner that the categorisation of people by ethnic group or

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<sup>3</sup> Michael Schwartz, »Putin Calls Ukrainian Statehood a Fiction, History Suggests Otherwise.« *The New York Times*, February 21, 2022. Available at: <https://www.nytimes.com/2022/02/21/world/europe/putin-ukraine.html> (Accessed 30 July 2022).

<sup>4</sup> Vladimir V. Putin, "On the Historical Unity of Russians and Ukrainians." 2022. Available at: <https://www.prlib.ru/en/article-vladimir-putin-historical-unity-russians-and-ukrainians> (Accessed 30 July, 2022).

<sup>5</sup> Jamali, Brennan, O'Connor, »Exclusive: U.S. Expects Kyiv to Fall in Days as Ukraine Source Warns of Encirclement.« *Newsweek*, February 24, 2022. Available at: <https://www.newsweek.com/us-expects-kyiv-fall-days-ukraine-source-warns-encirclement-1682326> (Accessed 31 July, 2022).

<sup>6</sup> See Ernest Renan. 1882. »What is a Nation?« Available at: [http://ucparis.fr/files/9313/6549/9943/What\\_is\\_a\\_Nation.pdf](http://ucparis.fr/files/9313/6549/9943/What_is_a_Nation.pdf) (Accessed 30 July, 2022).

nationality usually does not completely overlap with the classification by native language. In particular, such an argument can be made because the mentioned terms are ambiguous: the term “nationality” can be understood both as the identity individuals ascribe to themselves as well as their ethnic origin, while “native language” can be understood as the language in which one thinks or as the language of the nation one belongs to. The census on native language thus showed different results than the census on nationality, with 67.5% of people declaring Ukrainian as their native language and 29.6% stating it was Russian.<sup>7</sup> Moreover, the national or ethnic identity also does not necessarily correspond to the desired statehood of the population – for example, although 65% of the inhabitants of Crimea identified as Russian in 1989,<sup>8</sup> 54% of Crimean population nevertheless voted for Ukrainian independence.<sup>9</sup>

### Prelude to the invasion of 2022 – the geopolitical situation of Ukraine and the Revolution of Dignity

Due to pressure from Moscow, on November 21, 2013, the Ukrainian government decided to suspend plans to sign an association agreement with the European Union. As a result, widespread demonstrations took place – a large crowd gathered at the Maidan Nezalezhnosti (“Independence square” – hence also the name *Maidan Revolution*) was violently dispersed by the police, which resulted in around 100 fatal casualties.<sup>10</sup> The protests nevertheless endured into December and the demonstrators occupied Kyiv’s city hall. Yanukovich’s government decided on a harsh response and the president signed a number of laws restricting the right to protest, which resulted in further protests in Kyiv that spread not only to the western, but also the eastern part of the country which formerly

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<sup>7</sup> Sergiu Constantin, “Ethnic and linguistic identity in Ukraine? It's complicated.” *Science Blogs*, March 21, 2022. Available at: <https://www.eurac.edu/en/blogs/mobile-people-and-diverse-societies/ethnic-and-linguistic-identity-in-ukraine-it-s-complicated> (Accessed 5th August, 2022).

<sup>8</sup> About number and composition of the population of AUTONOMOUS REPUBLIC OF CRIMEA, *All Ukrainian population census '2001*. Available at: <http://2001.ukrcensus.gov.ua/eng/results/general/nationality/Crimea/> (Accessed August 5, 2022).

<sup>9</sup> Ukraine. Independence Referendum 1991. *Electoral Geography: Mapped politics*. Available at: <https://www.electoralgeography.com/new/en/countries/u/ukraine/ukraine-independence-referendum-1991.html> (Accessed August 5, 2022).

<sup>10</sup> Steven Pifer, “Ukraine: Looking forward, five years after the Maidan Revolution.” *Brookings*. February 22, 2019. Available at: <https://www.brookings.edu/blog/order-from-chaos/2019/02/22/ukraine-looking-forward-five-years-after-the-maidan-revolution/> (Accessed August 7, 2022); “Ukraine: History.” *Encyclopedia Britannica*, 2022. Available at: <https://www.britannica.com/place/Ukraine/The-Poroshenko-administration> (Accessed August 8, 2022).



predominantly supported Yanukovych. As the violence escalated and the protesters seized several governmental buildings, the EU officials threatened sanctions against Ukraine, demanding measures for the de-escalation of violence, yet to no avail: the violence escalated once again on February 20, 2014. In response, the French, German, and Polish foreign ministers arrived in the evening of the same day and successfully led an attempt to broker a settlement between Yanukovych and the opposition forces. The parliament, however, sided with the opposition as it reduced the power of the presidency by restoring the 2004 constitution, granted full amnesty to protesters, fired internal affairs minister Zakharchenko who ordered the use of force against them and nullified the provisions of the criminal code under which Tymoshenko had been prosecuted. Therefore, despite signing an agreement with the opposition leaders, Yanukovych fled the capital due to the actions of the parliament, and the latter in turn appointed a new acting president Vladimir Turchynov.

### The Russian invasion of Ukraine of 2022

On 21<sup>st</sup> February, Russian President Vladimir Putin announced the recognition of two pro-Russian breakaway regions in eastern Ukraine, the Donetsk People's Republic and the Luhansk People's Republic.<sup>11</sup> Three days later, on 24<sup>th</sup> February 2022, Putin authorised a “special military operation” against Ukraine, stating the aim of “demilitarisation and denazification. Russian forces began missile and artillery attacks, striking several major cities across the country, including Kyiv. Russia launched a full-scale invasion of Ukraine, while the Ukrainian President Volodymyr Zelenskyy ordered a general mobilisation. In the first week of the war, Russian forces advanced towards Kyiv and thousands of people emigrated from the invaded country.<sup>12</sup>

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<sup>11</sup> “Timeline: The events leading up to Russia’s invasion of Ukraine.” *Reuters*. March 1, 2022. Available at: <https://www.reuters.com/world/europe/events-leading-up-russias-invasion-ukraine-2022-02-28/> (Accessed August 8, 2022).

<sup>12</sup> John Psaropoulos, “Timeline: Week one of Russia’s invasion of Ukraine.” *Aljazeera*. March 2, 2022. Available at: <https://www.aljazeera.com/news/2022/3/2/timeline-week-one-of-russia-invasion-of-ukraine> (Accessed August 10, 2022).

As of 12<sup>th</sup> July, the recorded number of civilian casualties was 5,024 killed and 6,520 injured.<sup>13</sup> The total number of killed soldiers is a matter of speculation, but it is estimated that it can be measured in tens of thousands: Ukraine admitted to losing 200 soldiers each day, while Russian losses are estimated to be similar, and the ongoing war is already among the top quarter of the most intense conflicts in terms of casualties in the last 200 years.<sup>14</sup> By August, the number of displaced individuals has risen to nearly 12 million.<sup>15</sup>



Figure 1: Russian controlled territories in Ukraine; Institute for the Study of War, published in "Ukraine war in maps: Tracking the Russian invasion." BBC, 8 August, 2022. Available at: <https://www.bbc.com/news/world-europe-60506682> [Accessed August 12, 2022]

<sup>13</sup> United Nations Office of the High Commissioner for Human Rights. »Ukraine: civilian casualty update 12 July 2022.« July 12, 2022. Available at: <https://www.ohchr.org/en/news/2022/07/ukraine-civilian-casualty-update-12-july-2022> (Accessed August 10, 2022).

<sup>14</sup> Paul Poast, "The war in Ukraine is on track to be among modern history's bloodiest." *The Washington Post*. June 23, 2022. Available at: <https://www.washingtonpost.com/outlook/2022/06/23/ukraine-war-deaths-soldiers-history/> (Accessed August 10, 2022).

<sup>15</sup> Russia's invasion of Ukraine in maps – latest updates. *Financial Times*. Available at: <https://www.ft.com/content/4351d5b0-0888-4b47-9368-6bc4dfbccbf5> (Accessed August 11, 2022).

Currently, the Russian forces occupy Ukraine's easternmost oblasts of Donetsk and Luhansk and its southern shoreline where their zone of control stretches over most of the Kherson and Zaporizhzhia oblasts.<sup>16</sup>

### III. AN INTERNATIONAL LAW PERSPECTIVE

The rapid incursion of the Russian troops into the Ukrainian territory came as a surprise to many, although the Russian interests on the shores of the Black Sea have been obvious for several years. Diplomats have accordingly made several efforts to ensure peace in Donbas. The Minsk agreements – a series of documents agreed to in 2014 and 2015 – are likely their most notorious attempt. France, Germany, Russia and Ukraine established a high-level diplomatic platform that formed a Trilateral Contact Group comprising of Ukraine, Russia and the Organization for Security and Co-operation in Europe (OSCE). On 5<sup>th</sup> September 2014, its representatives and the representatives of the self-proclaimed Donetsk and Luhansk entities signed a Protocol that entailed the withdrawal of all 'illegal' military formations, but also aimed at establishing a special status of certain areas in Donetsk and Luhansk oblast. As the Protocol failed to ensure peace, direct negotiations between the Ukrainian president Poroshenko and the Russian president Putin followed and resulted in the adoption of a 'Package of Measures for the Implementation of the Minsk Agreements', often called 'Minsk II'. The documents were signed under duress due to Ukraine's fear of additional Russian incursions but were nevertheless endorsed by the Security Council. Their implementation has evidently been unsuccessful – both sides accused each other of violation of the agreements and accordingly, no weaponry was withdrawn.<sup>17</sup> Putin demanded direct negotiations between the separatists and Ukrainian government while Zelensky refused talks with entities he considered to be terrorist.<sup>18</sup>

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<sup>16</sup> For more information see »Interactive Map: Russia's Invasion of Ukraine, « available at: <https://storymaps.arcgis.com/stories/36a7f6a6f5a9448496de641cf64bd375>.

<sup>17</sup> Hugo Klijn, "Mulling over Minsk: What do the Agreements (not) Say?" *Clingendael Magazine*. February 21, 2022. Available at: [https://www.clingendael.org/publication/mulling-over-minsk-what-do-agreements-not-say#\\_edn9](https://www.clingendael.org/publication/mulling-over-minsk-what-do-agreements-not-say#_edn9) (Accessed August 11, 2022).

<sup>18</sup> David M. Herszenhorn, "Putin's paradox: 'Ukrainian' separatists are Russian citizens." *Politico*. February 16, 2022. Available at: <https://www.politico.eu/article/ukrainian-separatists-take-up-russian-passports/> (Accessed August 11, 2022).

In the December 2021, Russia issued an eight-point list of demands to the NATO in which it requested guarantees that the alliance will not expand eastward. Moscow relied on the principle of indivisible security and stated that NATO is violating the basic principles of OSCE by strengthening its security at the expense of the security of other states. NATO Secretary-General Jens Stoltenberg stressed in reply that the member states of the organisation are the only ones who can determine whether a certain state can join it. Western politicians also pointed out that NATO is solely a defensive arrangement and as such cannot infringe on Russia's security (Aris, 2021). In January, Russia met with representatives of NATO Member States who offered talks aimed at lowering the tension in Ukraine. Although both sides seemingly pushed for de-escalation (with Russia expressly stating it had no plans on attacking Ukraine), they could not reach an agreement as Russia insisted on its demands for legal guarantees that the alliance would not seek enlargement into Eastern Europe. The representatives of the defensive pact, on the other hand, underlined the importance of NATO's open-door policy and argued that it is up to Ukraine to decide on its own security and stated that Moscow is attempting to create a sphere of influence, violating neighbouring countries' sovereignty.<sup>19</sup> The Kremlin did not explicitly reject additional talks, nor did it have to issue such a statement to NATO – its actions of the following month clearly marked the death of diplomacy between East and West.

The Russian invasion of Ukraine has been internationally regarded as an act of aggression and a manifest violation of Article 2.4 of the UN Charter, which prohibits the “use of force against the territorial integrity or political independence of any State,”<sup>20</sup> and also of Article 2.3, dictating that UN Member States should settle their international disputes by peaceful means.<sup>21</sup> There are two exceptions to this prohibition, namely the use of force in self-defence under Article 51 of the Charter, and collective security operations mandated by the

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<sup>19</sup> Patrick Reeve, Conor Finnegan, “NATO rejects Russian demands for security guarantees in latest round of talks.” *abc News*. January 12, 2022. Available at: <https://abcnews.go.com/International/nato-rejects-russian-demands-security-guarantees-latest-round/story?id=82226913> (Accessed August 14, 2022).

<sup>20</sup> A. Dworkin, “International law and the invasion of Ukraine.” *European Council on Foreign Relations*. February 25, 2022. Available at: <https://ecfr.eu/article/international-law-and-the-invasion-of-ukraine/> (Accessed August 1, 2022).

<sup>21</sup> Janković, Roeben, “Russia's Recognition of the DPR and LPR: The Revival of the Constitutive Theory of Recognition?” *Opinio Juris*. March 3, 2022. Available at: <http://opiniojuris.org/2022/03/12/russias-recognition-of-the-independence-of-the-donetsk-peoples-republic-and-the-luhansk-peoples-republic-the-revival-of-the-constitutive-theory-of-recognition/> (Accessed August 1, 2022).

Security Council, yet the invasion of Ukraine cannot be classified as either and should thus be considered an act of aggression. Russia, on the other hand, in its submissions to the International Court of Justice (ICJ) considered the aggression a form of collective self-defence under Article 51, claiming that the Donetsk and Luhansk republics are independent states under attack by Ukraine, also arguing their right to self-determination.<sup>22</sup>

Although the self-declared Donbas republics *de facto* existed on Ukrainian territory since the events in 2014, namely the Russian annexation of Crimea, Russia officially recognised them on 21<sup>st</sup> February 2022.<sup>23</sup> The majority of international legal scholars, however, hold that recognition is purely declarative and does not constitute statehood. Leaders of the United Kingdom, Germany, Poland, the US and the EU unanimously stated that the recognition of the self-proclaimed regimes constitutes a violation of international law. Such a stance is supported by the argument of the “Republics” being politically and militarily dependent on Russia, thus failing to meet the requirements specified in Article 1 of the Montevideo Convention.<sup>24</sup> In such a scenario, the aggression should be considered as support for non-state armed groups, which the ICJ considered unlawful under international law in the Case Concerning Military and Paramilitary Activities in and against Nicaragua.<sup>25</sup> The recognitions nevertheless endow the “Republics” with all state’s rights and obligations against the recognising state.<sup>26</sup>

The United States and its European allies have swiftly imposed sanctions aimed at crippling Russia’s economy, *inter alia* by freezing trillions of dollars’ worth of Russian assets and blocking some of the Russian banks from SWIFT. NATO member states have provided aid in

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<sup>22</sup> “The Russian Invasion of Ukraine and International Law.” *Research Society of International Law*. March 28, 2022. Available at: [https://rsilpak.org/2022/the-russian-invasion-of-ukraine-and-international-law/#\\_ftn27](https://rsilpak.org/2022/the-russian-invasion-of-ukraine-and-international-law/#_ftn27) (Accessed August 1, 2022).

<sup>23</sup> »Signing of documents recognising Donetsk and Lugansk People's Republics.« Issued by the Kremlin, Moscow. February 21, 2022. Available at: <http://en.kremlin.ru/events/president/news/67829> (Accessed August 1, 2022).

<sup>24</sup> Janković, Roeben, “Russia's Recognition of the DPR and LPR: The Revival of the Constitutive Theory of Recognition?”

<sup>25</sup> See *Nicaragua v. United States of America*, para. 246. Available at: <https://www.icj-cij.org/public/files/case-related/70/070-19860627-JUD-01-00-EN.pdf> (Accessed August 1, 2022).

<sup>26</sup> “The Russian Invasion of Ukraine and International Law.”

the form of anti-tank and air defence capabilities<sup>27</sup> – the United States alone has provided more than 8 billion dollars in security support in the last six months.<sup>28</sup>

To legitimise the invasion of Ukraine, Russia is relying on the principle of ‘indivisible security.’ In essence, actions of any state threatening the security of another present a breach of this principle, and in Russia’s view, the eastward expansion of NATO is of such nature. The West and Russia naturally disagree in the interpretation of the concept: it is mentioned in the European Security Charter affirming countries’ freedom to choose their own security arrangements and alliances, but also limiting this freedom, prohibiting countries from strengthening their security at the expense of other states – the West thus stresses the former and Russia the latter element. Western countries also underline the required adherence to human rights and democracy in OSCE documents signed by Russia, which should be taken into account together with the security issues.<sup>29</sup>

#### **IV. DIPLOMATIC STANCE OF GLOBAL POWERS**

The EU reacted swiftly and robustly, supporting Ukraine and adopting the most severe sanctions against Russia as of yet. It is providing extensive financial and humanitarian support and contributing to the financing of military equipment.<sup>30</sup> The United States maintain a similar stance of confrontation with Russia’s assault, arguing it is necessary for global peace, stability, and the rule of law. In an essay for the New York Times, President Biden stated that the goal pursued by the United States is straightforward: “... a democratic, independent, sovereign and prosperous Ukraine with the means to deter and defend itself against further aggression.” He expressed the need for Ukraine to be in the strongest possible at the negotiating table, and hence the necessity to provide the

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<sup>27</sup> “The Russian Invasion of Ukraine and International Law.”

<sup>28</sup> Polyakova, Timtchenko, “Time for NATO to Take the Lead in Ukraine – The War’s Next Phase Will Demand More From the Alliance.” *Foreign Affairs*. (Accessed August 4, 2022).

<sup>29</sup> Patrick Wintour, “Why does Russia focus on ‘indivisible security’ in Ukraine standoff?” *The Guardian*. February 3, 2022. Available at: <https://www.theguardian.com/world/2022/feb/03/why-does-russia-focus-on-indivisible-security-in-ukraine-standoff> (Accessed August 4, 2022).

<sup>30</sup> “Russia’s war against Ukraine: where do we stand and what can the future bring?” *European Union External Action*. April 26, 2022. Available at: [https://www.eeas.europa.eu/eeas/russia’s-war-against-ukraine-where-do-we-stand-and-what-can-future-bring\\_en](https://www.eeas.europa.eu/eeas/russia’s-war-against-ukraine-where-do-we-stand-and-what-can-future-bring_en) (Accessed August 1, 2022).

Ukrainians with more advanced weaponry, while also stressing cooperation with the U. S. allies through “... sanctions, the toughest ever imposed on a major economy,” while offering aid in reduction of European dependence on Russian fossil fuels. U. S. President also welcomed Finland’s and Sweden’s interest in joining NATO, but sternly denied any intention of United States’ direct involvement in the conflict.<sup>31</sup> In a similar fashion, the EU announced a 90% ban on Russian pipeline imports and Germany announced that additional advanced longer-range anti-aircraft missiles will be sent to Ukraine<sup>32</sup> - however, it is noteworthy that their delivery has been delayed.<sup>33</sup> Therefore, while the stern response of the EU in the form of economic sanctions and the military aid of the U. S. (with the latter providing over 8 billion dollars in security support) is undisputed, the response of numerous NATO members has not been as clear. France, despite openly expressing support for EU sanctions and providing 100 million euros in humanitarian aid,<sup>34</sup> provided a relatively small amount of military support, amounting to 160 million dollars or 0.008 percent of its GDP, whereas the ambitions of Poland and the Baltic states were much greater: Poland committed 0.32 percent of its GDP, delivering at least 1.8 billion dollars’ worth of weapons; the relative contributions of Estonia and Latvia were even higher at 0.84 and 0.69 percent, respectively.<sup>35</sup>

While the western powers expressed a seemingly unanimous condemnation of the Russian invasion, the other major players around the globe remained more reluctant in adjusting their foreign policy. China finds both Russia and the west responsible for the situation in Ukraine, the latter due to its ignorance of Russia’s security concerns. It also antagonizes the global security concept dominated by the West, pushing for its reform and claiming that the

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<sup>31</sup> “Opinion: President Biden: what America Will and Will Not Do in Ukraine.” *The New York Times*. June 1, 2022. Available at: <https://www.nytimes.com/2022/05/31/opinion/biden-ukraine-strategy.html> (Accessed August 4, 2022).

<sup>32</sup> Ambassador William B. Taylor, “The United States Speaks Clearly on Russia’s Ukraine War.” *United States Institute of Peace*. June 3, 2022. Available at: <https://www.usip.org/publications/2022/06/united-states-speaks-clearly-russias-ukraine-war> (Accessed August 4, 2022).

<sup>33</sup> Polyakova, Timtchenko, “Time for NATO to Take the Lead in Ukraine – The War’s Next Phase Will Demand More from the Alliance.”

<sup>34</sup> »France’s position on the situation in Ukraine.” *Ministère de L’Europe et des affaires étrangères*. Available at: <https://www.diplomatie.gouv.fr/en/country-files/ukraine/situation-in-ukraine-what-is/#:~:text=Conflict%20in%20Ukraine%3A%20France's%20position&text=It%20stands%20with%20the%20Ukrainians,i nfluence%20Russian%20President%20Putin's%20choices> (Accessed August 5, 2022).

<sup>35</sup> Polyakova, Timtchenko, “Time for NATO to Take the Lead in Ukraine – The War’s Next Phase Will Demand More from the Alliance.”



conflict has been prolonged due to US involvement. China's close relations with Russia, however, present a difficulty for its diplomatic reputation while the sanctions of the EU are also impairing its Belt and Road Initiative (aiming for increased land trade through northern Eurasia) as transport of goods through Russia becomes more perilous.<sup>36</sup>

India chose a neutral position in the conflict which it expressed through its abstentions on UN general assembly votes on resolutions condemning the Russian aggression. It provided humanitarian assistance in the affected areas and participated in conversations contributing to the early cessation of violence. India is trying to maintain positive relations with both Russia and the West,<sup>37</sup> and the former remains its most important arms importer.<sup>38</sup> Similar responses can also be seen from Brazil another non-permanent member of the Security Council. President Jair Bolsonaro stated that his country shall not take sides and rather act neutrally, in part due to its dependence on imported fertilizers, 23% of which are provided by Russia.<sup>39</sup>

## **V. THE ROLE OF THE UN AND THE SECURITY COUNCIL**

During the second day of the invasion, Russia vetoed a UN Security Council resolution demanding an unconditional withdrawal of its troops from Ukraine. The veto from Russia's side was unsurprising as the country had already used the veto power 17 times on issues related to Syria its path – this time the latter country nevertheless decided to abstain from such a vote, despite signing a “no limits partnership” with Russia a few weeks earlier. Russian vetoes prevent the dispatchment of UN peacekeeping forces as the final decision

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<sup>36</sup> Iliya Kusa, “China's Strategic Calculations in the Russia-Ukraine War.” *Wilson Center*. June 21, 2022. Available at: <https://www.wilsoncenter.org/blog-post/chinas-strategic-calculations-russia-ukraine-war> (Accessed August 7, 2022).

<sup>37</sup> “Why India Chose a path of 'proactive neutrality' on Ukraine.” *The Conversation*. May 4, 2022. Available at: <https://theconversation.com/why-india-chose-a-path-of-proactive-neutrality-on-ukraine-182403> (Accessed August 8, 2022).

<sup>38</sup> “Russia's share of arms import to India fell from 69% in 2012-17 to 46% in 2017-21: Report.” *The Economic Times*. March 15, 2022. Available at: [https://economictimes.indiatimes.com/news/defence/russias-share-of-arms-import-to-india-fell-from-69-in-2012-17-to-46-in-2017-21-report/articleshow/90218483.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/defence/russias-share-of-arms-import-to-india-fell-from-69-in-2012-17-to-46-in-2017-21-report/articleshow/90218483.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (Accessed August 12, 2022).

<sup>39</sup> Sam Cowie, “Russia-Ukraine war: What's behind Brazil's 'neutral' position?” *Aljazeera*. April 22, 2022. Available at: <https://www.aljazeera.com/news/2022/4/22/russia-ukraine-war-whats-behind-brazils-neutral-position> (Accessed August 12, 2022).



on the matter is left to the Security Council – the UN agencies could therefore only provide humanitarian relief.<sup>40</sup>

At the eleventh Emergency Special Session opened on 28 February and closed on 2 March, the UN General Assembly demanded of the Russian Federation an immediate end to the unlawful force against Ukraine. The representatives of 141 countries voted in favour of the resolution and 35 abstained while only 5 – namely Belarus, North Korea, Eritrea, Russia itself and Syria – voted against it.

In response to the UN condemnation of the invasion, Russia requested a debate before the Security Council due to claims that the US is developing biological weapons in Ukrainian laboratories. These claims were supported by China during the Security Council debate. Ukraine and the United States denounced these allegations as completely ill-founded and received support from the World Health Organization (WHO) and the UN high commissioner for disarmament as both stated that they are unaware of any biological weapon programmes in Ukraine. While WHO did warn about dangerous pathogens in Ukrainian labs, these do not serve a military purpose. On the other hand, the western allies fear that Russia might exploit the debate in the Security Council to justify its own use of chemical weapons.<sup>41</sup>

On Thursday, April 7<sup>th</sup>, the General Assembly suspended Russia from the UN Human Rights Council. The Ukrainian UN ambassador Kyslytsya stated that these human rights violations should be considered war crimes and crimes against humanity, and harshly opposed Russia deputy ambassador Kuzmin who claimed these events were fabricated by the US. 93 members of the General Assembly voted in favour of suspension while 24 were against it, including China, choosing a different path than in the Security Council where it decided to abstain from the condemnation of the Russian invasion. Among the 58 nations that

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<sup>40</sup> Tony Wesolowsky, “Where Are The Blue Helmets? Why The UN Can't Keep The Peace In Ukraine.” *RadioFreeEurope/RadioLiberty*. March 17, 2022. Available at: <https://www.rferl.org/a/russia-invades-ukraine-un-peacekeeping/31758188.html> (Accessed August 12, 2022).

<sup>41</sup> Ed Pilkington, Glora Oladipo, “What are Russia’s biological weapons claims and what’s actually happening?” *The Guardian*. March 22, 2022. Available at: <https://www.theguardian.com/world/2022/mar/11/russia-biological-weapon-claim-us-un-ukraine-bio-labs-explainer> (Accessed August 12, 2022).

abstained were the remaining nations of the BRICS intergovernmental organization,<sup>42</sup> namely Brazil, South Africa and India (which urged for a diplomatic resolution of the conflict).<sup>43</sup>

About a month later, on May 12<sup>th</sup>, the Human Rights Council began its thirty-fourth special session on the deteriorating human rights situation in Ukraine due to Russian Aggression. The United Nations High Commissioner for Human Rights said that the vast majority of civilian casualties was caused by the use of explosive weapons and with wide area effects in populated areas. Although such incidents could be attributed to both parties, most of the casualties appeared to have been caused by the Russian side.<sup>44</sup>

The Security Council cannot alleviate the crisis in Ukraine on its own due to Russia's veto power, the UN still plays an important role in the conflict due to the contribution of its institutions.<sup>45</sup> Doubts are nevertheless arising around the current configuration of the UN's ability to address major conflicts as the permanent members of the Security Council have often used their veto power to obstruct action that could halt mass atrocities. In a speech to the Security Council, Ukrainian president Zelenskyy urged for a change to the right to veto.<sup>46</sup> The invasion united the General Assembly in the adoption of a resolution that requires the permanent members to justify their use of veto. This resolution is, however, non-binding and in no way prevents the permanent members from casting vetoes – its effectiveness therefore remains uncertain.

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<sup>42</sup> James Chen, »Brazil, Russia, India, China and South Africa (BRICS). « *Investopedia*. July 7, 2022. Available at: <https://www.investopedia.com/terms/b/brics.asp> (Accessed August 15th, 2022).

<sup>43</sup> David Smith. Russia suspended from human rights council after UN general assembly vote. *The Guardian*. April 7, 2022. Available at: <https://www.theguardian.com/world/2022/apr/07/russia-suspended-un-human-rights-council-ukraine> (Accessed August 12 2022).

<sup>44</sup> "High Commissioner to Special Session of the Human Rights Council on Ukraine: Many of the Allegations of Violations of International Human Rights and Humanitarian Law in Ukraine May Amount to War Crimes." *United Nations Office of the High Commissioner for Human Rights*. May 12, 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/05/high-commissioner-special-session-human-rights-council-ukraine-many> (Accessed August 12, 2022).

<sup>45</sup> "UN Security Council is powerless to help Ukraine – but it's working as designed to prevent World War III." *The Conversation*. April 8, 2022. Available at: <https://theconversation.com/un-security-council-is-powerless-to-help-ukraine-but-its-working-as-designed-to-prevent-world-war-iii-180936> (Accessed August 12, 2022).

<sup>46</sup> Ambassador William B. Taylor, "The Ukraine War Escalates Demands to Reform the United Nations." *United States Institute of Peace*. April 29, 2022. Available at: <https://www.usip.org/publications/2022/04/ukraine-war-escalates-demands-reform-united-nations> (Accessed August 12, 2022).

## VI. ISSUES TO ADDRESS

Firstly, it is necessary to consider ***how the Security Council may resolve the crisis in Ukraine and whether the body is still suited for addressing a conflict in which one of its permanent members is involved.*** As suggested by the Ukrainian Foreign Minister Kuleba, UN could reconsider Russia's status as a permanent member of the Security Council, but would therefore require a recommendation to do so from the Council itself<sup>47</sup>. Are there other ways for the Council to sanction its aggressive permanent members?

Secondly, a consideration should be given to the opposing views of world powers: several major players rejected to condemn Russia's invasion of Ukraine – while the west discarded Russia as an imperialist rogue state, other parts of the world see it as a valuable trading partner or even a potential military ally. ***How should the Security Council act in order to guarantee the human rights and security of the Ukrainian people and at the same time evade Russian veto power?*** Should the Security Council act in a conciliatory manner, acting pragmatically and advocating for a quicker resolution of the conflict or should it take a principled stance and condemn the potential violations of the Charter?

Thirdly, ***how should the Security Council react to Russia's alleged violation of the Charter? Could Russian authorities, despite the backlash of the global public, claim that the invasion was not a manifest violation of the charter?*** Moreover, while the concept of 'indivisible security' does not justify any unilateral aggression against other member states, it nevertheless opens up a question to debate – is it possible to claim that the 'open-doors' policy of NATO was reckless or even provocative and what would be a possible Security Council reaction to it?

Lastly, the invasion of Ukraine created a grave human rights issue. Russia was excluded from the Human Rights Council, as mentioned above, which sent a humanitarian message and expressed the UN stance on harm sustained by civilians due to Russia's actions. ***How should the Security Council act to address the concrete humanitarian issues in Ukraine?***

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<sup>47</sup> UN Charter, Art. 108; Tony Wesolowsky, "Where Are the Blue Helmets? Why The UN Can't Keep the Peace In Ukraine."

## I. FURTHER READING

- Jeffrey Mankoff, Center for Strategic & International Studies. 2022. Russia's War in Ukraine: Identity, History, and Conflict. Available at: [https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/220422\\_Mankoff\\_RussiaWar\\_Ukraine.pdf?tGhbfT.eyo9DdEsYZPaTWbTZUtGz9o2](https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/220422_Mankoff_RussiaWar_Ukraine.pdf?tGhbfT.eyo9DdEsYZPaTWbTZUtGz9o2) [Accessed August 12, 2022].
- United Nations Secretary-General. 2022. Secretary-General's remarks to the Security Council - on Ukraine [as delivered]. Available at: <https://www.un.org/sg/en/content/sg/statement/2022-05-05/secretary-generals-remarks-the-security-council-ukraine-delivered> [Accessed August 16, 2022].
- United Nations Office of the High Commissioner for Human Rights. 2022. Situation of Human Rights in Ukraine in the Context of the Armed Attack by the Russian Federation, 24 February – 15 May 2022. Available at: <https://reliefweb.int/report/ukraine/situation-human-rights-ukraine-context-armed-attack-russian-federation-24-february-15-may-2022-enuk> [Accessed August 16, 2022].
- In addition, the delegates should familiarise themselves with the Charter of the United Nations, especially with chapters V, VI, VII and the articles mentioned in the text above.



## TOPIC TWO

### **REFORM OF THE UN SECURITY COUNCIL?**

*By Metka Vodušek*

## I. INTRODUCTION

United Nations Security Council (UNSC) was formed in 1946 alongside other bodies under United Nations following the end of World War II, with the intention of maintaining international peace and security. The Security Council is the only UN body that has the power to issue Resolutions which are legally binding for the Member States (MS). Its primary goals are maintaining international peace and security. It does so by taking the lead in determining the existence of a threat to the peace or an act of aggression, calling upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, it can resort to imposing sanctions or even authorizing the use of force to maintain or restore international peace and security.<sup>48</sup>

Since the creation of the Council, five countries have permanent seats: The United States of America, The United Kingdom, France, China and Russia. They were given such positions as the “winners” of the World War II. The other ten members are elected every two years on regional basis. Current non-permanent members are: Albania, Brazil, Gabon, Ghana, India, Ireland, Kenya, Mexico, Norway, United Arab Emirates.<sup>49</sup>

The most important competence that the permanent members have is the so-called veto power. Veto power can be applied to any substantive vote while it cannot be applied to procedural votes.<sup>50</sup> While being the most important privilege of permanent members it is also the most controversial one. While the supporters claim it is vital for international stability, a check against military intervention and a safeguard against US domination, the critics are saying it is the most undemocratic feature of the UN as well as the main cause of inaction on war crimes and crimes against humanity.<sup>51</sup>

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<sup>48</sup> See Chapter V of UN Charter.

<sup>49</sup> “UN elects five new members to serve on the Security Council”, Jun. 11 2021, <https://news.un.org/en/story/2021/06/1093882> (accessed July 26, 2022).

<sup>50</sup> See Article 27 of UN Charter

<sup>51</sup> Sara Davies, Alex Bellamy, « Don’t be too quick to condemn the UN Security Council power of veto », *The Conversation*, Aug. 14 2014, <https://theconversation.com/dont-be-too-quick-to-condemn-the-un-security-council-power-of-veto-29980> (accessed July 26, 2022)

Ideas of reforming the UN Security Council have been present for quite some time now, however, there does not seem to be one clear way to go about it. There are a lot of different ideas on how reformed Council shall look like and who shall be given more power. The biggest criticism nearly all agree on, however, is that the current composition of quite possibly the most important organ in the world does not accurately represent the current balance of power.<sup>52</sup>

Recent developments regarding Russia's invasion of Ukraine opened the question about the effectiveness of the body as well as its legitimacy. In the aftermath of initial shock, landmark resolution was adopted, holding permanent members accountable for the use of their veto.<sup>53</sup>

## **II. REASONS FOR REFORM**

The biggest reason the reform is being proposed is the fact that the Security Council remained virtually unchanged since its beginning. The only reform happened in 1965 (see below). Since then, a lot has changed in terms of the world order and 142 new countries joined the United Nations, making the imbalance between the number of seats in the Security Council and in the General Assembly more and more noticeable.<sup>54</sup> The strongest critique is rising from the fact Africa, Asia, Latin America and the Caribbean do not have accurate representation. Africa, Latin America and Caribbean have no permanent seats.<sup>55</sup>

According to the article 23 of The UN Charter, when assigning permanent seats, the contribution of Members to the maintenance of international peace and security shall be taken into consideration.<sup>56</sup> As shown above, today's world is much different from the one in 1945 and in order for the Council to be in line with the Article today, reform is probably

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<sup>52</sup> Nancy Soderberg, "Time to Bring the United Nations Security Council into the 21<sup>st</sup> Century", *Georgetown Journal of International Affairs* Vol. 16, No. 2, (2015): 39-46.

<sup>53</sup> See the UN General Assembly Resolution A/77/L.52.

<sup>54</sup> Yehuda Z. Blum, "Proposals for UN Security Council Reform", *The American Journal of International Law*, Vol. 99, no. 3 (2005): 632-649.

<sup>55</sup> Blum, "Proposals for UN Security Council Reform", 632-649.

<sup>56</sup> See the 1<sup>st</sup> paragraph of the UN Charter.

necessary. As highlighted by 75<sup>th</sup> President of UN General Assembly, Volkan Bozkir, it is crucial for the Security Council to “*reflect the realities of the 21<sup>st</sup> century*”.<sup>57</sup> Firstly, the UN membership grew tremendously, especially from 1990 onwards with new countries joining after the breakup of former Yugoslavia and the Soviet Union. Secondly, it is important to note the qualitative changes. Japan and Germany, for example, have been contributing a notable part to the UN budget and are also no longer seen as a threat to international peace as was the case after the second world war. Similarly, India and Brazil have been not only big contributors but now also have quite large populations. On the other hand, France and the United Kingdom are no longer seen as superpowers like they were in 1945.<sup>58</sup> Nevertheless, a clear explanation of how the powers have actually changed and who is therefore deserved of a seat, seems to elude the authors.

Apart from the fact that it does not accurately represent the current power balance in the world, the second biggest reason for the reform is the question of the veto power. As mentioned above, critics see this privilege of permanent members as the reason UN as a whole is often ineffective when tackling crises, especially the use of armed force in conflicts. The most noticeable examples are the US constantly vetoing resolutions regarding Israel<sup>59</sup> and Russia vetoing the resolution regarding the annexation of Crimea.<sup>60</sup> The permanent members oftentimes use their power to protect their allies. Not only the actual usage of veto power, the sole threat of using it, the so called “pocket” veto had also prevented many interventions, for example in the case of the Rwandan genocide, the Kosovo ethnic cleansing and the Darfur genocide.<sup>61</sup>

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<sup>57</sup> “Security Council reforms must reflect 21<sup>st</sup> century realities, says UN Assembly President”, *UN News*, Jan 26 2021, <https://news.un.org/en/story/2021/01/1082962> (accessed August 1, 2022).

<sup>58</sup> Blum, “Proposals for UN Security Council Reform”, 632-649. [https://www.jstor.org/stable/1602295?seq=10#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/1602295?seq=10#metadata_info_tab_contents) (accessed August 1, 2022).

<sup>59</sup> “United States vetoes Security Council resolution on Israeli settlements”, *UN News*, Feb 18 2011, <https://news.un.org/en/story/2011/02/367082-united-states-vetoes-security-council-resolution-israeli-settlements> (accessed August 1, 2022)

<sup>60</sup> “UN Security Council action on Crimea referendum blocked”, *UN News*, Mar 15 2014, <https://news.un.org/en/story/2014/03/464002-un-security-council-action-crimea-referendum-blocked> (accessed August 1, 2022).

<sup>61</sup> Emma McClean, “Hard Evidence: who uses veto in the UN Security Council most often – and for what?”, *The Conversation*, Jul 31, 2014, <https://theconversation.com/hard-evidence-who-uses-veto-in-the-un-security-council-most-often-and-for-what-29907>, (accessed August 1, 2022).



On the other hand, supporters of the institute are claiming it is vital for maintaining peace and security since the two are only possible when all the greatest powers are in the agreement. At the San Francisco conference in 1945 veto power was defended with the following arguments: it is a reflection of political reality, the UN would break down if it attempted to carry out enforcement actions against a permanent member, that it is preventing decisions that could harm the relations between permanent members.<sup>62</sup>

### **III. PREVIOUS DEVELOPMENTS**

#### 1965 Reform

The only reform that happened up to date was the reform in 1965. The number of non-permanent members increased from six to ten. The reform happened after a huge increase in UN membership and the process of decolonisation. Even that reform did not happen smoothly, as one permanent member voted against it while two sustained.<sup>63</sup>

#### 48/26 1993 Resolution

The UN Resolution created the Open-Ended Working Group (OEWG) on Security Council reform, emphasizing the need to review membership of the SC.<sup>64</sup> The group was established to consider all aspects of the question of increased membership of the Council as well as other, Council-related questions.

The final report was issued in 2009 at the 63rd session. Even though the deliberations were rather long, no firm conclusions were made. Nevertheless, the general principles for further negotiations were established, for example: respecting the sovereign equality, ensuring equitable geographical representation, taking into account historical underrepresentation of some regions etc.<sup>65</sup>

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<sup>62</sup> Peter Nadin, "United Nations Security Council Reform", *Our World*, May 1, 2014, <https://ourworld.unu.edu/en/united-nations-security-council-reform>, (accessed August 1, 2022).

<sup>63</sup> See the UN General Assembly Resolution A 1991.

<sup>64</sup> See the UN General Assembly Resolution 48/26 1993.

<sup>65</sup> See the Report of the OEWG A/63/47.

### The 2005 Annan Plan

In 2005 Kofi Annan, who at the time served as UN Secretary-General, presented his plan for the United Nations reform in his report called “In Larger Freedom: towards development, security and human rights for all.” Part of the report also included ideas to reform the Security Council. He proposed two different plans, Plan A and Plan B.

Plan A called for six new permanent members and three new non-permanent members, for a total of twenty-four seats.

Plan B called for the creation of eight new seats but introducing new kind of membership, the so called “semi-permanent” membership. Each mandate would last four years and be subjected to renewal.<sup>66</sup>

### Intergovernmental negotiations

In 2007, the idea of intergovernmental negotiations was successfully introduced. The Decision 62/557 opened intergovernmental negotiations and laid out five key issues: categories of membership, question of veto, regional representation, size of an enlarged Council and working methods, relationship between the Council and the General Assembly.<sup>67</sup>

In 2012, Draft Resolution A/66/L.42 was proposed in which sponsors are standing for, amongst others, enlargement of accountability, improving transparency, refraining from using veto power when actions are aimed at preventing or ending genocide, war crimes or crimes against humanity.<sup>68</sup>

Numerous meetings were held after that, however a concrete solution is still nowhere to be seen. For the reform to be passed, at least 2/3 of the members of the General Assembly must vote in favour of the reform as well as it needs to be ratified by at least 2/3 of the members of the Security Council, including all five permanent members.<sup>69</sup>

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<sup>66</sup> Kofi Annan, “In Larger Freedom: Decision time at the UN”, *UN News*, Apr 25 2005, ["In Larger Freedom": Decision Time at the UN | United Nations Secretary-General](#) (accessed July 25, 2022).

<sup>67</sup> See the UN General Assembly Decision 62/557.

<sup>68</sup> See Draft Resolution A/66/L.42.

<sup>69</sup> See Article 106 of UN Charter.

#### IV. WHO WANTS THE REFORM AND WHAT ARE THEY DEMANDING?

Over the years, different groups have formed demanding the changes in the Security Council. The most prevalent being: G4, the African Union, CARICOM, L69, the Arab League and UFC.

##### Group of Four (G4)

The Group consists of Brazil, Germany, India and Japan and was established in 2004. The group is in favour of adding 6 permanent seats, two to Africa, two to Asia-Pacific, one to Latin America and Caribbean and one to Western Europe. They wish to add four or five non-permanent seats, one or two to Africa, one to Asia-Pacific, one to Eastern Europe and one to the Caribbean. They do not wish to make any changes to the exercising of the veto power in the near future.

They wish to reform the Council so it could be more legitimate, effective and representative by reflecting the reality of contemporary world as stated in their joint press statement. They support each other's candidatures for a new permanent seat.<sup>70</sup>

##### The African Union (AU)

The African Union is regional organization and it consist out of 54 African countries. They also wish to add six permanent seats, same as G4. They also share the idea about non-permanent seats: they wish to add 5 seats, two to Africa, one to Asia-Pacific, one to Eastern Europe and one to Latin America and the Caribbean. When it comes to veto power, AU is in favour of abolishing it. If not, it shall be extended to all the permanent members, including the new ones.

African countries wish to have stringer representation in the Council and they see current allocation as unfair. With the reform, aggression against Africa would be prevented, they stated. Countries united in AU have reached an agreement in 2005 known as “Ezulwini

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<sup>70</sup> Stefan Talmon, “UN Security Council reform: a story of growing German frustration”, *German Practice in International Law*, Sept. 30 2021.

*Consensus*,” where they also agreed the African Union would decide which countries would get the seats.<sup>71</sup>

#### The Caribbean Community (CARICOM)

CARICOM consists of 14 countries in the Caribbean area. Demands regarding the permanent seats are the same as with the previous two groups. When it comes to non-permanent members, they wish to add 6 seats: two to Africa, one to Asia-Pacific, one to Eastern Europe, one to Latin America and the Caribbean and one to Small Island Developing States. The group is, like the African Union, in favour of abolishing the veto power and furthermore trying to limit its use.<sup>72</sup>

#### L.69 (Group of Developing Countries)

L.69 is a group of developing countries from Africa, Latin America, the Caribbean, Asia and the Pacific. They wish to add 6 permanent seats to the Security Council in the same manner as previously mentioned groups. Same as CARICOM, they wish to add six non-permanent seats as well with the same arrangement as described above. The group is also in favour of abolishing the veto power and bring the usage of it to the minimum.<sup>73</sup>

#### Uniting for Consensus

The group consists primarily of regional rivals of G4 members such as Italy, the Republic of Korea, Mexico, ... They wish to keep status quo regarding permanent seats and rather add 11 non-permanent members to the Council. They also wish to create a new category of semi-permanent seats with longer terms (closest to Annan’s Plan B). In regards to the veto power they are open to considerations on how to best limit its use.<sup>74</sup>

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<sup>71</sup> Rodney Muhumuza, “Africa renews to push for favourable UN Security Council reforms”, *AP News*, Jan. 20 2022, [Africa renews push for favorable UN Security Council reforms | AP News](#) (accessed August 1, 2022).

<sup>72</sup> Bibi van Ginkel, Rosa Dinnissen, “Setting a Progressive United Nations Peace and Security Agenda: Searching for New Narratives”, *Clingendael Institute* (2014): 9-13.

<sup>73</sup> George Chimdi Mbara, Nirmala Gopal, Stanley Ehiane, Hosea Olayiwola Patrick, “Re-evaluating the African Union’s Ezulwini Consensus in the Reform of the UN Security Council”, *Journal of African Studies*, Vol. 10, no. 1 (2021): 53-70.

<sup>74</sup> van Ginkel, Dinnissen, “Setting a Progressive United Nations Peace and Security Agenda: Searching for New Narratives”, 9-13.

## V. P5 MEMEBERS' THOUGHTS

### China

China had benefited greatly due to their permanent position in the Security Council to further its own interest or to veto unfavourable decisions, for example resolutions regarding Taiwan, Xinjiang and Hong Kong. It is for that reason China is does not look most favourably to the reform, consequently delaying intergovernmental negotiations processes. One of the main arguments coming from the Chinese side is that countries have not yet agreed on how big the expansion should be and whether new members should be given veto power.<sup>75</sup>

### Russia

Russia is generally speaking in favour of the reform. They see the need to reform the Council deriving especially from the fact that the United Nations as such expanded enormously since its beginnings. Russian authorities also believe that developing countries are in the right in regard to demanding more representation. Russia also supports India in their candidacy. However, giving away veto power is not an option for Russia.<sup>76</sup>

### The United Kingdom and France

Old European powers hold similar views regarding the reform. In 2008 the countries issued a joint Declaration in which they expressed their support for the candidacy of Germany, Brazil, India and Japan as well as permanent representation for Africa in the Council.<sup>77</sup> France is also in favour of limiting the veto power in cases of mass atrocities. In September 2015, France issued an Initiative in regard to limiting veto power. It has since gained the support of 105 additional countries.<sup>78</sup>

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<sup>75</sup> Manik Mehta, "Calls for UNSC reform and China's position", *Daily Sabah*, Dec 9 2020, [Calls for UNSC reform and China's position | Opinion \(dailysabah.com\)](https://dailysabah.com/Opinion/2020/12/09/calls-for-UNSC-reform-and-china-s-position) (accessed August 2, 2022).

<sup>76</sup> Elena Teslova, "Russia endorses idea of reforming UN Security Council", *Anadolu Agency*, Oct 19 2021, [Russia endorses idea of reforming UN Security Council \(aa.com.tr\)](https://www.aa.com.tr/en/russia/2021/10/19/russia-endorses-idea-of-reforming-un-security-council) (accessed August 2, 2022).

<sup>77</sup> See Joint UK-France Summit Declaration from 27 March 2008.

<sup>78</sup> See Political statement on the Suspension of the Veto in Case of Mass Atrocities.

## The United States of America

The US supports, in some capacity, the reform of the Security Council. Over the years and different administrations, Japan, India and Germany got the US' support for the permanent seat. However, the US is not most keen on a reform since the *status quo* is rather comfortable for them. The analytics believe the solution US should support is the one where semi-permanent seats are added to the table, since it would leave the veto power untouched.<sup>79</sup>

## **VI. ISSUES TO ADDRESS**

- What is your country's stance on the UN Security Council reform especially regarding following questions:
  - The categories of membership,
  - The question of the veto,
  - The regional representation,
  - The size of an enlarged Council and working methods,
  - The relationship between the Council and the General Assembly.
- Should one country take the initiative in intergovernmental negotiations and if yes, which one?
- How (and if) will the Ukrainian crisis affect a long-anticipated reform?

## **VII. FURTHER READING**

### Relevant statements, resolutions and reports

- Draft Resolution A/66/L.42 on Enhancing the accountability, transparency and effectiveness of the Security Council. Available at:  
<https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a%2066%20L42%20rev2.pdf>.

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<sup>79</sup> David Bosco, »The US Doesn't Want to Reform the UN Security Council«, *Foreign Policy*, Sep 29 2015, [The United States Doesn't Want to Reform the U.N. Security Council – Foreign Policy](#) (accessed August 3, 2022).

- Joint UK-France Summit Declaration from 27 March 2008. Available at:  
<https://web.archive.org/web/20080909001137/http://www.number10.gov.uk/Page15144>.
- Political statement on the suspension of the veto in case of mass atrocities.  
Available at: <file:///C:/Users/Metka/Downloads/2015-Political-Declaration-on-the-Suspension-of-the-Veto-En.pdf>.
- Report of the OEWG A/63/47 on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Security Council. Available at: [file:///C:/Users/Metka/Downloads/A\\_63\\_47-EN.pdf](file:///C:/Users/Metka/Downloads/A_63_47-EN.pdf).
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