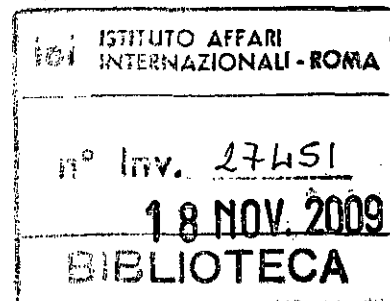


THE EU AND THE REFORM OF THE UN SECURITY COUNCIL
First Meeting of the Working Group I,
project 'The EU and the reform of the UN'
Istituto affari internazionali (IAI)
Rome, 12-13/XI/2009

- a. Agenda
- b. List of participants
- 1. Effectiveness and ineffectiveness of the UN Security Council in the last twenty years: a European perspective / David Hannay of Chiswick (16 p.)
- 2. Effectiveness and ineffectiveness of the UN Security Council in the last twenty years: a US perspective / John Van Oudenaren (17 p.)





Istituto Affari Internazionali

WORKING GROUP I

The EU and the reform of the UN Security Council

**In the framework of the project on
The EU and the Reform of the United Nations**

With the support of



Rome, 12-13 November 2009

**IAI Library
Via Angelo Brunetti, 9**

Agenda

Thursday 12 November

14.00 - 14.30 Welcome coffee

14.30 - 15.00 PRESENTATION OF THE PROJECT

Natalino Ronzitti, Professor of International Law, LUISS University, and Scientific Advisor, IAI, Rome

Inna Melnykovska, Department Political Science, Institute of Social Sciences, University of Kiel

15.00 - 18.00 *Session I Effectiveness and ineffectiveness of the UN Security Council in the last 20 years: theoretical approach and case studies*

CHAIR:

Ettore Greco, Director, IAI, Rome

SPEAKERS:

David Hannay, Former British Ambassador to the UN and EU Chair, UNA-UK Board of Directors, London

John Van Oudenaren, Senior Advisor for the World Digital Library (WDL) initiative, The Library of Congress, Washington

DISCUSSION

20.00 Dinner

Friday 13 November

9.30 - 11.00

CHAIR:

Natalino Ronzitti, Professor of International Law, LUISS University, and Scientific Advisor, IAI, Rome

INTRODUCTORY SPEECH:

Thilo Marauhn, Professor of Public Law, International Law and European Law, Justus-Liebig-University, Giessen

DISCUSSION

11.00 - 11.15

Coffee Break

11.15 - 12.30

OUTCOMES AND FUTURE PLANS

12.30 - 13.30

Buffet lunch

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List of Participants

Leonardo Bencini	DG for Multilateral Political Cooperation and Human Rights Italian Ministry of Foreign Affairs, Rome
Gianni Bonvicini	Executive Vice President, Istituto Affari Internazionali (IAI), Rome
Silvia Colombo	Junior Researcher, Istituto Affari Internazionali (IAI), Rome
Benedetto Conforti	Professor Emeritus, University of Naples
Giovanni De Vito	DG for Multilateral Political Cooperation and Human Rights Italian Ministry of Foreign Affairs, Rome
Francesco Francioni	Professor of International Law and Human Rights, European University Institute, Florence
Ettore Greco	Director, Istituto Affari Internazionali (IAI), Rome
David Hannay	Former British Ambassador to the UN and EU, and Chair, UNA-UK Board of Directors, London
Francois Lafond	Director, Paris Office, The German Marshall Fund of the United States
Thilo Marauhn	Professor of Public Law, International Law and European Law, Justus-Liebig-University, Giessen
Elisabetta Martini	Intern, Istituto Affari Internazionali (IAI), Rome
Raffaello Matarazzo	Research Fellow, Istituto Affari Internazionali (IAI), Rome
Inna Melnykovska	Department Political Science, Institute of Social Sciences, University of Kiel
Valerie Miranda	Junior Researcher, Istituto Affari Internazionali (IAI), Rome
Luis Peral	Research Fellow, EU Institute for Security Studies (EU ISS), Paris
Nicoletta Pirozzi	Research Fellow, Istituto Affari Internazionali (IAI), Rome
Alessandro Polsi	Professor of History of Political Institutions, University of Pisa
Natalino Ronzitti	Professor of International Law, LUISS University, and Scientific Advisor, Istituto Affari Internazionali (IAI), Rome

Ferdinando Salleo

Ambassador

John Van Oudenaren

**Senior Advisor for the World Digital Library (WDL) initiative,
The Library of Congress, Washington**

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BACKGROUND PAPER

**EFFECTIVENESS AND INEFFECTIVENESS OF THE UN SECURITY COUNCIL IN THE
LAST TWENTY YEARS: CONCEPTUAL APPROACH AND CASE STUDIES**

by

Lord David Hannay of Chiswick

Former British Ambassador to the UN and
EU Chair, UNA-UK Board of Directors, London

DRAFT NOT TO BE QUOTED

Effectiveness and Ineffectiveness of the UN Security Council in the last 20 years (1989-2009): Conceptual approach and case studies.¹

The author of this paper served in the British Diplomatic Service from 1959 to 1995, completing his career as Ambassador to the EU (1985-1990) and then to the UN (1990-1995). After retirement he was appointed British Special Representative for Cyprus (1996-2003) and a member of the UN Secretary-General's High Level Panel on Threats, Challenges and Change (2003-4). He has been Chair of the UN Association of the UK since 2006, and since 2001 has been an Independent member of the upper house of the British Parliament.

The end of the Cold War and its impact on the UN

The fall of the Berlin Wall and the end of the Cold War struck the UN, as it struck the governments of its member states, like a bolt from the blue. It had not been predicted, nor anticipated; and no thought had been given to its possible consequences for the UN, which had been, since its establishment forty-five years before, a victim of the frozen certainties of bi-polar international diplomacy. There had been no consideration of what the post-Cold War world would look like and of what role the UN might be expected to play in it. It truly was a watershed moment, and therefore a sensible one to take as the start of any analysis of the Security Council in the twenty year period that has since followed.

In truth everything did change at the UN and no-one discovered that more rapidly than President Saddam Hussein of Iraq when he invaded Kuwait in August 1990 and found himself confronted by a Security Council whose five Permanent Members were united in their determination to reverse his act of aggression, if necessary by the use of force. But that willingness to stand up to what had, after all, been one of the hallmarks of the twentieth century, inter-state acts of aggression, was by no means the only change to take place. Many of the old Cold War taboos disappeared almost overnight; no-go areas, as for so long had been the case in Cambodia, became the forum for substantial UN peacekeeping activity; proxy wars, in which the allies or clients of the two super-powers had been engaged with no risk at all of effective UN action being taken – as had been the case in El Salvador, in Angola and in Mozambique – were wound down under the UN's aegis. This transformation at the UN was greatly encouraged and accelerated by two concurrent developments over which the UN Security Council had little influence – the end of the apartheid regime in South Africa and the Oslo agreements between the Israeli government and the Palestine Liberation

¹ Much of the material in this paper is drawn from the author's book "*New World Disorder: the UN after the Cold War*": I B Tauris: June 2008

Organisation – but from which it benefited massively. No single, simple metric conveys better the contrast between the Cold War and the post-Cold War Security Council than the fact that, during the first forty-five years of its existence the Security Council adopted 660 resolutions, while, by the end of the next twenty years, its score was rapidly approaching the 2000 mark.

The first decade (1989-1999)

The early years of that first post-Cold War decade were ones of remarkable achievement for the Security Council. Not only was Iraq's act of aggression against Kuwait rapidly and, by twentieth century measurements, relatively cheaply in terms of loss of life and material damage, reversed, but the whole post-war settlement – the demarcation of the Iraq-Kuwait border which had been the original casus belli, the assessment of and compensation for the material damage caused by Iraq, the eradication of Iraq's massive programme to produce the full range of Weapons of Mass Destruction (nuclear, chemical and biological) – was handed over to the UN, acting under the authority and supervision of the Security Council. As we now know, that task, despite Saddam Hussein's cat-and-mouse tactics with the weapons inspectors, was successfully, although painfully slowly, accomplished.

At the same time a massive expansion of the UN's peacekeeping activities was under way, as was a shift away from the earlier "classical" peacekeeping operations involving monitoring of a ceasefire line following the cessation of hostilities between two state parties in dispute, to much more complex, multi-faceted operations with many of the activities which have since come to be known as peace-building. This shift, which began with Namibia and which was followed by the successful operations in Cambodia, El Salvador and Mozambique and by failure in Angola, involved the UN in elaborate state-building activities, arranging and monitoring democratic elections, where none had ever taken place before, establishing police forces and the rule of law, protecting human rights.² In parallel the Security Council took a number of steps towards what would later be called the Responsibility to Protect, when the international community moved in, if necessary without the consent of the host country, to remedy a situation where the government was either unable or unwilling to protect its own citizens. Examples of this were action in post-war Iraq to protect the Kurds (successfully) and the Shi'a (unsuccessfully) against the wrath of Saddam Hussein, the first (highly successful) phase of the operation in Somalia to alleviate famine conditions exacerbated by

² A 2005 Rand Corporation Study compared eight UN and US nation-building operations. It found that the UN operations were more successful, more cost-effective and achieved greater international legitimacy.

local warlords and the absence of any functioning government at all, and the attempt to reverse the overthrow by military force of the elected President of Haiti.³

The apogee of this first post-Cold War period was reached with the holding of an unprecedented Security Council Summit in January 1992, just one month after the installation of a new, more assertive UN Secretary-General, Boutros Boutros-Ghali. The Summit agreed a statement which it is hard to fault conceptually even with the benefit of hindsight. It made the critical link between security issues and wider, hitherto mainly economic, concerns for world poverty, disease and environmental degradation; it identified clearly two looming threats to international peace and security in the form of terrorism and the proliferation of Weapons of Mass Destruction; and it invited the Secretary-General to bring forward his ideas for handling these threats, which he duly did in a perhaps over-ambitious but nevertheless perceptive document entitled "An Agenda for Peace". But, when this document arrived, there was simply no effective follow-up to it. The member states were too busy handing themselves peace dividends from the winding down of the Cold War and too pre-occupied with fire-fighting the many mini-crises which had been dropped into the lap of the UN to give any thought or resources to a systematic overhaul of the UN's machinery for handling threats to peace and security which had been designed for operations in much less demanding circumstances.

Nemesis was not long in coming. Between 1992 and 1995 three major disasters struck UN peacekeeping operations and severely undermined the authority and credibility of the Security Council. The first of these occurred in Somalia where local insurgents inflicted heavy casualties on the peacekeeping forces, leading to the withdrawal of the large US contingent and eventually to the collapse of the whole operation. The second case was in the former Yugoslavia, where, despite very large UN deployments and some tactical successes (the first ever preventive deployment of UN peacekeepers – to Macedonia, the delivery of humanitarian aid to all parts of Bosnia, and the brokering of a ceasefire between the Muslim and Croat warring parties in Bosnia) the UN proved unable to check Serb and above all Bosnian Serb acts of aggression, and serious tensions arose over the coordination of UN troops on the ground and NATO air support, culminating in the massacre of thousands of civilian refugees by the Bosnian Serbs at Srebrenica, right under the noses of a battalion of UN peacekeepers. And then thirdly, and perhaps most shamefully of all, the small, under-resourced UN peacekeeping force in Rwanda became a helpless spectator to acts of genocide of massive proportions, the force itself disintegrating, as two out of the three main troop contributors withdrew, and no member state volunteered to replace them.

³ Some key UN Security Council Resolutions setting out these major shifts in policy were: Iraq (Security Council Resolutions 678, 687 and 688), Somalia (Security Council Resolution 794), Haiti (Security Council Resolutions 841, 862 and 867).

So the first post-Cold War decade at the UN drew to a close in much less favourable circumstances than it had opened. Heady talk of a new world order, with the UN Security Council at its head, had given way to concerns about new world disorder with the UN once again being marginalised as it had been during the Cold War period (the UN's humiliation in Bosnia where it had been forced to hand over the whole operation to NATO had been particularly painful). This atmosphere of failure was compounded when, in 1997, a major attempt to bring to a decisive conclusion three years of stultifying negotiations over the enlargement of the Security Council to make it more representative and thus more legitimate, reached deadlock. The proximate cause was disagreement among the non-aligned countries on how they should be represented in a new, enlarged Council. But underlying that were fundamental disagreements over the whole concept of enlargement (US, China and Russia) and over the possible emergence of new permanent members in the form of Japan, Germany, Brazil and India. And the veto by the US at the end of 1996 of a second term as Secretary-General for Boutros-Ghali did nothing to improve the atmosphere.

What conclusions should be drawn from that roller-coaster of a decade? Firstly a major opportunity was missed to strengthen the world's primary multilateral institution at a moment when the auguries were as auspicious as they had ever been. In reality political willingness to mandate the UN to do a whole range of things it had never even contemplated doing in the past far outran its capacity to undertake these new tasks and the provision by the member states of resources and of political will when the going got rough. Second, the need for a systematic review of the challenges facing the international community in the new, post-Cold War era and of what was needed if the UN was to be asked to fulfil a larger role was continually ducked and obfuscated. Thirdly, the vagaries of US policy towards the UN in a decade when it genuinely was the only super-power left standing, were extremely debilitating and confusing. The zigzags of US policy from the solid and effective support of George Bush senior's administration through the erratic performance which undermined the rhetorical support of the first Clinton administration to the outright hostility of many in Congress and the administration after the failures in Somalia, Bosnia and Rwanda (even when they bore considerable responsibility for those fiascos themselves) were a recipe for divided counsels and inadequate performance. And fourthly it was very clear that the UN was not capable of undertaking full-scale military enforcement operations of the sort which had been required to eject Saddam Hussein from Kuwait or to subdue the Bosnian Serbs.

The Second Decade (1999-2009)

The second post-Cold War decade at the UN took place in an international climate much less propitious to concerted and effective action than the first. The two term presidency of George W. Bush put a heavy emphasis on unilateral action and was largely contemptuous of the UN; and, following the 9/11 terrorist attacks in 2001, US policy was tilted disproportionately towards dealing with one particular threat to international peace and security almost to the exclusion of all others. At the same time the steady rise of China, gradually emerging from being just a regional power to becoming a global one, and the re-assertiveness of Russian foreign policy under Vladimir Putin, however tinged with post-imperial nostalgia, meant that the solidarity, or at least the acquiescence, of the five Permanent Members of the Security Council (P5) could no longer simply be taken for granted. The collapse of the Oslo peace accords and the increase in tension in the Middle East, breaking out in South Lebanon in 2006 and in Gaza in 2009 into actual hostilities, which the US did little to mitigate, contributed to a deterioration of the general climate at the UN. Towards the end of the decade a global financial and then economic crisis threatened to draw the attention of the main players away from the security agenda and to reduce the resources without the availability of which the security climate in the broadest sense was likely to deteriorate further.

The breakdown in the solidarity of the P5 was most obviously striking in the contexts of the hostilities in Kosovo in 1999 and in Iraq in 2003. On both occasions military operations were launched without the explicit authorisation of the Security Council. The case of Kosovo was much less damaging, given Russia's substantial isolation in refusing to allow the Security Council to act to enforce its own resolutions when the Serbs consistently flouted them. But over Iraq, following an ill-considered (by all sides) series of public confrontations at Foreign Minister level in the Security Council, and given the disastrous sequence of events which followed the military operations, the damage was much more far-reaching. More insidious was the gradual re-emergence of what could be called a P5 penumbra under which a whole range of sensitive issues were kept away from the Security Council or its activities were rendered nugatory. Least surprising were issues directly affecting one of the Permanent Members themselves; so, when fighting broke out between Russia and Georgia in 2008, there was no question of any effective action being taken in the Security Council and the small UN peacekeeping operation in Abkhazia subsequently fell victim to collateral damage. Similarly the idea of any UN activity over Tibet was ruled out. But the penumbra spread out more widely than that. The US held off allowing any UN pressure for cease-fires in South Lebanon and Gaza even when Israeli attacks were clearly disproportionate. And Russia and China prevented any action in the causes of Burma, Zimbabwe and Sri Lanka; and dragged their feet over Darfur. It would be wrong to suggest that these trends marked a full scale

reversion to Cold War practices at the UN but the warning signals were there and should not be ignored.

The divisions over the handling of the North Korean and Iranian nuclear programmes were less marked but they too contributed to the failure so far by the Security Council to take effective action to reverse two extremely damaging threatened break-outs from one of the key elements of international peace and security, the Nuclear Non-Proliferation Treaty (NPT) regime. From the outset, in 1993, when it first became clear that North Korea was misusing its NPT membership as a cover for a military programme, this case proved difficult to deal with, given the erratic nature of the regime, the vulnerability of South Korea to attack from the North and the vagaries of US policy, swinging between conciliation and denunciation. Iran too proved hard to manage, with many similar drawbacks, including in this case a refusal by the US to talk directly to the regime. Gradually, but painfully, it proved possible to construct viable frameworks for negotiations with both countries, the six-nation group (China, Russia, North Korea, South Korea, Japan and the US) in the case of North Korea and the 3 (France, Germany, UK) + 3 (US, Russia, China) group in the case of Iran; the US agreed to talk directly to both countries; and the Security Council imposed a series economic of sanctions when faced with defiance. The denouement of these two crucial cases lies outside the period covered by this paper, but probably not far outside it. Either of two possibilities, an outbreak of hostilities precipitated by Israel or the US (or both of them), or a definitively successful break-out from the NPT regime by either North Korea or Iran would represent an extremely damaging setback for the Security Council.

Following the peacekeeping debacles of the mid-1990's there was quite a sharp decline in demands for UN peacekeepers. But that trend did not continue; and in the second post-Cold War decade it was reversed, so that, towards the end of the period the numbers authorised for deployment by the Security Council were well over 100,000 and the number of operations being handled by the Secretariat under the supervision of the Security Council was again in the high 'teens. Most of those new operations were in Africa and, with the sole exception of the mission deployed along the border between Ethiopia and Eritrea following the ending of the hostilities between those two countries, they were all of the multi-faceted, intra-state variety designed to remedy the consequences of failed or failing states. There were some notable successes, in Liberia (although only after the failure of earlier West African operations (ECOWAS), in Sierra Leone (although only as a result of a unilateral British military operation to stabilise a UN peacekeeping mission close to collapse), in Burundi (where the UN worked closely with an African Union (AU) operation) and in the Southern Sudan. In Haiti the lesson of earlier failures, which followed the premature withdrawal of UN missions, seemed to have been learned, and a much larger and longer-sustained

mission was undertaken with more ambitious state-building targets. But in the Democratic Republic of Congo (DRC) and in Darfur, the two largest missions in Africa, the UN struggled to keep its head above water, in the latter case due largely to the obstinacy and lack of cooperation of the Sudanese government and the unwillingness of the Security Council to take a tough line with them.

During this period there was also a clear trend towards hybrid missions in which the UN worked alongside another organisation, either because the latter was more politically acceptable to the host country or because the task was beyond the capacity of the UN. Thus, in Kosovo, the UN worked alongside NATO and the EU; in Chad the EU was deployed to help stabilise the situation in neighbouring Darfur; in Darfur itself and in Burundi the AU was in the lead; and in the DRC an EU intervention helped at a critical stage. These hybrid missions presented the UN with plenty of unprecedented challenges, not all of which were met as rapidly and as smoothly as might have been desirable. But the overall picture of UN peacekeeping during this decade, despite some failures, and some major blots as a result of human rights abuses by peacekeepers, was one of considerable achievement under great stress.

The second decade was noteworthy too for major reform efforts being made to remedy the UN's, and above all its Security Council's, main weaknesses. The first of such reform effort, the Brahimi report of 2000, was directed at peacekeeping. Many of its recommendations were implemented and did a good deal to strengthen that over-worked part of the organisation. But the more ambitious proposals such as the encouragement to the Secretary-General simply to refuse to take on operations which he believed were beyond the capacity of the organisation remained merely pious aspirations. In the last resort the UN belongs to its stakeholders, the member states, not to its Secretariat. A far more ambitious, system-wide reform effort, which led into a three year campaign (2003-6) to bring about changes, was set in hand in September 2003 when Kofi Annan, in the aftermath of the bitter quarrels and tensions over the invasion of Iraq, declared that the organisation was "at a fork in the road" and set up a High Level Panel on Threats, Challenges and Change to make recommendations for reforms right across the board. The High Level Panel was composed of sixteen members (of whom the present author was one), drawn from the four corners of the earth. It was striking and quite surprising, that its report, which was submitted to the Secretary-General in November 2004, was adopted by consensus. Throughout the period of the Panel's work Annan urged its members to be ambitious in their proposals. In only one instance, the enlargement of the Security Council did he intervene and ask for two alternative schemes, not a single one, to be put forward. The report's one hundred and one proposals which he subsequently endorsed and reinforced by his own

document “In Larger Freedom”, was the single most wide-ranging and most far-reaching effort at reforming the UN since its establishment in 1945.

Among the most prominent of the proposals put forward were:

- i) Two alternative schemes for Security Council enlargement to 24, the first for the addition of new permanent members to the Council (but without a veto), the second for the creation of a new category of members elected for longer than the current two year terms and with scope for renewal;
- ii) The establishment by the Security Council of guidelines for future authorisation of the use of force drawn from classical “just war” theory adapted to modern conditions;
- iii) The creation of a new norm of international practice under which, if a government was unable or unwilling to fulfil its primary duty towards its citizens of protecting them from gross breaches of international humanitarian law, that “responsibility to protect” would be transferred to the international community as a whole, acting through the Security Council;
- iv) The promulgation by the Secretary-General of a counter-terrorism strategy which would balance the need for tough and effective action against terrorism with the protection of individual human rights, and a legal definition of terrorism to underpin the existing body of international law on the subject;
- v) The establishment of a new Peace-building Commission designed to provide sustained support for countries emerging from a situation of state failure;
- vi) A ten year programme to strengthen African peacekeeping capacities and a willingness to finance out of UN assessed contributions regional peacekeeping operations, undertaken with the support of the UN Security Council;
- vii) The replacement of the discredited Human Rights Commission by a new Council for Human Rights reporting directly to the General Assembly;

- viii) A wide range of measures to strengthen international action against the proliferation of Weapons of Mass Destruction (WMD), including the provision of internationally guaranteed supplies of enriched uranium and reprocessing services, thus obviating the need for the construction of new uranium enrichment facilities;
- ix) A substantial increase in the resources allocated to achieving the UN's Millennium Development Goals; a timetable for countries to achieve the UN target of 0.7% of GNI devoted to development aid; and an expansion of the G8 to include the largest developing countries;
- x) Abolition of the UN Trusteeship Council and of the Military Staff Committee.

The process of negotiating this substantial reform package was an agonisingly long and reductive one, complicated as it was in its last stages by the arrival in New York of a new US Ambassador, John Bolton, whose agenda certainly did not include making the UN stronger and more effective. The after-shocks from the Iraq war were still making themselves felt. And the oil-for-food scandal which reflected discredit on both the Secretary-General (who was responsible for administering the programme) and the Security Council (which was meant to provide the oversight of it) hung like a dark cloud over the whole proceedings. The outcome, reached at the UN Summit meeting in September 2004, despite the stalwart support for the reforms of the EU, deserved two cheers at best. There was agreement on setting up a Peace-building Commission and to establish a Human Rights Council in place of the Human Rights Commission; perhaps more surprisingly, there was agreement on the Responsibility to Protect; and substantial new resources were pledged for the Millennium Development Goals. But the good news ended there. Enlargement of the Security Council ran aground yet again on the conflicting views of those who sincerely wanted to become permanent members and those who did not want those particular countries to do so, on the reluctance of some Permanent Members to embrace a substantial enlargement at all, and on the unreadiness of the African countries to decide which of their number might become Permanent Members. Nothing could be agreed on guidelines for the Security Council authorising the use of force nor on the definition of terrorism. The whole WMD agenda was ditched, following the fiasco of the May 2005 Nuclear Non-Proliferation Review Conference which failed even to adopt its own agenda. Even those points that were agreed have proved rather disappointingly difficult to operate in their early years of application, with the Peace-building Commission only working in a few, small countries, and with the Human Rights Council and the Responsibility to Protect generating more controversy than effective action. On the positive side it can be said that a number of the reform package recommendations – for example enlargement of the G8 to a G20 (now achieved),

some of the WMD proposals, the second formula for Security Council enlargement; assessed contribution financing for regional peacekeeping operations (endorsed again recently by the Prodi report) – have since shown some signs of gravitating towards the category of ideas whose time is coming.

Looking back at that second post-Cold War decade of Security Council activity many of the lessons to be learned are the same ones as have been identified for the first decade. In particular enabling the Security Council to act to prevent states failing in the first place, and to deal effectively with the consequences when they do fail, remains a largely unanswered challenge but also one replete with dangerous cross-linkages to other problems such as terrorism, WMD proliferation, human rights abuses and extreme poverty. The warning signals of the fraying of P5 cooperation are there for all to see; if they are not heeded, and if the compromises needed to achieve a minimum of P5 solidarity cannot be struck, then the chances of the Security Council becoming more effective are slight indeed. As a new effort now gets under way in the General Assembly to negotiate Security Council enlargement it is hard to avoid the conclusion that the only viable short term basis for agreement lies in the second of the High Level Panel's recommendations, for the creation of a new category of longer mandated and renewable elected members. It is also important that all concerned reflect on the fact that yet another failed attempt to harpoon this Great White Whale of international diplomacy will only undermine the effectiveness and legitimacy of the institution to whose strengthening all are, in principle, committed. On the issue of reform more widely, it was, I believe, justified to make a major effort at system-wide reform in the aftermath of the Iraq war. But such efforts cannot be repeated at short intervals without creating reform fatigue and the risk of diminishing returns. So the future is likely to lie with sectoral reforms brought forward when a particular aspect of the UN's activities offers a reasonable prospect for achieving a broad consensus.

The Role of the EU: from irrelevance to centre stage⁴

When I moved from Brussels to New York in September 1990, at the very beginning of the period we are looking at, the EU and the UN might have been situated on different planets for all they knew about each others' workings. Such cooperation as there was, was suffused with mutual misunderstanding and suspicion. Admittedly it had, over the years, been possible to achieve an increasing degree of EU common voting in the General Assembly. But the Security Council remained strictly off-limits for the Common Foreign and Security Policy, its gates jealously

⁴ A fuller treatment of this subject can be found in the author's contribution to UNA – Spain's Conference in Barcelona on 15 April 2009, the text of which is on UNA-UK's website.

guarded by the Cerberus of the EU's two Permanent Members of the P5, France and the UK. Much of this was due to a combination of Cold War paralysis at the UN and to the pre-occupation of the EU with its own internal development and enlargement. It did not long survive the demise of those two factors.

The handling of the Bosnia crisis and of subsequent Balkan operations, in all of which the EU was deeply involved, necessarily brought the two organisations together into a much closer working relationship. And, although the experience of those Balkan complexities was a pretty painful one for both of them, it brought out more clearly than in the past that the EU and the UN shared many common objectives and approaches to the solution of international problems, that in fact they were natural allies, not, as some had earlier thought, rivals. This feeling of shared objectives was strengthened, as the two decades passed, as a result of the ever larger proportion of resources for UN programmes and operations which were provided by the EU and its member states (between 40% and 50% in many cases), by their reliability as a funding instrument and by the key contribution they were making to the achievement of the Millennium Development Goals. When, at the end of 2003, the EU adopted its first ever European Security Strategy (ESS), and when, at the end of 2008 it reviewed that strategy, one of its three key pillars was stated to be "effective multilateralism" and that naturally implied a strengthened and more effective UN system. Throughout the reform campaign between 2003 and 2006 the EU and its member states became the UN Secretary-General's strongest supporters in pushing for an ambitious programme of change. Indeed without them nothing at all would have been achieved.

But the EU's move closer to the centre of the stage at the UN was not without its complications and setbacks. For one thing the EU role remained in many ways more virtual than apparent, particularly as its larger member states continued to jostle for influence at the Security Council's top table. Moreover, as the EU's influence at the UN grew, so too did the negative effort on its position whenever the member states failed to agree on a common approach to a major issue of policy. That was most prominently the case during the disagreement over the Iraq war in 2003 and subsequently. But it also surfaced damagingly over the conflicting attitudes taken by the member states to Kosovo's declaration of independence in 2008. And it was most insidiously manifest in the intensive rivalry between its members whenever enlargement of the Security Council came up for discussion or negotiation, with Germany (with British and French support) pushing aggressively for its own recognition as a Permanent Member of the Security Council and Italy (with support from some other EU member states and from many outside the EU such as Canada, Pakistan, Indonesia, Argentina and Mexico) which moved heaven and earth to ensure that enlargement did not result in the creation of new Permanent Members. This dispute over Security Council enlargement

remains to this day the pebble in the shoe of the EU's aspirations at the UN. Whether it can be removed by common support for an enlargement involving at this stage only the creation of a new category of longer-term, renewable Security Council members remains to be seen.

The Way Ahead

As this analysis has sought to demonstrate, a great opportunity was missed immediately after the end of the Cold War to shape a reformed UN capable of facing up to and to handling effectively the challenges of the new era. A new world order was never, in reality, on offer. But something a good deal better than the UN oscillating between indispensability and ineffectiveness with which we have had to work in these two decades could have been achieved. The question now is whether the ground then lost can be regained? It is tempting to be cautiously optimistic. The election of a new US President, far more deeply committed to working with both allies and adversaries to achieve negotiated solutions, and President Obama's first steps, on the Arab-Israel question, towards Iran, and on nuclear disarmament, provide some of the necessary if not yet sufficient material to turn optimism into reality. Moreover a UN more diverse in its nature, with power and influence gradually shifting towards the larger developing countries (not, pace those who misunderstand the concept, a multi-polar UN which would imply the outmoded and discredited balance of power concepts of the nineteenth century), could over time be more propitious to the emergence of global solutions to the global problems which confront the international community than one dominated by a single super-power. That uni-polar moment has in any case passed. In the immediate future one could without too much speculation, identify the following policy areas, and functions, on some, if not all, of which decisive progress will be needed if that second opportunity is to be seized.

- If the Security Council is to become more effective on a day to day basis, then there has to be serious cooperation and an ability and a willingness to reach compromises amongst its five Permanent Members. Without that the Security Council can easily slip back into the diplomatic jousting of Cold War days. Of course reaching compromises is time consuming and involves accepting outcomes which can seem less than ideal; but it brings with it an increase in legitimacy and effectiveness which is well worth paying a price for. After the ructions over Iraq the P5 do seem to be attempting a continuing dialogue on the burning questions of the day but far more systematic effort will be needed. The key relationship within the P5 is likely to be that between the US and China. Russia in its new post-Yeltsin assertiveness is more a spoiler than a policy-maker and, with its demographic and economic problems, is likely to remain so; but its capacity to spoil depends crucially on the Chinese position. If China can be persuaded

to move further towards a foreign policy designed to find concerted solutions to problems in partnership with the US and the EU members of the P5, then that capacity will be reduced;

- Peacekeeping will remain the bread and butter of Security Council business for as far ahead as the eye can see. So it does need to be done better, and the Security Council does need to be wary of overstretch and of embracing exaggerated aspirations without providing the means of achieving them. Giving the UN a rapid response capability (not the same thing at all as a standing force), which would enable it to respond quickly to a new mandate or to a sudden crisis in an existing one should be a high priority. The EU battle group system provides one means of plugging that gap, but it has to be admitted that the EU has not yet shown much enthusiasm for serving in that role; in any case a rapid response capability cannot and should not be exclusively European – the major troop contributors of the Indian sub-continent should be asked to consider this too. It is also of the greatest urgency to find a better way of avoiding and responding to human rights abuses by peacekeepers. These risk bringing the whole system into disrepute. The nettle of jurisdiction must be grasped, since countries where peacekeepers are serving are unlikely to provide a satisfactory venue for prosecuting such offences and nor, it is now all too lamentably clear, do the countries of the troop contributors themselves. If an international tribunal for trying a range of crimes (the International Criminal Court) can be established, why can there not too be an international tribunal for hearing cases against peacekeepers?
- The new norm of the Responsibility to Protect (R2P) needs to be rescued from the disputes about its scope and methodology in which it currently languishes and which have resulted in it being unusable even when most needed, as for example in Darfur. The recent report submitted by the Secretary-General and Professor Ed Luck provides an opportunity to break out of the erroneous view that R2P is simply a device for justifying military intervention. The aim should be to operationalise R2P in a way which would enable the whole toolbox at the UN's disposal – diplomatic, mediatory and economic – to be brought to bear in a preventive manner with respect to states risking sliding towards failure before any question of military intervention is even considered;
- The role of regional and sub-regional organisations in the field of international peace and security needs to be given more attention and UN support than it has hitherto received. The major successes of European regional organisations – not just the EU, but the Council of Europe and the OSCE as well – and also the activities in recent years of the African Union and of the Organisation of American States have demonstrated the potential such organisations

have to work together with the UN towards shared objectives. It is no coincidence that some of the most unstable regions of the world – N. E. Asia, South Asia, the countries around Afghanistan, the Gulf – are ones where no effective regional or sub-regional organisations exist. It should surely be one objective of any action to achieve stability in these regions that effective regional security arrangements should be established. And it is surely also high time to give effect to the recommendation of the High Level Panel and of the more recent Prodi report that when a regional organisation undertakes a peacekeeping task for the UN, then it should be financed by UN assessed contributions;

- No policy area is more crucial to future Security Council effectiveness than nuclear disarmament and the prevention of nuclear proliferation. The problems in this sector reach far beyond those posed by North Korea and Iran, although the outcome of those two cases will have a major effect on the wider picture and vice-versa. The programme sketched out in President Obama's Prague speech – significant new US-Russian arms control agreements, wider measures to reduce the assets of all nuclear weapons states, a Fissile Material Cut-Off Treaty, the coming into force of the Comprehensive Test Ban Treaty, measures to guarantee internationally the supply of enrichment and reprocessing services so that the expansion of civil nuclear energy as part of the climate change campaign does not create new proliferation risks – leading towards a world free of nuclear weapons, sets out a formidably challenging agenda. Its recent endorsement in a unanimous resolution of the Security Council is an important and welcome step. Hopefully the 2010 Non-Proliferation Treaty Review Conference, and perhaps further action by the Security Council on negative security assurances of the sort taken at the time of the successful 1995 review conference, will mark an important further stage along that road;
- It is gradually becoming better understood that the environmental challenges associated with climate change contain important threats to international peace and security. So the outcome of this December's Copenhagen Summit will be highly relevant to the Security Council's future agenda. Ironically, the more successful Copenhagen and the implementation of any package of measures agreed there is, the less likely the direct involvement of the Security Council, and the converse is also true;
- No future agenda for the UN can simply avoid the question of Security Council enlargement. But it is important to remember that each failed attempt to achieve enlargement damages this institution. So considerable care is needed. It is not easy to see agreement being reached any time soon on an enlargement that would create new permanent members. So a better

approach might be, as a first step, to agree on the creation of a new category of longer-term, renewable members;

Altogether this makes up a formidable agenda and one which the EU and its member states need to play a role in shaping, if their interests are not to go by default. To do so effectively will require a greater sense of strategy and a greater degree of tactical flexibility than the EU has so far managed to demonstrate. It will require less time to be spent on internal EU deliberations and more on listening to and influencing those non-European states and groups of states who will inevitably play a larger role at the UN than they have done in the past. Lisbon Treaty or no Lisbon Treaty this is the challenge the EU faces at the UN in the period ahead.

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BACKGROUND PAPER

**EFFECTIVENESS AND INEFFECTIVENESS OF THE UN SECURITY COUNCIL IN THE
LAST TWENTY YEARS: CONCEPTUAL APPROACH AND CASE STUDIES**

by

John Van Oudenaren
Library of Congress, Washington, DC

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Historical Background

The origins of the UN Security Council go back to the Congress of Vienna and the peacemaking process that followed the Napoleonic wars of 1799-1815, when the distinction between the great powers and all other powers first was enshrined in the practice of international diplomacy. The great powers were said to be those powers with interests general to the European system and thus by implication a stake in the system as a whole, in contrast to lesser powers, which had merely local or regional interests.¹ This distinction carried over into the peace-making process after World War I and was formalized in the Covenant of the League of Nations, which identified the Principal Allied and Associated Powers as the permanent members of the League Council. The distinction lived on in the United Nations Organization and the UN Charter, which assigned responsibility for the maintenance of peace to the Security Council, in which the five states defined as great powers were given a permanent veto.²

The experience after each of these global conflicts demonstrated the advantages and drawbacks of assigning responsibilities for the maintenance of peace to a small group of powers. The most acute danger to the functioning of such a system has been that unity among allies does not survive the defeat of the former common enemy. The system then becomes deadlocked and unable to respond to international challenges. The other danger is that would-be great powers or coalitions of middle powers excluded from the top tier of the international order agitate against the system and undermine it from without.

The conference system after the Napoleonic wars was relatively successful in avoiding both of these pitfalls, at least for a time. France, the original enemy against which the system was organized, was admitted at an early date, and the threat against which the powers were united redefined as instability from any quarter rather than aggression by a particular enemy. The European system eventually broke down in the years leading up to World War I, but this had largely to do with the globalization of European politics, as represented by such developments as Germany's rise and its bid to become a world power, Russia's emergence as a Far Eastern and Central Asian power, the rise of extra-European powers such as Japan and the United States, and the dilemmas that Britain and France faced in balancing the requirements of their empires with the preservation of a balance in continental Europe.

The post-World War I system was far less effective than its predecessor. Although no power that considered itself a great power was ever fully excluded from the inner circle of League of Nations decision making – the permanent membership of the Council of the League of Nations varied over time, but at its height included France, Germany, Italy, Japan, the United Kingdom, and the Soviet Union – Britain and France, as the main victors of 1918, were never able to use the

League to co-opt the leading revisionist powers into accepting as legitimate the Versailles peace and the other elements of the post-World War I order. Nor was the United States ever prepared to enter the League and use its power to buttress the system.

The failures of the League of Nations convinced Franklin Delano Roosevelt, the chief architect of the United Nations Organization, that unity of purpose among the great powers was the key to an enduring peace. He thus conducted a diplomacy that focused heavily, indeed at times almost exclusively, on preserving cooperation between the United States and the Soviet Union. The United Nations Organization, and the Security Council in particular, in which the rights of the great powers were much enhanced relative to what they had been in the League of Nations, can be seen as largely an instrument of Roosevelt's effort to preserve amicable relations with Stalin.

Unlike the post-1918 system, which chiefly suffered from external indifference to or agitation against the system, the post-1945 system was characterized by internal deadlock. The Soviet Union blocked Western efforts to use the Security Council to resolve the Berlin crisis, and, in a development that shocked Western and especially American sensibilities, began to wield its veto on a range of issues, many seemingly trivial, in violation of the spirit of great power cooperation on which Roosevelt had staked his hopes for a future world order. Prior to 1989, political deadlock rooted in the East-West ideological conflict was the hallmark of the UN system.

The period of Cold War deadlock went through two distinct phases. In the first, the United States and its allies generally had the upper hand; the Soviet Union was forced to rely on the veto to defend its interests. Between 1946 and 1965, Moscow used the veto 106 times, compared with none for the United States. In the second phase, this situation was reversed, as the United States and the West were placed on the defensive by the coalition of the communist countries and radicalized developing countries that came to dominate the UN system.³ From about 1970 (when the United States cast its first Security Council veto) until the end of the Cold War, the United States was the main wielder of the veto, which it used to neutralize attacks on Israel and in relation to other issues. Between 1966 and 1989, the United States vetoed 67 Security Council resolutions, compared to just thirteen for the Soviet Union.

Even at the height of the Cold War, however, the Security Council was able to exercise some of what scholars have called its role as both a great power concert and a force for global governance.⁴ In 1956, the United States joined with the Soviet Union in supporting two resolutions calling for an end to the military intervention in Suez. France and the UK vetoed these resolutions, but pressure in the Security Council was one of the factors that helped to bring a swift end to the Suez crisis. The Security Council also played a role in containing conflicts in Cyprus and the Congo, in stopping the 1967 Arab-Israeli war, and in providing a venue for the resolution of the first Berlin crisis and the Cuban missile crisis.

The Security Council's role in the promotion of what has come to be called global governance was less prominent in this period than was its role as a concert of powers. Collective action by the great powers in pursuit of broad social and economic objectives has been an element of international diplomacy at least since the Congress of Vienna, which issued a path-breaking declaration on the suppression of the slave trade. The League of Nations launched ambitious programs of cooperation in economic and labor affairs, arms control, and other areas.

The activities of the UN in these areas initially were cut back, in large part because of the ideological standoff between East and West and the relative disinterest of the Soviet Union in such forms of cooperation. Even during the Cold War, however, global governance was never entirely missing from the UN system, and as such was a factor in the politics of the Security Council. In the 1960s, the United States and the Soviet Union, joined by the UK, united to create the nuclear non-proliferation regime embodied in the Nuclear Non-proliferation Treaty (NPT) of 1968, which arguably remains the most enduring of the governance structures created during the Cold War and the one with the greatest relevance for the post-Cold War international order.

The politics of the NPT demonstrated that the distinction between the great power concert functions of the Security Council and its role in promoting global governance is never absolute. In circumstances in which the great powers continue to be rivals to each other and in which middle powers and would-be great powers resist the functioning of a concert that tends to marginalize their roles, efforts to promote global governance inevitably become latent or proxy struggles over power. In the case of the NPT, France, China, and India all revolted against what they saw as the discriminatory treatment embodied in the arrangement. The middle powers of Europe (other than France) ultimately backed the non-proliferation regime, but were distinctly unenthusiastic about doing so, as witnessed by the fact that it was not until 1975 that states such as West Germany and Italy ratified the NPT.

The UN Security Council since 1989

The end of the Cold War meant the end of the post-1945 deadlock in the Security Council. A period of maximum cooperation in the council began with the international response to Iraq's 1990 invasion of Kuwait, which roughly coincided with a number of other momentous events, including the breakup of the Soviet Union, the dissolution of Yugoslavia and the onset of the wars in the Balkans, the reunification of Germany, and the conclusion of the Maastricht treaty establishing the European Union (EU).⁵

Between the late summer of 1990 and the early winter of 1991, the Security Council passed a total of twelve resolutions dealing with the Iraq crisis, including ones that mandated, under Chapter VII of the Charter relating to the existence of a breach of the peace or act of aggression, the

imposition of sanctions and that authorized the use of “all necessary force” should the sanctions fail. Among the most noteworthy aspects of the Iraq crisis was the commitment by the United States, and in particular of President George H. W. Bush, to using the Security Council to legitimate action against Saddam Hussein and to build the broadest possible international coalition. In a speech to a joint session of Congress in September 1990, Bush hailed the emergence of a “new world order” and proclaimed: “We are now in sight of a United Nations that performs as envisioned by its founders.”⁶

Britain under Prime Minister Margaret Thatcher supported military action to reverse what Saddam expected would be an international *fait accompli* (much the way Thatcher herself had reversed the Argentine seizure of the Falklands in 1982), but she argued that the United States and its allies could go to war under Article 51 of the UN Charter (inherent right of individual or collective self defense), without seeking explicit authorization from the Security Council. Absent the strong U.S. lead, France and Russia probably would have acquiesced in the Iraqi takeover of Kuwait. In fashioning a veto-proof majority in the Security Council, Bush and Secretary of State James A. Baker first enlisted the support of the British by reassuring Thatcher that he meant to use the UN to broaden his base of support, not as an excuse to “go wobbly.” With London safely on board, Baker focused on winning over the Russians, on the grounds that the way to lock the French into a favorable position was to reach a prior understanding with Moscow. China was at this time still a secondary player in the Security Council, preoccupied with overcoming the international opprobrium heaped upon it as a consequence of the Tienanmen massacre of 1989, and was expected to follow the lead of – or at any rate not block a consensus decision by – the other permanent members.⁷

The end of the Cold War and the successful example of the Iraq operation opened a period in which discord among the permanent (and rotating) members of the Security Council was muted, and the body was able to function, at least on the surface, like something of a concert of powers. Between 1990 and 1996, the United States vetoed just three Security Council resolutions, Russia two. Britain, France, and China did not exercise the veto at all in this period. Between 1996 and 2003, Russia did not use the veto a single time. In the same period, the United States vetoed nine resolutions, eight of which concerned Israel.⁸ France and the UK did not exercise the veto at all in this period, while China blocked two resolutions, one in 1997 and another in 1999.⁹

The early 2000s, and especially the period since 2003, have seen a partial reversion to Cold War patterns, as Russia, the United States, and China all have become somewhat more liberal in the use of the veto. The United States continued to block resolutions relating to Israel (twice in both 2004 and 2006), while Russia vetoed resolutions relating to the UN peacekeeping force on Cyprus (2004), Burma (2007), condemnation of government violence against civilians in Zimbabwe (2008),

and the mandate of a UN mission to Georgia (2009). China joined the Russian vetoes relating to Burma and Zimbabwe, and abstained on the Georgia vote.

As important if not more important than these actual vetoes are the “virtual vetoes” that members of the Security Council cast when they signal that they will not allow passage of certain resolutions, thereby dissuading their backers from bringing them to a vote. This was clearly the case in the run up to the Iraq war of 2003, when France made clear that it would veto any resolution authorizing the use of force, and more recently in the discussions of sanctions on Iran for its nuclear activities, which Russian and China have indicated they will block.

UN Peacekeeping Operations

The success of the peace enforcement operation in Kuwait and Iraq of 1990-91 ushered in a period of UN activism in regional trouble spots around the world, which manifested itself most prominently in a growing number of peacekeeping missions. After having mandated just three peacekeeping missions in the 1970s and five in the 1980s, the Security Council authorized a total of 38 missions in the course of the 1990s: in the Balkans, in Central America and the Caribbean, in the Middle East, and in several countries in Africa and Central and Southeast Asia.

- In January 1992, the Security Council unanimously adopted UN SC Resolution 733 imposing a general and complete arms embargo on Somalia, where the breakdown of the central government and a civil war among rival clans was causing widespread famine. This was followed by the establishment of the United Nations Operation in Somalia (UNOSOM I), a largely civilian operation that was charged with monitoring the cease-fire of March 1992 and ensuring the delivery of humanitarian relief. In response to the continued deterioration of conditions in Somalia, in December 1992 the Security Council adopted UN SC Resolution 794, which established the Unified Task Force (UNITAF), a U.S.-led multinational force that was authorized under Chapter VII to use “all necessary means” to ensure the delivery of humanitarian aid in Somalia.
- In February 1992, the Security Council mandated the establishment of the UN Protection Force (UNPROFOR), which was to ensure conditions for peace talks in the former Yugoslavia and provide security in designated “safe havens.” The latter initially included three regions in the former Yugoslav republic of Croatia, but were expanded to encompass other parts of Croatia and havens in Bosnia-Herzegovina, including Sarajevo airport.
- In October 1993, UN SC Resolution 872 authorized the establishment of the United Nations Assistance Mission for Rwanda (UNAMIR), charged with monitoring the August 1993 Arusha Accords, a power-sharing agreement intended to end the civil war in Rwanda.
- In February 1993, the UN and the Organization of American States jointly deployed an

International Civilian Mission to Haiti, a step that led to increasing UN involvement in the country, culminating in the passage, in April 1994, of UN SC Resolution 1542 establishing the UN Stabilization Mission in Haiti (MINUSTAH), which was authorized to support the transitional government in consolidating its authority throughout the country.

Most if not all of these peacekeeping missions ended badly, for one reason or another.

- In Somalia, UN SC Resolution 794 provided the legal framework for Operation Restore Hope, under which President Bush deployed approximately 17,000 U.S. troops to the country to deliver humanitarian assistance. In the course of the operation, some 38,000 soldiers from 23 different countries and representatives from 49 different humanitarian relief operations worked to avert a mass starvation. But the humanitarian operation suffered from what came to be called “mission creep.” After forces of the warlord Mohammed Aideed killed 24 Pakistani soldiers in June 1993, U.S. Special Forces went on a hunt for Aideed, a mission that ended with the disastrous October 3-4, 1993 firefight in which sixteen Army Rangers were killed, and their bodies dragged through the streets. President Bill Clinton, focused on his domestic agenda and convinced of the basic isolationism of the American people, moved to withdraw the U.S. force. Lacking its American core, the UN presence in Somalia was wound down and the country soon returned to chaos.¹⁰
- Following the murder, in April 1994, of ten Belgian soldiers by government troops, most of UNAMIR’s 2,500 troops were withdrawn from Rwanda, clearing the way to the unchecked genocide that ultimately claimed between 800,000 and 1,000,000 lives. This genocide is seen as the UN’s biggest failure to date, and led to a formal admission of fault by the Security Council in 2000.
- UNPROFOR failed to stem the violence in the former Yugoslavia, and the force’s mission and mode of operation became a major point of contention between, on the one hand, Britain and France, which had provided the bulk of the peacekeeping force, and the United States, which did not contribute forces to the operation but was highly critical of the operation. A crisis point was reached in the summer of 1995, when UN peacekeepers failed to prevent the slaughter of Bosnian men and boys in Srebrenica. This was followed by the belated entry of NATO airpower into the conflict and the convening and eventual success of the Dayton peace conference. In December 1995, UNPROFOR units still in the former Yugoslavia were merged into the NATO-led Implementation Force (IFOR).
- In Haiti, U.S. forces intervened in September 1994 and restored ousted President Jean-Bertrand Aristide to power the following month. U.S. troops handed authority over to UN peacekeeping forces in March 1995. Elections took place in December 1995, and Haiti’s first transition of power to a democratically elected leader occurred in February 1996. In

view of the tenuous situation in the country, the Haitian authorities requested an extension of the UN mission, but the UN had difficulty in raising the funds to keep in place troops from Bangladesh and Pakistan.

The failures of these operations led to a pullback from UN peacekeeping operations in the second half of the 1990s, and to a general discrediting of the UN and the Security Council in certain political circles. The United States under UN ambassador and later Secretary of State Madeleine Albright began a campaign to scapegoat the UN and Secretary General Boutros Boutros-Ghali in particular for the peacekeeping failures of Clinton's first term.

In this political environment, the number of UN peacekeeping missions and the forces engaged declined dramatically. Traditional blue-helmeted missions were replaced by actions in which the Security Council authorized a lead nation, often assisted by token or niche forces from other countries, to tackle a particular problem on behalf of the international community.

- In March 1997, UN SC 1101 authorized the deployment to Albania of a 6,115-person multinational force led by Italy for the purpose of creating a secure environment for the delivery of humanitarian aid. This mission, whose mandate later was extended for another 45 days, succeeded in stabilizing the country.
- In September 1999, UN SC 1264 authorized the deployment of a multinational force to East Timor to restore peace and security, facilitate humanitarian assistance operations, and protect and support UNAMET, a small civilian UN mission sent to the territory to oversee the implementation of an agreement between Portugal and Indonesia that provided for the independence of the country from Indonesia. Australia led and provided the main capabilities for the force, INTERFET, which helped to restore order in the country and establish independence.
- In October 1999, the Security Council mandated the establishment of the United Nations Mission in Sierra Leone (UNAMSIL) to assist with implementation of the Lomé Peace Accord ending the civil war in Sierra Leone. UNAMSIL was a large and motley array of forces from some 27 different countries that incorporated large contingents (e.g., 4,000 Nigerian soldiers) from a force previously deployed by the Economic Community of West African States. In this sense, UNAMSIL represented a reversion to the traditional blue-helmet pattern, but the ineffectiveness of the force soon became apparent. In 2000, the UK deployed a purely national force to Sierra Leone to assist the UN force and to help stabilize the country.

Russia and China became increasingly skeptical of Security Council activism in this period. China abstained on the 1997 resolution authorizing the Italian deployment to Albania, stating that the UN Charter did not authorize interference in the internal affairs of states (even though in this

case the government of Albania had requested and welcomed the deployment of the force). In other cases, the Western powers declined to bring to the Security Council resolutions that Russia and China were certain to veto. Chinese and Russian opposition to Security Council efforts to interfere in the internal affairs of other countries became overt in the Kosovo crisis of 1998-99. In several resolutions passed in 1998 (UN SC 1160, March 31; UN SC 1199, September 23), the Security Council expressed concern about the conflict in Kosovo and the excessive use of force by the Serbian army and called for a halt to the fighting.

But there was no chance that Russia or China would vote to authorize external intervention in a conflict involving what from a strict international law perspective was the province of a sovereign UN member state. NATO eventually acted on its own in the spring of 1999, initiating a conflict that some experts characterized as legitimate but not strictly legal.¹¹ The Security Council later passed UN SC Resolution 1244 (June 10, 1999), which provided post facto legitimacy to the political solution brought about by the NATO bombing, and a framework for de facto rule of the province through NATO as a UN protectorate. The vote was 14-0, with China abstaining.

While Russia and China were chiefly concerned about the basic principles on which the Security Council acted, the Western powers were questioning the effectiveness of the Security Council and the failures of leadership, management, and resourcing that contributed to such debacles as Bosnia, Rwanda, and Haiti. Such concerns led to the convening, in March 2000, of the UN Panel on Peace Operations, which was charged with undertaking a thorough review of UN peace and security operations and presenting a “clear set of specific, concrete and practical recommendations to assist the UN in conducting such activities better in the future.” The resulting Brahimi Report (named after the panel’s chair, former Algerian foreign minister Lakhdar Brahimi), issued its recommendations in August 2000. With regard to the Security Council, the panel emphasized the need for “clear, credible and achievable mandates” and stated, in unusually blunt language, that the Security Council should “leave in draft form resolutions authorizing missions with sizeable troop levels until such time as the Secretary-General has firm commitments of troops and other critical mission support elements, including peace-building elements, from Member States;” that it should ensure that operations meet military requirements, “especially the need for a clear chain of command and unity of effort;” and the Secretariat “must tell the Security Council what it needs to know, not what it wants to hear, when formulating or changing mission mandates [...]”¹²

The Brahimi exercise and the sentiments it reflected were probably helpful in enforcing a certain caution and discipline on the Security Council in its use of peacekeeping missions in the early 2000s. But recent years have seen a partial return, albeit in different forms, to the activism of the 1990s. One source calculated that in early 2009 the UN was providing 80,000 military personnel

and another 12,000 civilians in 18 missions worldwide.¹³ The same report noted a perception that the Security Council has “forgotten to observe the ‘rules’ of Brahimi: the need to match politics to peacekeeping, and resources to mandates. After a period of improvement in Security Council performance on mandates and resourcing, some lessons have gone unheeded in recent Security Council debates [...]”¹⁴

Recent UN operations reflect a number of complex features that were not present, or were present to a lesser degree, in the 1990s:

- More operations involve a mixing of operations conducted by the UN with those undertaken by regional organizations, such as the AU and the EU. Cooperation among such organizations can be effective in mobilizing resources that might not otherwise be available, but it also can lead to buck-passing, as well as to organizations using missions to pursue various agendas of their own.
- China has become a more active player in peacekeeping. The international community has generally welcomed this change as providing more resources and greater political legitimacy, but it comes with a price, as China increasingly uses its position in the Security Council and its active involvement in order to shape UN missions to serve parochial, purely national issues (as in with regard to Sudan).
- Peacekeeping is taking on some of the features of peace enforcement, as peacekeepers are sent into settings where they encounter hostile state and non-state actors. This is done, however, without the troops being supplied with the military wherewithal that has characterized true enforcement missions backed by major powers.
- The political environment has become more complex. On the one hand, the increasing acceptance of the “responsibility to protect” doctrine and the founding of the International Criminal Court suggest an expansive role for the UN in the domestic affairs of sovereign states. On the other hand, other factors – the war on terror and the cynicism bred in many places by the war in Iraq – work in the opposite direction.

While specialists are likely to draw different conclusions about these various complications, for the young and politically engaged, especially in North America and Western Europe, the salient fact about the Security Council and its permanent members about the present period is likely to be its failure to stop the genocide in Darfur, or even to be seen as seriously attempting to do so, a perception that clearly undermines its legitimacy.

September 11 and Beyond

The terror attacks on New York and Washington of September 11, 2001 opened a new chapter in the history of the Security Council. In UN SC Resolution 1368 of September 12, the Council condemned the attacks of the previous day and expressed its readiness to “take all necessary steps” to respond to the attacks and to “combat all forms of terrorism.” This resolution, in conjunction with UN SC Resolution 1373 of September 28, 2001, provided a broad legal and political justification for what became the U.S.-led “war on terror.” Following the successful U.S.-UK effort to topple the Taliban, the Security Council passed, on December 20, UN SC Resolution 1386, which authorized an International Security Assistance Force (ISAF) to assist in forming a stable order in Afghanistan. The same resolution acknowledged the UK as the lead nation in ISAF, a function that later was transferred to NATO.

The September 11 attacks also marked the beginnings of a trend in which the Security Council began to function as a quasi-legislative body with what might be called “supranational” powers over the individual member states in the international community. In response to the growing threat of terrorism in the 1990s, UN SC Resolution 1267 of October 15, 1999 imposed a limited air embargo and a financial assets embargo on the Taliban. UN SC Resolution 1333 of December 19, 2000 imposed similar restrictions on Osama bin Laden and associates. Building upon these early steps, Resolution 1373 demanded that all states in the international community take steps to prevent and suppress the financing of terrorist acts, criminalize the collection of funds by their nationals or on their territories intended to be used to support terrorism, freeze funds and other assets of individuals and organizations supporting terrorists, deny safe haven to persons involved in terrorist acts, assist each other with criminal investigations involving terrorism, and so forth. Additional measures were mandated in UN SC Resolution 1390 of January 16, 2002, which adjusted the scope of the existing sanctions on al-Qaeda and the Taliban in line with post-September 11 circumstances.

These legislative actions by the Security Council generally did not have, to borrow the language of the European Union, “direct effect” in the UN member states and had to be “transposed” into national law and policy through the adoption of laws and regulations. Coming at a time when even many Western countries did not have on their books laws that criminalized terrorism as such, this was an extraordinary program of domestic legal and administrative action imposed on the member states by the Security Council.

As also might have been predicted from the EU experience, adoption of this program all but required the establishment of a body with quasi-executive powers to deal with its technical aspects and to monitor implementation. This took the form of the UN Security Council Sanctions

Committee. This body was not entirely unprecedented. Its origins can be traced to the first Gulf war, when UN SC Resolution 661 of August 1990 established a committee to monitor sanctions imposed on Iraq. The Security Council subsequently went on to establish eight more such committees – for Côte d’Ivoire, the Democratic Republic of the Congo, Liberia, Rwanda, Sierra Leone, Sudan, Syria, and the above-mentioned al Qaeda-Taliban committee – to monitor various arms embargoes, travel bans, asset freezes, and other measures imposed in response to various transgressions by these states and organizations.¹⁵

While all of these committees have had theoretical implications for domestic law and policy in the UN member states, the al Qaeda-Taliban committee marked a step to a qualitatively different level, given the nature of the threat and the inherent intrusiveness of measures to root out support for shadowy networks of international terrorism. This change was most apparent in the EU, where a Council (i.e., EU Council of Ministers) Common Position and a Council Regulation, adopted under the CFSP provisions of the Treaty on European Union, essentially incorporated the UN list of sanctioned individuals and organizations into EU domestic law and empowered the European Commission to make regular additions to and deletions from this list on the basis of determinations by the UN Security Council and its Sanctions Committee.¹⁶

Following the pattern established after September 11, in recent years the Security Council has expanded its role into new areas of global governance, most importantly with regard to nuclear non-proliferation, but also to areas that less readily cast as immediate threats to peace and security. In April 2007, for example, the Security Council took up the issue of climate change, which the United Kingdom, in its capacity as monthly chair of the council, had placed on the agenda as constituting a threat to international peace and security. In response, the G-77 sent a strongly-worded letter to the president of the Security Council complaining about the encroachment of the Security Council on areas that did not constitute immediate threats to peace and security but rather involved the setting of global norms in such areas as climate change, HIV/AIDS, and even terrorism and non-proliferation policy.

Iraq

The 2002-2003 Iraq crisis highlighted both the importance and severe limitations of the Security Council in the post-Cold War, post-September 11 era. Nearly all parties preferred to see the crisis resolved in the Security Council, with the main exception being the Cheney wing of the U.S. government. But the actual performance of the council in dealing with the crisis was most uninspiring. The entire debate over Iraq was marked by a legalism that was far removed from how

one might expect a concert of powers would take responsibility for an international problem about which they were truly concerned.

The debate shifted over time from whether any UN resolution was needed to authorize action against Iraq, to whether a second resolution was needed if a first was passed, to such arcane questions as whether passage of an enabling resolution by nine members followed by a veto by one or more permanent members would constitute a political if not a legal mandate for military action.

The United States was much criticized for its behavior in the run-up to (and even more so, the conduct of) the war, and rightly so. Washington purported to respect the legal authority of the Security Council, and even expressed concern about the council's becoming irrelevant by failing to fulfill its responsibilities. But the United States never clearly articulated how the Security Council might fulfill these responsibilities without simply rubber-stamping U.S. views.

The gaggle of European countries on the council at the time also took an extremely parochial approach to the Iraq issue, importing into the council unresolved and unrelated squabbles from domestic and intra-EU politics. France and Germany were determined to use the struggle for peace and against the United States to cement their leadership of the EU (which at the time extended to such parochial matters as the preservation of agricultural subsidies), weaken the Atlanticist wing of the EU, and promote the union internationally. Bulgaria was concerned about its candidacies to both NATO and the EU, while Prime Minister Aznar of Spain took his country in a markedly pro-U.S. direction, out of step with domestic public opinion, in part out of pique at Spain's treatment by the big two of the EU. Prime Minister Blair of Britain was much preoccupied by his own political survival. Perhaps shocked by being outflanked in its habitual anti-Americanism by long-time NATO allies of the United States, Russia was somewhat quieter than Paris and Berlin, as was China.

The most absurd aspect of the whole Iraq debacle was the competitive courting, mainly by the United States and France, of the non-permanent members of the council that purported to be undecided about the issue (Chile, Mexico, Angola, Cameroon, Guinea, and Pakistan). These countries never should have been placed in the position of having to decide on a crucial international issue involving the major powers. Most of them never attempted to articulate anything like a unified G-77 or regional position, but were mainly swayed by their own domestic politics and such bribing or bullying that came from the permanent members.

Much more could be said about the Iraq crisis, about which numerous books and articles have been written. It seems clear, however, that the crisis weakened the image and the authority of the Security Council. The United States is likely to be far more cautious about entering into wars such as Iraq in the future, but should it feel compelled to do so, it is likely to be warier than ever

about going to the Security Council for authorization. The weakened stature of the council and the rifts that opened within have been evident as it has attempted to tackle other pressing issues, notably the challenge of nuclear proliferation in North Korea and Iran.

Issues

The record of the Security Council in the last two decades raises a number of questions for the future that bear upon its effectiveness and that have implications for world order. One concerns the degree to which the Security Council is a concert of great powers, almost by definition unrepresentative of the international community, as opposed to being a more inclusive body that derives its legitimacy from being representative of the UN membership as a whole. Closely related to this question is the issue of whether permanent members of the Security Council have special obligations to uphold certain transcendent principles embodied in the Charter or whether their role is merely to represent, in a more “democratic” function, the will of the member states.

Even at the height of the Cold War, the United States and the Soviet Union tended to cloak their positions in terms of certain universal principles that they were pledged to uphold. The Soviet obsession with the enemy states clauses of the UN Charter and Moscow’s constant harping on the neo-Nazi danger in Germany, as well as its campaigns against states such as Spain and Argentina, made for good propaganda and good domestic politics, but they also represented an effort by the Soviet Union to legitimate its policies by wrapping them in the mantle of the wartime struggle against the Axis and the evils it represented. On the U.S. side, Secretary of State John Foster Dulles’ attacks on the immorality of “neutralism,” often caricatured as a manifestation of his crude anti-communism, was rooted in his view that the United Nations was the institutional embodiment of certain universal principles embodied in the Charter and that to profess neutrality in regard to violations of these principles was tantamount to a violation of the charter itself.

To what extent the idea of special great power responsibilities for the international system can survive as an organizing principle for international order is an open question that underlies, at least in part, all discussions of reform of the Security Council. Some scholars have argued that the United States in particular continues to take seriously its “custodial” role for the international system, which explains its willingness to stand alone on some unpopular issues.¹⁷ Elsewhere in the world, there is little sympathy for this attitude. Most countries around the world would deny that the great powers, and least of all the United States, play or should play anything like a custodial role in the international system. They tend to view the question of the reform of the Security Council through the prism of representative-ness, in effect transferring the one-person-one-vote principle to which most governments pay at least lip service in domestic politics into the international arena.

A second issue concerns the degree to which the Security Council should focus on peace and security narrowly defined, and to what extent it should take on broader global governance functions. It bears noting that while opponents of American “unilateralism” have been swift to complain about U.S. actions taken without Security Council authorization, many of the most vocal proponents of enhanced global governance have not favored an expanded role for the council in this area. Coalitions of small states and ambitious middle powers in fact have used global governance as an instrument to attack the power and prerogatives of the Security Council, and especially of its permanent members. The 1997 Ottawa Convention banning land mines involved an effort, initially led by Canada and Norway but later joined by Austria, Belgium, and Germany, to move the land mine issue out of a UN forum, the Conference on Disarmament, and into a new, ad hoc forum, “the Ottawa process,” in which a total ban on mines could be negotiated in opposition to the major powers.¹⁸

Similarly, the “like-minded group” of 27 countries that led in the drafting and negotiation of the Rome Statute establishing the International Criminal Court (ICC) included many habitual critics of the Security Council and its permanent members. It produced a draft that provided for a strong ICC with its own independent powers of initiative, outside the influence of the Security Council. Another group of middle-power LDCs (led by Mexico and Egypt) favored a weak court with limited powers and were especially interested in ensuring no special role for the Security Council, but also sought to use the negotiations on the court to criminalize the use (and by implication possession) of nuclear weapons, another province of the great powers.¹⁹ At a minimum, any broadening of the range of issues addressed by the Security Council is likely to increase pressures for it to become more representative and universal in its membership.

A third question, especially germane to the work of this research project, concerns the role of the EU in the UN system and its relationship to the Security Council. Europe is markedly over-represented in the leadership of most international organizations and reforms of these organizations aimed at improving their effectiveness must proceed from recognition of this reality. In any given term, five of the fifteen members of the Security Council (two permanent and usually three rotating) can be members or candidate members of the Union. This level of over-representation is not as extreme as that in certain other international bodies, but it is likely to become increasingly unacceptable to other countries over time, especially as the Lisbon treaty takes effect and the EU defines a stronger CFSP.

Addressing the representation issue is especially difficult, however, because European governments and foreign policy elites are ambivalent about how the EU should define itself in the international system. Should it strive to become a unified great power that will take its place alongside China and the United States in a future “G-3” of global governance? Should it define

itself as a confederation that respects the continued historical role of the nation-state and that enables two or three of these states (France, the UK, and probably Germany) to play great power roles on the international stage, notwithstanding the gap in size between them and such continental powers as the United States and China? Or is the EU a special moral force that by virtue of its internal features and proclaimed commitment to multilateral principles has a special external mission? Unable to decide definitively on any one of these roles, the EU (or different actors within the EU) seeks to play all three simultaneously, with at times confusing results for others in the international system.

The actions taken – or not taken – by the Security Council over the course of the last two decades raise many other questions for debate and discussion, for example:

How can the Security Council square the conflicting principles of respect for sovereign equality with the “responsibility to protect”?

How will the growing emergence of multipolarity affect the functioning of the Security Council? Is there a basis for a concert of major powers involving the United States, China, Europe, Russia, and perhaps India that can enforce minimal standards of world order, or will the system settle into a U.S.-China deadlock, with Europe and Russia factoring mainly as spoilers or bystanders?

What will be the relationship between the Security Council and other international bodies, e.g., the G-20, which some are already suggesting should take on political and security functions?

What is the future of regionalism? Will regional organizations such as the AU and the EU continue to function mainly as entities that can implement Security Council resolutions but that have no overarching legal authority, or will the world gravitate toward the kind of regionalized legal order that was contemplated in 1945 but ultimately rejected in favor of the universal system?

These and numerous related questions need to be addressed by this and other research project dealing with the future of the Security Council and the UN system.

¹ See the discussion of the great powers in Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977).

² Sir Charles Webster (1886-1961), the British historian and diplomat, embodied the continuity among these three postwar peacemaking processes. Webster was a prominent student of the Congress of Vienna who served as secretary of the Military Section of the British delegation at the Paris peace conference, 1918-19, and who later played a role in and wrote about the founding of the UN.

³ The first veto was in connection with the situation in Southern Rhodesia. This period is best chronicled in Daniel Patrick Moynihan (with Suzanne Weaver), *A Dangerous Place* (Boston: Little Brown, 1978).

⁴ For the distinction, see David L. Bosco, *Five to Rule Them All: The UN Security Council and the Making of the Modern World* (New York: Oxford University Press, 2009), pp. 5-6.

⁵ The latter established a Common Foreign and Security Policy (CFSP), whose founding provisions included a legal commitment to collective EU action in the UN and in the Security Council.

⁶ George H. W. Bush, speech to a joint session of Congress, September 11, 1990.

⁷ See Baker, *The Politics of Diplomacy*, pp. 279-280.

⁸ The other veto was in 2002, and related to the dispute between the Bush administration and the Europeans over the International Criminal Court and the renewal of the mandate for the peacekeeping mission in Bosnia.

⁹ China had previously exercised its veto on two occasions, both in 1972, when it joined with the Soviet Union to block a resolution relating to Arab violations of the 1967 Middle East ceasefire, and when it blocked the application for membership of newly independent Pakistan.

¹⁰ For Clinton's view that the American people were "basically isolationist," see George Stephanopoulos, *All Too Human: A Political Education* (Boston: Little, Brown, 1999), p. 214.

¹¹ See Adam Roberts, "NATO's 'Humanitarian War' over Kosovo," *Survival*, vol. 41, no. 3 (Autumn 1999), pp. 102-123.

¹² Report of the Panel on United Nations Peace Operations (Brahimi Report), August 23, 2000.

¹³ Bruce Jones, Richard Gowan, and Jake Sherman, *Building on Brahimi: Peacekeeping in an era of Strategic Uncertainty* (New York: NYU Center on International Cooperation, April 2009), p. 5.

¹⁴ *Ibid.*, p. 8.

¹⁵ See the "Chart of Sanctions Committees" at <http://www.securitycouncilreport.org/atf/cf/{65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9}/Sanc%20Chart%20Mar%2006.pdf>.

¹⁶ See Council Common Position 2002/402/CFSP of May 27, 2002, in OJ L 139, May 29, 2002.

¹⁷ W. Michael Reisman, "The United States and International Institutions," *Survival*, vol. 41, no. 4 (Winter 1999-2000).

¹⁸ As a Canadian official later concluded, the Ottawa process showed the potential for a "middle power/civil society coalition" to challenge the permanent members of the Security Council on an issue with implications for international security. Bob Lawson, "Ottawa Process Points Towards a New Multilateralism," *Peace and Environment News*, November 1997; see also Lloyd Axworthy and Sarah Taylor, "A ban for all seasons: The landmines convention and its implications for Canadian diplomacy," *International Journal*, vol. 53, no. 2 (Spring 1998).

¹⁹ See Philippe Kirsch, John T. Holmes, "The Rome Conference on the International Criminal Court: The Negotiating Process," *American Journal of International Law*, vol. 93, issue 1 (January 1999), pp. 2-12; David J. Scheffer, "The United States and the International Criminal Court," *ibid.*, pp. 12-22; and Mahnoush H. Arsanjani, "The Rome Statute of the International Criminal Court," *ibid.*, pp. 22-43.

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