

The United Nations Security Council: Its Veto Power and Its Reform

Sahar Okhovat

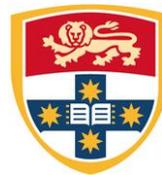
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Author: Sahar Okhovat

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SUMMARY

The United Nations Security Council, the principal organ responsible for maintaining international peace and security, has been faced with criticism since its establishment in 1946.

Critics and politicians alike have criticised this Council for its small size and exclusive nature, its relations with the General Assembly, its working methods, and its undemocratic structure.

The most criticism has been directed at the infamous “power of veto”, namely the ability of the five permanent members of the Council (USA, Russia, France, UK, and China) to quash any non-procedural matter with their negative vote, irrespective of its level of international support.

Since the establishment of the Security Council, permanent members have used their power of veto in accordance with their national interests. The use of that power rapidly distanced from the initial reason for which it was included in the UN Charter, namely preventing the UN from taking direct action against any of its principal founding members. One can argue that after the end of the Cold War and because of the elimination of ideological divisions among the superpowers, the veto has been cast more sparingly. However, a look at the use of veto in the last two decades reveals that although being cast less often, the veto is still exercised for self-interest or the interests of allies. Over the last 20 years out of a total of 24 vetos, 15 have been used by the USA to protect Israel (see Table). Moreover, we should not overlook the influence of the “pocket veto”, so called because on many occasions permanent members managed to keep an issue off the Council agenda or soften the language of a resolution without actually casting a veto by mere threats of using that power.

This undemocratic privilege of the permanent five combined with other flaws of the Council led to several calls for reform. After the end of the Cold war, when the Council became more engaged in international matters, the calls for reform paradoxically increased. It shows that countries started to take this body more seriously and therefore became more eager for its reform.

However, because of the high number of proposals on the reform of the Council and strong disagreements among advocates of different proposals, not much has been achieved. Analysts believe that an increase in the number of seats in the Council is much more plausible than reforming or removing the veto. At least there is universal agreement about the former while the latter is much more controversial. Each of the permanent members has supported one proposal for expanding the Council. However, the main dispute is on details and countries have not yet managed to agree on a common denominator. The main improvement in the reform debates happened in 2008, when the Intergovernmental Negotiations took the task of negotiating reform proposals from the Open-Ended Working Group (on the Question of Equitable Representation and Increase in the Membership of the UNSC) which was established in 1993. In this Intergovernmental Negotiations on UNSC Reform the African group labelled the veto “anachronistic and self-serving,” and expressed its longstanding position that it should be abolished.

Countries are not satisfied with the speed or achievements of these negotiations. Consequently, the Group of Four (G4), an alliance of Germany, Japan, India, and Brazil has started separate efforts to present a resolution on the reform of the Council to the General Assembly with the aim of securing permanent seats for each of them. Whether they can get enough support to bypass Intergovernmental Negotiations has to be seen. This is why the 66th Session of the UN General Assembly which will start in September 2011 is of particular importance.

The Security Council has come to the focus of Australian analysts more than before, thanks to Australia's campaign to get a non-permanent seat on it. Australia was the first ever President of the Council in 1946 and had been an influential member for several terms.

However, we have not been elected to the Council since the end of the Cold War - a lengthy absence for a middle-power like Australia. If we succeed in winning the seat in October 2012 and start our two-year term in January 2013, it will be 27 years since Australia last served on the Council. We definitely have tough competition since we are competing against Luxemburg and Finland to get one of the two seats of the Western Europe and the Others Group (WEOG). These two European countries are likely to get the support of other European countries and considering they are two of the biggest aid donors to Africa are much likely to get their votes as well. We have to wait and see whether the efforts of Kevin Rudd and others in lobbying for votes, and other measures, such as our increase in foreign aid, more emphasis on multilateral foreign policy and engagement in UN missions can overcome the strong credentials of our competitors for the Council seat.

As Richard Woolcott, the last Australian Ambassador to the UN who sat on the Council, said: **“You can make a difference if you are on the Security Council”**.

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Section 1: Introduction

The United Nations Security Council (UNSC) is one of the principal organs of the United Nations. According to article 24 of the UN Charter, the foundational treaty of the United Nations, the UN Member States have conferred the primary responsibility of maintenance of international peace and security to the Security Council and have agreed that this body, in order to carry on this duty, acts on their behalf. The Member States have agreed to accept and carry out the decisions of the Security Council through article 25 of the Charter.¹ While other organs of the United Nations can only make recommendations to governments, the UNSC is the only organ capable of issuing resolutions that are legally binding on all Member States.

In order to fulfil its responsibility of maintaining international peace and security and when faced with a conflict, the first action of the Council is to recommend to the parties that they reach agreement through peaceful means. It may appoint special representatives, may ask the Secretary-General to appoint special representatives, and may set some principles for the peaceful settlement of the conflict. When a dispute leads to fighting, the UNSC will try to bring it to an end as soon as possible. It can do so by issuing ceasefire directives, sending UN peacekeeping forces or eventually deciding on enforcement actions such as economic sanctions or collective military action. The Council's other responsibilities include recommending the admission of new members and the appointment of the Secretary-General to the General Assembly of the United Nations (UNGA). Together with the UNGA, it is responsible for electing the judges of International Court of Justice.²

Established in 1946, the UNSC currently has fifteen members. The People's Republic of China, France, the Russian Federation, the United Kingdom and the United States of America

¹ The United Nations, *Charter of the United Nations* (1945), United Nations Website, <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 23 August 2011.

² The UN Security Council Website, <<http://www.un.org/Docs/sc/index.html>>, viewed 23 August 2011.

are the five permanent members of this body and the holders of veto power. Except for the People's Republic of China (which replaced the Republic of China in 1971) and the Russian Federation (which replaced the Union of Soviet Socialist Republics in 1991), the current Permanent Five (P5) are the main victors of World War II. The other ten members of the Security Council are non-permanent. They are elected by the General Assembly through majority vote to take on a two-year term. On the first of January each year, five new non-permanent members start their term. To ensure better regional representation, non-permanent members are elected from different regional groups. The African Group has three representatives, the Western European and Others Group (WEOG), the Latin American and Caribbean Group (GRULAC), and the Asian Group each has two representatives and the Eastern European Group has one representative. Also one member of the Council should be an Arab country which can be chosen from the Asian or African groups. According to the Charter, non-permanent members are not eligible for immediate re-election once they finish their two-year term. Current non-permanent members of the Security Council are Bosnia and Herzegovina (from East Europe, due to finish in 2011), Portugal and Germany (from WEOG, due to finish in 2012), Brazil (from Latin America, due to finish in 2011), Colombia (from Latin America, due to finish in 2012), India (from Asia, due to finish in 2012), Lebanon (from Asia, the Arab state, due to finish in 2011), South Africa (from Africa, due to finish in 2012), Gabon and Nigeria (from Africa, due to finish in 2011).³

The presidency of the Security Council is held in turn by the members of the Council in the English alphabetic orders of their names. Each president holds the office for one month. India is the president in August 2011 and Lebanon will take this responsibility in September.⁴ The role of the president is setting the agenda, chairing the meetings and overseeing any crisis. The president is authorised to publish presidential statement, although it is subject to the consensus of all members.⁵

In the voting system, the Charter distinguishes between the procedural and non-procedural (substantive) matters.⁶ According to article 27 of the Charter, decisions on procedural matters will be made by an affirmative vote of at least nine out of fifteen current members. On

³ Ibid.

⁴ It is noteworthy to mention that the first ever president of the UNSC in January 1946 was Australia.

⁵ The UN Security Council Website, <<http://www.un.org/Docs/sc/index.html>>, viewed 23 August 2011.

⁶ Procedural matters are the matters related to the procedures and are of less importance than substantive matters. UNGA Resolution 267 provides a list of procedural matters. However it emphasises that this list is not fixed and other matters can be considered procedural if the members of the Council conclude so. Some argue that it has rendered the nature of procedural matters ambiguous and disputable.

the other hand, decisions on substantive matters are made by affirmative votes of nine members, “including the concurring votes of the permanent members”; this is the clause that gives the Permanent Five their veto power.⁷ In order for a resolution to fail (without failure because of the exercise of veto by one or more of the permanent members), seven countries have to vote against the resolution, abstain or be absent from the Council at the time of voting.

Since its establishment in 1946, the Security Council has been faced with considerable criticism and since that time there have been many calls for the reform of the Council. A large part of the criticism is due to the structure of the Council that many believe is undemocratic especially because it gives considerable power and privileges to certain countries of the world. The main example is the veto power of the Permanent Five. As Robert Hill, former Australian ambassador to the United Nations, summarises, “the Security Council is a club and P5 is a club within a club”.⁸ The main aim of this report is to examine the current structure and performance of the Council mainly through analysing the trend of the use of veto power in the last two decades. It also intends to investigate current proposals and efforts towards the reform of this body.

This report proceeds through three main sections. The first section analyses the trend of the use of veto power since after the end of the Cold War. The second section looks through the history of the efforts to reform the undemocratic structure of the Council and examines current reform proposals and their progress; furthermore this section investigates the main impediments towards the reform of the Security Council.

As Australia is campaigning to get a non-permanent seat in the UNSC for 2013-14 term, this body and its functioning are of special importance for us. Therefore, the third chapter examines our UNSC bid, its progress and its chances of success as well as the problems we are facing. Supplementary appendixes provide some additional information. Appendix I provides information on the vetoed resolutions since 1991. Appendix II presents arguments about the legality of NATO actions in Kosovo. Statistical information on the export of armament by the permanent members of the Council comes in appendix III while appendix IV provides some details about the members of the G20, such as their population and their Gross Domestic Product (GDP).

⁷ The United Nations, *Charter of the United Nations* (1945), United Nations Website, <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 23 August 2011.

⁸ Personal Interview with Robert Hill, June 2011.

To prepare this report, as well as consulting academic sources and using current news stories, I had the opportunity to interview several experts on issues related to the United Nations. Robert Hill, former Australian ambassador to the United Nations during 2006-2009, John Langmore, the President of the United Nations Association of Australia, and two Australian officials to whom I spoke in Canberra,⁹ all provided invaluable insights into the current status of the United Nations Security Council, the issues related to its reform and Australia's campaign to get a non-permanent seat.

⁹ Some of the interviewees requested that their comments be published in a non-attributable manner.

Section 2: The Veto Power

As mentioned earlier, Article 27 of the UN Charter allows the permanent members of the Security Council to quash any non-procedural draft resolution with their negative votes, irrespective of its level of international support and popularity. This power is referred to as the “veto power” of the Permanent Five although the word “veto” is never mentioned in the Charter. The initial reason for the inclusion of this power in the Charter was to prevent the UN to take direct actions against any of its principal founding members. This section illustrates how the use of veto power has become distant from that initial reason and how this power has turned into a tool for protecting national interests of permanent members or their strategic allies. This power has been responsible for the silence of the Security Council on some major international conflicts including the 2003 Iraq War, the 2008 conflict in Georgia, the 2009 massacre of Sri Lankan Tamils and the recent Syrian conflict. Although the issue of Israel-Palestine conflict is on the agenda of the Security Council, this body has not been successful in condemning the violence and settlement activities through issuing resolutions.

Trend of Use of Veto Power after the End of the Cold War

The first veto was cast in February 1946 by the Union of Soviet Socialist Republics (USSR) and since then the permanent members have used their veto power a total of 263 times. However, there has been a considerable decrease in the use of veto in the last twenty years so that since the end of the Cold War and dissolution of the Soviet Union, only 22 vetoes were cast. The period between 31 May 1990 and 11 May 1993 was the longest period without the use of veto.¹⁰ In general, during the 1990s not only in comparison with the previous decades but also in comparison with the following decade few vetoes were cast. From January 1990 to December 1999 only nine draft resolutions were vetoed while that number reached fourteen in the 2000s. As the result of the relatively sparing use of veto power, the number of resolutions passed by the UNSC in the course of the last twenty years has increased substantially. Before 1990, the UNSC

¹⁰ *Changing Patterns in the Use of the Veto in the Security Council*, created in 2008, Global policy Forum Website, <http://www.globalpolicy.org/images/pdfs/Z/Tables_and_Charts/useofveto.pdf>, viewed 23 August 2011.

would adopt an average of 15 resolutions each year. It has reached a substantial annual number of 62 resolutions in recent years.¹¹ However, the following analysis of the use of veto power by each of the Permanent Five and the subjects of vetoed resolutions show although they vetoed fewer resolutions, the permanent members still use this power for the same reason, namely protecting their own interests or those of their allies as well as providing political cover for their strategic friends.

The Soviet Union (before it became the Russian Federation) used its veto power more than any other country. From 1946 to the time of its fall and the subsequent succession of Russia, this country vetoed a total of 119 resolutions. After Russia took the USSR's seat in the Council, it has used the veto power sparingly. So far Russia has blocked six resolutions, twice jointly with China.¹² As is provided in the table in Appendix I, Russia vetoed two resolutions on Cyprus while all other fourteen members of the Council voted in favour. Along with its extended interest in the Balkan region, this country vetoed a resolution on Bosnia and Herzegovina and after 2008 Russia-Georgia crisis, blocked the passage of a resolution that intended to extend the UN Observer Mission's mandate in Georgia and Abkhazia. Moreover, together with China, it did not let the Security Council condemn human right abuses in Burma and Zimbabwe; both these being important economic allies.¹³

Since 1971 and after replacing the Republic of China, the People's Republic of China has used its veto power six times; four of them were exercised after the end of the Cold War. As mentioned above, China joined Russia in vetoing two resolutions which intended to condemn human rights abuses in Burma and Zimbabwe. Like Russia, China also had economic interests in these two countries. Burma is also politically important for China and its government is highly reliant on China for its current level of power. In addition to these two cases, in 1997 China vetoed a popular resolution which intended to authorise the deployment of observers to verify the ceasefire in Guatemala and in 1999 blocked a resolution regarding the extension of the operation of United Nations Preventive Deployment Force (UNPREDEP) in Macedonia. The reason for

¹¹ *Table on Number of Security Council Resolutions and Presidential Statements: 1988-2009*, created 4 March 2009, Global policy Forum Website, <http://www.globalpolicy.org/images/pdfs/Number_of_Security_Council_Resolutions.pdf>, viewed 24 August 2011.

¹² *Changing Patterns in the Use of the Veto in the Security Council*, <http://www.globalpolicy.org/images/pdfs/Z/Tables_and_Charts/useofveto.pdf>, viewed 24 August 2011.

¹³ *Subjects of UN Security Council Vetos*, created in 2009, Global policy Forum Website, <http://www.globalpolicy.org/images/pdfs/Z/Tables_and_Charts/vetosubj.pdf>, viewed 24 August 2011.

both of these negative votes was the political ties of Macedonia and Guatemala with Taiwan.¹⁴ Therefore, China used its veto power as a political weapon to punish countries for recognising Taiwan as an independent sovereign state. This intention is more evident for the case of Macedonia which just one month before that resolution established diplomatic relations with Taiwan.

The last time France and the United Kingdom used their veto power was in 1989 in a joint veto with the USA on the situation of Panama.¹⁵ Therefore, these two countries have not vetoed any resolutions in the last 20 years. However, as I will discuss later, France used the threat of veto on several occasions to prevent a matter coming to the Council for voting.

Overall, the United States of America is the second most frequent user of veto power. More importantly, in the period after the end of the Cold War, it has become the most frequent user. This country has vetoed 83 draft resolutions since the establishment of the UNSC; 14 of them were cast after 1991. What is noteworthy is that out of these 14 resolutions 13 were related to Israel and through blocking them, the USA has provided political cover and protection for Israel, its strategic ally in the volatile region of the Middle East. The USA has been active in preventing the UNSC from adopting resolutions condemning Israeli settlement activities in East Jerusalem, asking for the withdrawal of Israeli forces from Gaza, calling the construction of security wall in the West Bank illegal and many other cases that involved condemnation of actions carried out by Israel.¹⁶ While explaining the current attitude of permanent members in avoiding frequent use of veto, Robert Hill admitted that there is an exception to that stance and that is “*a category of Israeli resolutions that the US...because of domestic political reasons...will always veto*”; in that regard there is not much difference between the policies of Obama and the Bush administration.¹⁷

For all of these thirteen resolutions, the USA was the only country which cast a negative vote (in some cases some of the members abstained as well but none of them joined the USA to vote against the draft resolution). Moreover, in three cases all other fourteen members of the Security Council supported the drafts. These facts illustrate the degree of political isolation of the USA regarding its stances towards Israel-Palestine conflict. It also demonstrates how the veto

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Personal Interview with Robert Hill, June 2011.

power enables a country like the USA to block popular resolutions, despite the unpopularity of its stance on that protracted conflict.

In July 2002 and during a closed-door meeting, John Negroponte, the United States representative in the United Nations, provided a statement which resulted in the “Negroponte Doctrine”. He clearly stated that any draft resolution regarding the Israel-Palestine conflict must contain four elements, otherwise the USA would veto it. Drafts have to: (a) explicitly condemn the acts of terrorism, (b) condemn by name the three groups of al-Aqsa Martyrs' Brigade, the Islamic Jihad and Hamas that were responsible for suicide attacks, (c) appeal to all parties for a political settlement of the crisis and (d) demand the improvement of the security situation as a condition for any call for withdrawal of Israeli forces to their position in September 2000.¹⁸ No draft resolution has condemned Hamas, al-Aqsa Martyrs' Brigade, and the Islamic Jihad by name but there were some drafts that condemned the actions of both Israel and Palestine. They were, however, also vetoed by the USA.¹⁹

The United States was responsible for the most recent case of veto which happened in February this year. They blocked a very popular resolution that was co-sponsored by at least 130 countries and intended to condemn Israeli settlement activities and to demand their cessation. It was the first (and so far only) resolution vetoed by the Obama administration despite his promise to have a better relationship with the Arab world. According to Dr. John Mearsheimer, co-director of the Program on International Security Policy at the University of Chicago, although Obama was critical of Israel's settlement activities, the USA eventually vetoed that resolution because of the pressures from pro-Israel lobby. However, by casting the veto in favour of Israel again, Obama disappointed those who hoped for different stance of his administration regarding Israel-Palestine conflict. That decision in particular drew unprecedented criticism mainly because the veto was cast amidst of mass protests in Egypt and the Middle East and in the climate of the “people power”.²⁰

After the end of the Cold War, there was only one resolution vetoed by the United States which did not concern the Israel-Palestine conflict. On 30 June 2002, the USA vetoed a

¹⁸ “The Negroponte Doctrine” concerning UN Security Council Resolutions on the Middle East, created 6 October 2003, United States Mission to the United Nations Website, <<http://web.archive.org/web/20031224063630/http://www.un.int/usa/03jdn-me1006.htm>>, viewed 24 August 2011.

¹⁹ As an example refer to the table in Appendix I and the draft resolution S/2006/878.

²⁰ Kanya D'Almeida, *Dead Peace Process Could be "National Suicide" for Israel*, created 16 February 2011, Inter Press Service News Agency, <<http://ipsnews.net/news.asp?idnews=54507>>, viewed 24 August 2011.

resolution intended to renew the United Nations peacekeeping mandate in Bosnia. The American representative gave an assurance that the decision “was not directed at the people of Bosnia”. The US previously threatened to veto the resolutions related to the UN peacekeeping missions if its request for the exemption of American peacekeepers from jurisdiction of the International Criminal Court (ICC)²¹ were not met. The veto of the aforementioned resolution happened in order to materialise those threats.²² That action put pressure on the UNSC members to later adopt a resolution which asked the ICC not to exercise its power over the actions of UN peacekeepers for a year.

However, it is important to note that the permanent members are increasingly aware of the unpopularity of casting a veto and it is one of the reasons they tend to minimise its use. It is reported that despite the pressure from the pro-Israeli lobby, Washington came “very, very close” to not vetoing anti-settlement resolution in February 2011.²³ It was mainly because of the popularity of the resolution and the fact that Washington is aware of the adverse political consequences of vetoing a popular resolution. As John Langmore mentioned, the fact that China is sensitive to international opinions played an important role in this country not casting a veto on UNSC resolution 1973. That resolution authorised the international community to establish a no-fly zone over Libya. China along with Russia, Germany, Brazil, and India just abstained from voting.²⁴ Robert Hill also explained that China still and on every issue loudly proclaims “*the sanctity of sovereignty, the right [of a country] to manage internal affairs without external interference*” but has become increasingly reluctant to use that mantra to vote down any resolution.²⁵

Therefore, nowadays and more than before the permanent members tend to lobby to prevent a controversial matter coming to the Council. In these cases, they would not need to use

²¹ The United States is not a member to the International Criminal Court. Bill Clinton signed the Rome Statute in 2000 but did not submit it to the senate for ratification. George W. Bush stated that the USA would not join the ICC and in May 2002 formally withdrew from its ratification and “unsigned” the Rome Statute. Obama has re-established a working relationship with the ICC but has not stated an intention to rejoin the Rome Statute or submit the treaty to the Senate for ratification. Many believe the initial support of the USA for the ICC and its later change of stance was because it became clear that the ICC would not subordinate to the Security Council and would act independent of it and the veto power of its members.

²² United Nations Security Council, *Security Council Rejects Draft Proposing Extension of United Nations Mission in Bosnia and Herzegovina*, Security Council Press Release SC/7438, <<http://www.un.org/News/Press/docs/2002/SC7437.doc.htm>>, viewed 24 August 2011.

²³ David Horovitz, *How Palestinians will Use the GA to Advance Statehood*, created 25 March 2011, The Jerusalem Post, <<http://www.jpost.com/Opinion/Columnists/Article.aspx?id=213752>>, viewed 24 August 2011.

²⁴ Personal Interview with John Langmore, June 2011.

²⁵ Personal Interview with Robert Hill, June 2011.

their veto and be seen as an impediment to the maintenance of international peace and security. However, it is not a big step forward. Nowadays, countries are increasingly using threats of veto to keep an issue off the agenda of the Security Council and in order to protect their international legitimacy.

“Pocket Veto”

As mentioned before, instead of casting a veto and attracting criticism, countries increasingly prefer to use the “pocket veto” (namely the threat of the use of veto). They use that threat either implicitly or explicitly, either in the private meetings of the Permanent Five or in the larger Council. On many occasions, they managed to reach their intended outcome and could keep an issue off the Council’s agenda or soften the language of a resolution. The examples of “pocket veto” are abound. In this section I will focus on some examples which concern important or very recent international conflicts.

Although France has not cast any vetoes after the end of the Cold War, it has threatened to use that power on several occasions. The most prominent example was the case of 2003 Iraq war when France’s threats to veto any resolution that would automatically lead to a war successfully prevented the United States, the United Kingdom and Spain to present a draft resolution to the Council seeking to authorise military action (although France could not eventually prevent them from attacking Iraq).²⁶ The issue of the Iraq war will be explored in more details later on. France also used the threat of veto very recently. A non-violent protest in West Sahara was crushed by Moroccan forces in November 2010. France intervened to support its ally, Morocco. By threatening to use its veto, France could prevent the UNSC members from presenting a resolution to the Council to look into the crimes of the Moroccan military.²⁷

A careful analysis of the Security Council’s records shows that Russia and China are the two countries that have been relying on “pocket veto” more than other permanent members. Sri Lanka is an important ally of China and Russia and it is believed in the last phase of Sri Lankan civil war in 2009 many Sri Lankan Tamils were killed by the Sri Lankan army and the forces of Liberation Tigers of Tamil Eelam (LTTE). China and Russia managed well to keep that issue and an inquiry or a possible resolution on the crimes of the Sri Lankan army off the agenda of

²⁶ Tarik Kafala, *The Veto and How to Use it*, created 17 September 2003, BBC News Website, <http://news.bbc.co.uk/2/hi/middle_east/2828985.stm>, viewed 24 August 2011.

²⁷ Noam Chomsky, *Libya and the World of Oil*, created 5 April 2011, New York Times Syndicate, <<http://mobile.zcommunications.org/libya-and-the-world-of-oil-by-noam-chomsky>>, viewed 24 August 2011.

the Security Council. A search through press statements and meeting records of the Council shows that issue was not adequately discussed in the Council and apart from issuing a press statement about the situation of Sri Lanka in May 2009, the UNSC did not take any other actions. In a press statement issued on 13 May 2009, the members of the Security Council expressed “grave concern over the worsening humanitarian crisis” in Sri Lanka and called for “urgent action by all parties to ensure the safety of civilians”. While condemning the actions of the LTTE, they raised concerns over the Sri Lankan army’s use of heavy calibre weapons in the areas with high population of civilians and asked the government to “fulfil its commitment in that regard”.²⁸ Although the content of this press statement might sound powerful, it was the only action that the Council took. This inactivity of the Council is more unacceptable if the scale of that massacre is taken into consideration.²⁹

During the course of the conflict and its aftermath, Russia and China opposed the discussion of alleged violations in Sri Lanka³⁰ (and considering they both are veto holders they have unusual power in blocking the discussion of some issues that are against their interests). The United Nations and its Secretary-General, Ban Ki-Moon, were much more active regarding that conflict. The UN press releases shows that the Secretary-General on several occasions condemned the violence in Sri Lanka, raised concern about the humanitarian situation of that country and called on the Sri Lankan government to bring the conflict to an end. Moreover, a UN Panel of Experts was established and on 25 April 2011 released a report on accountability with respect to the final stages of Sri Lankan conflict. Concluding that both the Sri Lankan army and the LTTE forces committed grave human rights abuses, that panel recommended establishing an international independent investigation into abuses during the armed conflict. However according to Human Rights Watch, Russia and China intervened again and on 18 April 2011 signalled their reluctance to have Ban Ki-Moon take further action on that matter.³¹ On the other hand, the Secretary-General personally is not very willing to order an investigation and wants the

²⁸ The United Nations Security Council, *Security Council Press Statement on Sri Lanka*, created 13 May 2009, United Nations Website, <<http://www.un.org/News/Press/docs/2009/sc9659.doc.htm>>, viewed 24 August 2011.

²⁹ According to the Report of the Secretary-General Panel of Experts on Accountability in Sri Lanka published on 31 March 2011, “a number of credible sources have estimated that there could have been as many as 40,000 civilian deaths”.

³⁰ *Sri Lanka: UN Chief Should Establish International Inquiry*, created 25 April 2011, Human Rights Watch Website, <<http://www.hrw.org/news/2011/04/25/sri-lanka-un-chief-should-establish-international-inquiry>>, viewed 24 August 2011.

³¹ Ibid.

Security Council to take action; something that principally due to the strong opposition from two of the veto-holder members has reached an impasse.³²

The most recent example of the use of “pocket veto” by Russia and China is the situation in Syria and the opposition of these two countries to the issuance of any resolutions by the Council despite the bloody crackdown of Syrian military forces on pro-democracy protestors. When the UNSC members gathered to discuss the situation of Syria on 27 April 2011, the British and French delegates hoped they could get the members to agree on a resolution. However, they were faced with strong opposition from the Russians who argued that the situation did not pose a threat to international peace and security. They believed that all of the problems did not come from one side only and that some protestors hoped to destabilise the country. China was not happy with that resolution either and some of the non-permanent members like India, Brazil, South Africa and Lebanon did not fully support it. Consequently the European-sponsored resolution was not put for voting.³³ In June 2011 and when the violence became more intense, the Western European countries again tried to put a resolution to the Council which demanded Syria end its violent crackdown against protestors. Once again China and Russia made it clear that they would not support Council’s engagement as its involvement could destabilise a strategic country in the already unstable region of the Middle East. This was despite the fact that the draft resolution did not ask for military intervention or even imposing further sanctions on Syria. Furthermore, the Aljazeera report argues that Moscow has for a long time been an ally and arms supplier of Syria³⁴ and therefore does not want to see its strategic ally in trouble.

The violence in Syria increased significantly to a level that even Russia reluctantly condemned it. Therefore, the European countries became hopeful that the revised version of the June draft could get enough support and would not get blocked by either (or both) of the veto holder countries of Russia and China. The new draft that was circulated in the Council in early August again intended to condemn the bloody crackdown of the Syrian protestors. However, the Russians once again opposed the draft. They said a resolution was too excessive and a

³² Jake Lynch, *War Crimes in Sri Lanka and Political Options for Australia*, created 4 August 2011, Crikey Website, <<http://www.crikey.com.au/2011/08/04/war-crimes-in-sri-lanka-and-political-options-for-australia/>>, viewed 24 August 2011.

³³ The United Nations Security Council, *Under-Secretary-General for Political Affairs Briefs Security Council on Syria, Says ‘Repression Is Not the Solution;’ Inclusive Dialogue, Reforms Needed*, created 27 April 2011, United Nations Website, <<http://www.un.org/News/Press/docs/2011/sc10235.doc.htm>>, viewed 24 August 2011.

³⁴ *UN Security Council weighs Syria resolution*, created 9 June 2011, Aljazeera News Website, <<http://english.aljazeera.net/news/middleeast/2011/06/20116815955110282.html>>, viewed 24 August 2011.

Presidential statement would be “satisfactory”.³⁵ Russia was suspicious that any such resolution could turn out to be an initial step in a sequence, with calls for military action – should Syria not respond- next on the agenda. Moscow was already concerned that NATO had, in Russia’s view, exceeded the mandate given by United Nations Security Council Resolution 1973, on Libya. There, military action was provided for, to protect civilians, but Russian Prime Minister Vladimir Putin told reporters that “taking the side of one of the warring parties, [NATO] had committed a crude violation of the UN resolution”.³⁶ So far, Russia and China have managed to block any resolutions. As they wanted, the Council merely published a Presidential statement³⁷ which condemned widespread violations of human rights against Syrian civilians, called for immediate end to the violence, and urged all sides “to act in utmost restraint”. Reaffirming their commitment to the sovereignty and territorial integrity of Syria, the Council members called on the authorities to respect human rights and hold accountable those responsible for violence.³⁸

There are also some instances where the permanent members, Russia and China in particular, did not keep an issue off the agenda of the Council but managed to soften the language of the resolution issued by the Council. Iran’s nuclear program is an example. Russia and China considerably affected the second resolution on that program which was issued in December 2006. It was the first punitive resolution which imposed sanctions on Iran. Because Iran has been one of the important trade partners of Russia and China, the language of the resolution eventually issued by the Council was much softer than the original draft and the imposed sanctions were lighter.³⁹ An analysis of all seven UNSC resolutions regarding the nuclear program of Iran shows that Russia and China did not even abstain from voting and always voted in favour of all of the resolutions. Considering their stance towards Iran, one can conclude that they supported the resolutions because the final drafts which came to the Council

³⁵ Margaret Besheer, *UN Security Council Again Considers Syria Resolution*, created 1 August 2011, VOA News Website, <<http://www.voanews.com/english/news/middle-east/UN-Security-Council-Again-Considers-Syria-Resolution-126555493.html>>, viewed 25 August 2011.

³⁶ Mary Dejevsky, *Putin attacks Britain and US for ‘violating Libya resolution’*, created 12 November 2011, The Independent, <<http://www.independent.co.uk/news/world/europe/putin-attacks-britain-and-us-for-violating-libya-resolution-6261163.html>>, viewed 14 December 2011.

³⁷ Unlike resolutions, a presidential statement needs unanimity. When India, the Council president for the month of August, read the text of the presidential statement, Lebanon that has a pro-Syrian government dissociated itself from that statement. The Lebanese delegate said the text of the statement did not help address the current situation of Syria. Therefore, although that statement was issued, it did not have the requisite unanimity.

³⁸ The United Nations Security Council, *Security Council, in Statement, Condemns Syrian Authorities for ‘Widespread Violations of Human Rights, Use of Force against Civilians’*, created 3 August 2011, United Nations Website, <<http://www.un.org/News/Press/docs//2011/sc10352.doc.htm>>, viewed 25 August 2011.

³⁹ *UN Passes Iran Nuclear Sanctions*, created on 23 December 2006, BBC World News Website, <http://news.bbc.co.uk/2/hi/middle_east/6205295.stm>, viewed 25 August 2011.

for voting were in accordance with their interests and were drafted with attention to what they wanted. However, the support of these countries for Iran has decreased over the recent years mainly because of the economic incentives of Western and Arab countries⁴⁰ as well as Iran's continuous defiance and its opposition to compromise.⁴¹ However, there is still strong chance that these two countries will veto any resolutions authorising military action against Iran in the future or they will use the threat of veto to prevent any such resolutions materialising.

The above and previous examples show how the use of veto power has become distant from the initial reason it was included in the Charter. The actual use of veto or even the threat of its use can pressure other members of the UNSC to comply with the demands of the member who has that power. Therefore, the veto gives substantial power to France, the UK and to some extent Russia, who otherwise would not have much power. Robert Hill confirmed that the stance of each of the permanent members is important when a draft resolution is debated. Referring to the importance of North Korea for China or (at least until recently) Iran for Russia and China and the consequent delicate treatment of those issues by the Council, Robert Hill commented that “*the general direction [of the Council] at the moment is to go easy on the issues that are not of interest of some of the P5s*”.⁴²

Veto and Initiation of Important Debates in International Law

There are some instances where the use of the veto has initiated important debates in the field of international law. One of the most notable cases is the conflict in Yugoslavia and NATO's military intervention in Kosovo. During the course of the conflict, Russia (in order to protect Yugoslavia) repeatedly threatened that it would veto any Security Council resolution authorising the use of force in Kosovo.⁴³ Therefore, the Council only went as far as Resolution 1199 which asked for a ceasefire following the reports of gross human rights violations. This resolution emphasised that if its contents were not met the Security Council would “consider

⁴⁰ China is still a powerful country but the fact that one of the reasons for the shift in Russia's stance towards Iran has been economic incentives of some rich countries indicates that at least some of the permanent members of the Council are not the most powerful and stable countries of the world anymore. Therefore, some rich countries can dictate their own positions to them.

⁴¹ Julian Borger, *Medvedev: Sanctions against Iran's Nuclear Program 'May be Inevitable'*, created 24 September 2009, Guardian Newspaper Website, <<http://www.guardian.co.uk/world/2009/sep/23/nuclear-iran-un-gcc-sanctions>>, viewed 25 August 2011.

⁴² Personal Interview with Robert Hill, June 2011.

⁴³ Mary Ellen O'Connell, 'The UN, NATO, and International Law after Kosovo', *Human Right Quarterly*, 22, no.1 (February 2000), p.76.

further action and additional measures to maintain or restore peace and stability in the region”.⁴⁴ Therefore, this resolution did not authorise any country or regional organisation to launch military intervention. However, on 24 March 1999, the NATO started a bombing campaign over Yugoslavia. The Council (perhaps because of the presence of some key NATO members like the United States) did not condemn those actions in any subsequent resolutions.⁴⁵ Only Resolution 1244, which put an end to the NATO bombing, started with a reminder of the purpose of the UN Charter and the primary responsibility of the Security Council in maintaining international peace and security. It did not condemn the actions of NATO either.⁴⁶

Therefore NATO launched military action against Yugoslavia without the Security Council authorisation. It generated a large amount of debate on whether or not that action was legal in terms of international law. Mary O’Connell, in her article on international law after Kosovo, argues that the use of force by NATO was inconsistent with both of the UN Charter and the practice of the Security Council.⁴⁷ This view is shared by many commentators like Bruno Simma.⁴⁸ Unlike other occasions where countries breached Paragraph 4 of Article 2 of the UN Charter and then tried to justify it, the NATO members did not try to provide any legal justifications based on the UN Charter for their actions.⁴⁹ Appendix II of this report provides insight into debate over the legality of NATO actions in Kosovo in terms of international law. In a nutshell and as the Independent International Commission on Kosovo, an independent group of human rights proponents, confirmed in 2000, those actions were illegal but “legitimate” as they were “ethically justified”.⁵⁰ Although some countries condemned the actions, the lack of strong criticism also showed that in the eyes of many countries those actions were “justified”. Even the

⁴⁴ United Nations Security Council, *Resolution 1199 (1998)*, created 23 September 1998, United Nations Website, <<http://www.un.org/peace/kosovo/98sc1199.htm>>, viewed 25 August 2011.

⁴⁵ For example the resolution 1239 which was adopted in May 1999 and after the start of NATO bombing did not mention anything in that regard. Russia and China abstained in protest to this fact.

⁴⁶ United Nations Security Council, *Resolution 1244 (1999)*, created 10 June 1999, Security Council Documents, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>>, viewed 25 August 2011.

⁴⁷ O’Connell, ‘The UN, NATO, and International Law after Kosovo’, p.57.

⁴⁸ Bruno Simma, ‘NATO, the UN and the Use of Force: Legal Aspects’, *European Journal of International Law*, 10, number 1 (1999), p.1.

⁴⁹ Antonio Cassese, ‘Ex iniuria ius oritur: Are We Moving towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community’, *European Journal of International Law*, 10, number 1 (1999), page 24.

⁵⁰ Thomas G. Weiss, ‘Overcoming the Security Council Reform Impasse: The Implausible versus Plausible’, *Friedrich Ebert Stiftung*, Occasional Paper Number 14 (January 2005), p.29; I have to point out that still many argue against this stance and believe that the grave humanitarian situation of Kosovo was exaggerated for self-serving reasons.

Secretary-General did not condemn NATO's use of force and sufficed to say that "*normally a U.N. Security Council resolution is required*".⁵¹

Many NATO members justified their actions on humanitarian grounds. They mentioned that the situation was exceptional and that it would not set a precedent. Furthermore, they argued that their actions were not meant to undermine the Security Council. They declared their commitment to abide by UNSC decisions and to seek its authorisation for future enforcement actions. However, this was not so for the USA. American politicians never spoke of that intervention as an exception. In fact, several high-rank officials in the Clinton administration stated that they did not see any necessity in seeking the UNSC's authorisation for NATO's enforcement actions.⁵² In this way, the USA showed its capacity in undermining the Security Council.

After the NATO bombing of Yugoslavia, "*the legal regime for the use of force by the regional organisations no longer reflect[ed] the [previous] neat principles*".⁵³ NATO's use of force in Kosovo initiated different debates over that regime. Some believed that action was a violation of law and did not change anything, while others argued that NATO did not need to seek the UNSC's authorisations. As Cassese argues, exception is not a meaningful term here. Once a group of countries bypass the Security Council and the UN Charter with some vague justification, nothing can restrain them from the same action in the future.⁵⁴ Appendix II, by explaining that NATO needs to seek the UNSC's authorisation for any enforcement action, invalidates the second argument. That event and following debates lent impetus to the concept of humanitarian intervention, that is, the right to take military action without the UNSC's authorisation during humanitarian disasters in order to protect human rights.⁵⁵ One can say an event which was the result of repeated use of veto power by a permanent member, to some extent introduced a new concept in the international law and opened another way to bypass the Security Council. It should be pointed out, however, that this new concept is still controversial and has not yet been mentioned in any treaty or customary law.

It is debatable if the NATO military actions against Former Yugoslavia could be excused because of the grave humanitarian situation of Kosovo people. Many believe that the level of

⁵¹ O'Connell, 'The UN, NATO, and International Law after Kosovo', p.82.

⁵² Ibid., p.57.

⁵³ Ibid., p.82.

⁵⁴ Cassese, 'Moving towards International Legitimation of Humanitarian Countermeasures', p.25.

⁵⁵ O'Connell, 'The UN, NATO, and International Law after Kosovo', pp.70-82.

humanitarian crisis was exaggerated and by the time the bombing began many refugees had gone back home and it triggered an exodus of non-Albanians. However, Kosovo action cannot justify the 2003 Iraq war which shows the capacity of the USA and to some extent the UK to bypass the Security Council when they need to. It also shows the inability of the Council to condemn those actions. The war started without the consent of the Security Council amidst strong opposition from many countries. At that time the latest Security Council resolution on Iraq was Resolution 1441 which found Iraq in “material breach” of the ceasefire terms and its obligations under Resolution 678 (1991). It stated that the failure of Iraq in fully cooperating in the implementation of the contents of this Resolution constitutes “*further material breach of Iraq obligations*” and recalled that the Council had repeatedly warned this country that it would face “*serious consequences as a result of its continued violations of its obligations*”. However, this Resolution was not an authorisation for war. It pointed out that the Security Council decided to “convene immediately” if it received a report of Iraq’s further material breach of its obligations.⁵⁶ What some politicians said during the UNSC meeting prior to the adoption of this Resolution further confirm this thesis. John Negroponte, the then Permanent Representative for the US, clearly asserted that the Resolution contained “no hidden triggers” and no “automaticity” for the use of force; what the ambassador for the United Kingdom confirmed as well, saying that “*if there is a further Iraqi breach of its disarmament obligations, the matter will return to the Council for discussion*”.⁵⁷

By threatening to veto any resolutions authorising war on Iraq, France prevented the US and UK from presenting another draft resolution to the Council to get permission for a military attack on Iraq. However, USA, UK and Australia waged war against Iraq without the Security Council approval and without the consent of the majority of international community. Although proponents of the invasion – notably then UK Prime Minister, Tony Blair – did put forward humanitarian and ethical arguments, for ridding the Iraqi people of an abusive dictator, these were not widely accepted as justifications, and did not serve to broaden support in the international community. Kofi Annan, a year after the start of the war, called the invasion of Iraq illegal and asserted that he believed it should have been up to the Security Council to determine the consequences of Iraq’s failure to comply with its obligations. Furthermore, since the

⁵⁶ United Nations Security Council, *Resolution 1441 (2002)*, created 8 November 2002, Security Council Documents, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/682/26/PDF/N0268226.pdf?OpenElement>>, viewed 25 August 2011.

⁵⁷ United Nations Security Council, *Security Council 4644th meeting*, created 8 November 2002, Security Council Documents, <<http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N02/680/99/PDF/N0268099.pdf?OpenElement>>, viewed 25 August 2011.

beginning of the war he said several times that the invasion did not “conform with the UN Charter”.⁵⁸

It was later clarified that the issue of Iraq’s possession of weapons of mass destruction, the main justification for the initiation of the war, was mainly fabricated by the American authorities to get international support for the US led invasion.⁵⁹ Despite all opposition and document fabrication, the Security Council has never issued a resolution condemning the actions of the USA, and UK since both of these countries are permanent members of the Council and can veto such a resolution. Later on, the Council adopted American and British sponsored Resolution 1483 which recognised these two countries as the occupying powers and therefore made them the legitimate and legal peacekeeping authorities. It asserted that it recognises “*the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers*”.⁶⁰ Therefore, the Council legitimised their presence rather than condemning it.

Arguments For and Against Veto

The previous sections clearly show the undemocratic nature of the veto power. They illustrate the substantial power that it gives to a few countries to protect their interests. This power, as will be explored later on, has been one of the main impediments against the much needed reform of the Security Council. There are few UN Member States who support the veto power. Back in the 1990s, 185 Member States criticised the veto as inequitable.⁶¹ Statements against the veto abound. For instance, Ahmad Kamal, former Pakistani Ambassador to the UN, once stated that “*in a democracy no one can be more equal than the others*” and labelled the veto anachronistic and undemocratic. Many African countries shared that sentiment as well.⁶²

⁵⁸ *Iraq War Illegal, Says Anna*, created 16 September 2001, BBC News Website, <http://news.bbc.co.uk/2/hi/middle_east/3661134.stm>, viewed 25 August 2011.

⁵⁹ Iraq Survey Group, *Iraq Survey Group Final Report*, 30 September 2004, available at Global Security Website, <http://www.globalsecurity.org/wmd/library/report/2004/isg-final-report/isg-final-report_vol1_rsi-06.htm>, viewed 25 August 2011.

⁶⁰ United Nations Security Council, *Resolution 1483 (2003)*, created 22 May 2003, Security Council Documents, <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement>>, viewed 25 August 2011.

⁶¹ Weiss, ‘Overcoming Security Council Reform Impasse’, p.30.

⁶² Jakob Silas Lund, *Pros and Cons of Security Council reform*, created 19 January 2010, Centre for UN Reform Education, <<http://www.centerforunreform.org/node/414>>, viewed 25 August 2010; As an example of African countries’ stance, I can refer to the comments of the delegate of the United Republic of Tanzania during a General Assembly debate on the reform of the Security Council on 1 November 1996. During that meeting, he called veto “undemocratic and irrelevant to the modern age” (GA/9151 available online at UN press archives).

However, there are still some countries that support the veto power. Obviously the permanent members are supportive of such a power for self-serving reasons. In 2007 and after Russia repeatedly threatened to veto any resolutions that would recognise Kosovo as an independent state and undermine Serbia's sovereignty, Vladimir Titov, the Russian Deputy Foreign Minister pointed out that the threat of a veto would "*stimulate the sides to find a mutually acceptable mechanism*".⁶³ So far, there have been some occasions when countries or regional groups intervened in a conflict without the explicit authorisation of the UNSC. Sometimes this body gave its post-hoc authorisation (like when the Economic Community of West African States intervened in Sierra Leone)⁶⁴ and sometimes the intervention was considered illegal but legitimate (as discussed before with NATO intervention in Kosovo). However, there is no justification for the USA and the UK led war in Iraq in 2003 when these two countries chose to deploy forces to Iraq despite the great opposition from many countries. What can be argued is that if a veto-holding country like France had not threatened to veto any resolution authorising this war there would have been a great likelihood of the war being legitimised through a UNSC resolution. Judging from the comments of some delegates, like the Mexican representative who was present in the Security Council at the time of the debates on Iraq War,⁶⁵ one can conclude that the USA tried hard to force some countries to support the attack on Iraq. Therefore, if a country like France had not have the veto power, it would have been likely that the USA and to a lesser extent the UK could have forced some countries to support the resolution and the Council would have issued a resolution legitimising the war with a weak majority. Although France could not eventually prevent the USA and the UK from acting unilaterally and without the consent of the Security Council, an un-vetoed resolution would have rendered the war legitimate and therefore those countries would have faced less criticism.

It is debatable how often and how much the veto can work constructively. Moreover, the importance of France's actions in regards to Iraq war has become more debatable when, as mentioned earlier, the Security Council through Resolution 1483 legitimised the presence of the American and British troops in Iraq.

⁶³ *Russia Threatens Veto over Kosovo*, created 24 April 2007, BBC News Website, <<http://news.bbc.co.uk/2/hi/europe/6587497.stm>>, viewed 25 August 2011.

⁶⁴ Weiss, 'Overcoming Security Council Reform Impasse', p.30.

⁶⁵ Mexico shifted its stance towards war in Iraq from supporting France to supporting the U.S. Prior to that shift of stance, the American officials visited Mexico several times. The Mexican diplomats described their conversations with the American officials "hostile in tone". They complaint that Washington showed little concern about the overwhelming opposition of Mexican people to the war and the consequent problems of the government (*Mexico Shifts Towards U.S Positions on Iraq*, created 26 February 2003, USA Today Website, <http://www.usatoday.com/news/world/iraq/2003-02-26-us-mexico-iraq_x.htm>, viewed 25 August 2011.)

Furthermore, as Jakob Silas Lund explains in his article, those who oppose the abolition of veto refer to the fall of the League of Nations because major powers like the USA refused to join. They therefore argue that if the veto is eliminated the UN can follow the same fate with major powers leaving this body or refusing to pay for those actions they oppose. Again, the possibility of such outcome is questionable especially considering the current status of the UN and the level of support for it.⁶⁶ It is unlikely that any member would risk leaving the UN as it will be a serious blow to its legitimacy but one cannot totally rule out this possibility, especially considering that USA has the capacity to do such an action.⁶⁷

Finally, there are also some apocalyptic arguments about the importance of veto which do not necessarily carry much persuasive weight. Some commentators argue that the P5 are all nuclear countries. They have large nuclear arsenals and the consequent ability to initiate a full-scale nuclear war. Therefore, the veto power has to stay in order to enable them to end measures that are threatening to them diplomatically. In this way, the international community can avoid the dissatisfaction of these nuclear powers which has the potential to result in international tension and the possible waging of a nuclear war.⁶⁸

“Uniting for Peace” Resolution

It may seem that there is no preventive measure against the use of veto and limitless power of the permanent members. This is not the case. During the early phases of Korean War, the USA, concerned by the Soviet Union’s repeated use of veto power and fearing those actions might prevent the Council from protecting South Korea (considering that the USSR supported North Korea) took the matter to the General Assembly. With support from many countries the UN adopted a General Assembly resolution called “Uniting for Peace” in November 1950.⁶⁹ This resolution reaffirms it is important that the Security Council carries out its responsibility in maintaining international peace and security and that the permanent members limit their use of the veto power. This resolution further recognises that the failure of the Security Council in

⁶⁶ Silas Lund, *Pros and Cons of Security Council reform*, <<http://news.bbc.co.uk/2/hi/europe/6587497.stm>>.

⁶⁷ There are already some calls from some American critics like David Holcberg who argue that the United States should withdraw from the UN. Reasons for those calls range from the constraints that the UN imposes on the US foreign policies to the claim that most of the UN Member States do not support human rights and therefore the US has to act on its own in order to be able to pursue the foreign policies that support human rights.

⁶⁸ John Beck, *The Security Council Veto Power, or Got Nuke?*, created 5 December 2004, Incite Website, <<http://incite1.blogspot.com/2004/12/security-council-veto-power-or-got.html>>, viewed 25 August 2011. (It is noted that India, Pakistan, Israel and North Korea all have nuclear arsenals and are not P5 members.)

⁶⁹ David Horovitz, *How Palestinians will Use the GA to Advance Statehood*, The Jerusalem Post, created 25 March 2011, <<http://www.jpost.com/Opinion/Columnists/Article.aspx?id=213752>>, viewed 26 August 2011.

fulfilling those tasks will not relieve the United Nations of “*its responsibilities under the Charter to maintain international peace and security*”. Therefore, when the permanent members of the Security Council find themselves at odds and fail to reach unanimity on a matter that appears to be a threat to international peace and security, this resolution authorises the General Assembly to immediately consider that matter and issue its own “appropriate recommendations” to the Member States “for collective measures”. Those collective measures can include “*the use of armed force when necessary*”.⁷⁰ Therefore, one can conclude that this resolution gives the GA final responsibility rather than secondary responsibility. It can be held as a way to bypass the Security Council and a means for the General Assembly to overrule the vetoes of the UNSC P5 members.

Although not frequent, this resolution has been applied during the GA’s history. One successful example of its application was in 1981 when South Africa was preventing the independence of Namibia. The General Assembly by using this resolution recommended sanctions against South Africa and assistance (including military assistance) to those who were fighting for Namibian independence. The resolutions passed by the GA using the provisions of “Uniting for Peace” are not binding (as none of the General Assembly resolutions are). However, because of their nature, these resolutions can carry more weight and can “press supportive countries to take actions”. It was what happened regarding South Africa. As Richard Schifter, the former US Assistant Secretary of State for Human Rights explains, the resolution on South Africa passed under “Uniting for Peace” principles, “*was a significant step in the process of imposing sanctions on apartheid South Africa and de-legitimizing the country.*”⁷¹

Therefore, bypassing the Security Council is not impossible. It can happen through the use of “Uniting for Peace” resolution or possibly, as was discussed before, through the concept of humanitarian intervention (although this issue is more controversial and has less support). However, many European and developing countries are reluctant to go through that path especially when a military intervention is involved. They are reluctant to consider such actions legitimate as they believe setting the Council aside, “*threatens the main rules that underpin international society*”.⁷²

⁷⁰United Nations General Assembly, *Uniting for Peace (1950)*, United Nations Official Documents, <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/377%28V%29>, viewed 26 August 2011.

⁷¹Horowitz, *Palestinians to Advance Statehood*, <<http://www.jpost.com/Opinion/Columnists/Article.aspx?id=213752>>, viewed 26 August 2011.

⁷²Weiss, ‘Overcoming Security Council Reform Impasse’, p.31.

The UNGA Resolution 377 or “Uniting for Peace” has been rarely used. However, it may be used in the very near future regarding Israel-Palestine conflict and because the Palestinians are trying to seek UN membership. This Resolution will be further explored in that context. According to the UN, the recognition of a state is something that only other states can grant or withhold. There are already 122 countries that recognise Palestine as a state. Since the UN is not a state or a government it cannot recognise a state; it can only admit or not admit a state to its membership. In order to apply for the United Nations membership, a state has to submit an application to the Secretary General. Then the Security Council considers the application and if nine members out of the fifteen (including all Permanent Five) vote in favour, the Council through a resolution recommends the membership of that state to the General Assembly. In the Assembly a two-thirds majority vote is required for the admission.⁷³

After the impasse in peace negotiations and continuation of Israeli settlement activities, Palestinian officials decided to seek UN membership. Anticipating that the United States will veto any UNSC resolutions recommending the admission of the state of Palestine to the GA,⁷⁴ they intend to use “Uniting for Peace” resolution and therefore bypass the Council and go straight to the GA. The experience of South Africa shows that Israel’s initial assumption that an overwhelming vote for the establishment of Palestinian state in the GA is merely declaratory is not true as under this Resolution the GA “has teeth”. As Horovitz discusses, the Israeli key players made the mistake of not effectively considering the different weight and “practical backing” that the “Uniting for Peace” can provide for the GA’s recognition of Palestine (although it cannot eventually confer the UN membership on the state of Palestine). As many experts confirm, the consequences of such an action can be very damaging to Israel as it might result in considerable global pressure on Israel to accept the decision. It is believed if the matters are brought to the General Assembly, the Palestinians have strong chance of success. In order for the GA to pass a resolution, a two-thirds majority votes is needed; namely the affirmative votes of 128 members.⁷⁵ Considering the number of countries that recognised the state of Palestine so

⁷³ *About UN Membership*, United Nations Website, <<http://www.un.org/en/members/about.shtml>>, viewed 26 August 2011.

⁷⁴ There might be a chance that the United States will not veto that resolution especially considering its reluctance to veto the popular anti-settlement resolution in February 2011 and its awareness of the level of international support for Palestine. However, considering the domestic political situation and the strength of pro-Israel lobby that possibility is very slim.

⁷⁵ Horovitz, *Palestinians to Advance Statehood*, <<http://www.jpost.com/Opinion/Columnists/Article.aspx?id=213752>>, viewed 26 August 2011.

far or the number of countries that co-sponsored the recent anti-settlement resolution at the UNSC, this majority is very much within reach.

Being well aware of the unpopularity of casting veto and expectations of the international community from the Obama administration, the USA is lobbying hard to either dissuade the Palestinians to seek UN membership and keep them at the negotiation table or convincing at least seven UNSC members to abstain or vote against any possible resolution in that regard. The latter option is not easy considering the widespread support for Palestine and the status and stances of the current Council members.⁷⁶ President Obama's speech on 19 May 2011 in which he asked Israel to respect 1967 borders⁷⁷ was an effort to convince the Palestinians that there is still room for negotiations. Washington obviously does not want to be perceived as an impediment to the resolution of the Middle-East's most protracted conflict. Moreover, the perception of the USA as a key element in any political agreement in the Middle East is a strategic asset for Washington. Involvement of the UNGA in this matter may jeopardise this asset and consequently the US foothold in the region may be weakened.

It was initially expected that the Palestinians submit their application to the Secretary-General in July and go to the UNSC when it was scheduled to have a session on July 26th. It did not happen, although there were some discussions in that regard in the UNSC meeting. It was when the American Permanent Representative clearly stated that her country would veto any "unilateral campaigns at the UN".⁷⁸ As mentioned before, facing with an imminent threat to its power in the Middle East and another possible blow to its legitimacy, the USA is working hard to prevent the Palestinians from seeking UN membership. Recently the American ambassador to the UN, Susan Rice, said there was "no greater threat" to the US support and funding of the UN than the prospect of the recognition of Palestine as a state by this organisation. It is a powerful threat since the UN relies considerably on the financial assistance of the United States which contributes to a quarter of the UN's annual budget.⁷⁹ In addition to this, the US Senate passed a resolution threatening to suspend financial assistance to the Palestinian Authority if they persist

⁷⁶ Ibid.

⁷⁷ Mark Landler, *Obama Sees '67 Borders as Starting Point for Peace Deal*, created 19 May 2011, New York Times Website, <<http://www.nytimes.com/2011/05/20/world/middleeast/20speech.html>>, viewed 26 August 2011.

⁷⁸ Neil MacFarquhar, *Security Council Debate Offers Preview of Palestinian Bid*, created 26 July 2011, The New York Times, <<http://www.nytimes.com/2011/07/27/world/middleeast/27nations.html>>, viewed 26 August 2011.

⁷⁹ Jon Swaine, *US 'could Withdraw Funding from UN if Palestine State is Recognised'*, created 24 June 2011, The Telegraph, <<http://www.telegraph.co.uk/news/worldnews/middleeast/palestinianauthority/8597559/US-could-withdraw-funding-from-UN-if-Palestine-state-is-recognised.html>>, viewed 26 August 2011.

in turning to the UN. This resolution also calls on Obama to veto a Security Council resolution if the Palestinians choose to go along with their initial decision.⁸⁰

Rather than seeking full membership of the UN, the Palestinians have another option. They can go directly to the General Assembly and ask for enhanced observer status (permanent observer status). Such a request just needs the GA's approval. This status, currently held only by the Holy See, enables them to join some of the international organisations.⁸¹ One can argue that the recent threats of the US were not completely unsuccessful as Palestinians are assessing this second option more thoroughly.⁸² On the other hand, on August 4th and after an Arab League follow up committee meeting, Saeb Erekat, the chief Palestinian negotiator, said the committee members reached a final agreement to request the full support for a Palestinian state within 1967 borders and with Jerusalem as its capital. The request will be made in September and in the meantime they aim to garner support from the UNSC members.⁸³ Whether Palestinian officials will finally give up to the US pressures and choose to only ask for an upgrade in their status or will continue to seek full UN membership has to be seen. Whatever happens, it will certainly mark an important event in the history of the Israeli-Palestine conflict and veto debates.

⁸⁰ Natasha Mozgovaya, *U.S. Senate Passes Resolution Threatening to Suspend Aid to Palestinians*, created 29 June 2011, Haaretz Website, <<http://www.haaretz.com/news/diplomacy-defense/u-s-senate-passes-resolution-threatening-to-suspend-aid-to-palestinians-1.370341>>, viewed 26 August 2011.

⁸¹ MacFarquhar, *Security Council Debate Offers Preview of Palestinian Bid*, <<http://www.nytimes.com/2011/07/27/world/middleeast/27nations.html>>, viewed 26 August 2011.

⁸² Ali Sawafta, *Arabs to Seek Full Palestinian Upgrade at U.N.: Draft*, created 14 July 2011, Reuters Website, <<http://www.reuters.com/article/2011/07/14/us-palestinians-israel-statehood-arabs-idUSTRE76D21020110714>>, viewed 26 August 2011.

⁸³ *Arab League Discusses Palestinian Statehood*, created 4 August 2011, Aljazeera News Website, <<http://english.aljazeera.net/news/middleeast/2011/08/20118441614328796.html>>, viewed 26 August 2011.

Section 3: The Reform of the Security Council

The issue of the Security Council reform is one of the perennial debates that has been discussed for at least 18 years; some even say this issue is as old as the Council itself. Because of all of the UNSC's flaws, different debates and proposals on the reform of the Council have emerged. However, after the end of the Cold War, when the Council became more efficient and more engaged in international matters and peacekeeping operations, the calls for reform paradoxically increased. One of the explanations provided in this regard is that perhaps after the end of the Cold War, the UN Member States have regained part of their lost faith in the Council and therefore started to try harder to make its structure compatible with the current realities of the world. The Council's structure is still largely the same as its initial structure in 1946 and does not reflect the current world power distribution and geopolitical situation. Today, most of the Permanent Five are not the most stable and most powerful countries of the world but they have kept a power which enables them to have considerable influence on the Council's decisions, policies and agenda.

Flaws of the Security Council and Reform Proposals

The United Nations Security Council is not perfect. The fundamental flaws of this organ have led to many calls for reform from the majority of the UN Member States. The relations between the Security Council and the General Assembly are strained and it is not just because the Council is an exclusive club of fifteen members that does not necessarily act according to the best interests of the majority of the United Nations members. As Robert Hill pointed out, the fact that this club is able to pass binding resolutions whilst the resolutions of the GA with 193

members are not legally binding and the belief of many UN members that the UNSC is increasingly expanding its mandate are other contributing factors to this uncomfortable relationship.⁸⁴

The first and only reform of the Security Council happened in 1965 when the number of non-permanent members increased. The main reason for this reform was that the number of the UN Member States had more than doubled and had increased from 51 to 114. Since that reform, the number of the UN Member States has increased substantially again especially because after the fall of the Soviet Union many new members joined the UN. Today, the United Nations has 193 members. The imbalance between the number of the GA and the UNSC members has made the UNSC very exclusive and has formed one of the main flaws of this Council. The size of the Council is not reflective of the UN's growing membership and is at odds with the contents of Article 2 of the Charter; namely the "*principle of the sovereign equality of all...Members*".⁸⁵ It is why many countries are advocating for an increase in the number of the Security Council permanent and non-permanent members. The regional representation of the Council has attracted much criticism as well. The UNSC has two Western European permanent members while Africa, the second most populous continent and South America have no permanent representatives.

The contents of the previous section comprehensively illustrate why veto power is one of the biggest flaws of the Security Council and the main factor that has rendered this body undemocratic. Lack of transparency of the Council, many of its working methods and to some extent its agenda have all been also criticised since its establishment and have led to strong calls for reform. Many countries are critical of the agenda of the Council because they believe the conflicts in Europe, Africa and the Middle East are more likely to appear in the agenda than the conflicts in Asia and South America. In fact, the maintenance of international peace and security is approached differently in different geographical regions.⁸⁶

The last weak point of the Council to be pointed out is that the permanent members of the Council, at least in the last decade, have been five of the top ten arms exporting countries. From 2000 to 2010, together they have been responsible for 71 percent of reported conventional arms export (Appendix III provides further information and statistics regarding the trends of arms exports by the Permanent Five). Article 26 of the Charter states that in order to maintain

⁸⁴ Personal Interview with Robert Hill, June 2011.

⁸⁵ Weiss, 'Overcoming Security Council Reform Impasse', p.10.

⁸⁶ Ibid., p.15.

international peace and security, “*the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee...plans to be submitted to the Members of the United Nations for the establishment of a system of the regulation of armament*”.⁸⁷ Therefore, the P5 members of the Security Council, some of the biggest arms exporters, are in charge of establishing a system of armament regulation and have to control that big trade. This conflict of interest does not allow the Security Council to fulfil its responsibility; what Jimmy Carter acknowledged and explained well in his 1976 presidential campaign, saying that “*we can’t have it both ways. We can’t be both the world’s leading champion of peace and the world’s leading supplier of arms*”.⁸⁸

Several proposals on different categories of reform (size, veto, regional representation, categories of membership, and working methods) have been developed during the years. The proposal for the enlargement of the Security Council, either by addition of permanent or non-permanent members, has gained relative headway. Germany and Japan, two of the main contributors to the UN programs, along with India (second most populous country) and Brazil formed a group called the G4 in order to lobby collectively and support each other’s bid to get permanent membership in the Security Council. On the other hand, some countries who oppose the G4’s bid, mainly because of regional political rivalries and because of concern about their own position if their neighbour or rival were to get a permanent seat at the Council, formed an opposition group called the “Uniting for Consensus”. The core members of this group are Italy, Pakistan, South Korea, Mexico, Argentina, Spain, Turkey, Canada, and Malta and they advocate the addition of non-permanent seats. Considering South Korea does not want Japan to get a permanent seat, Pakistan is opposed to India, Argentina and Mexico are against Brazil’s permanent membership, and Spain and Italy can be considered Germany’s regional political rivals,⁸⁹ it is fair to say, as one Australian official described, that “*the Uniting for Consensus countries are united not by consensus but by their opposition to one of the G4s*”.⁹⁰ Obviously, those countries do not publicly admit this fact and state that their opposition to the addition of permanent seats is because a democratic and representative reform cannot be achieved through

⁸⁷The United Nations, *Charter of the United Nations* (1945), United Nations Website, <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 28 August 2011.

⁸⁸Anup Shah, *The Arms Trade is Big Business*, updated 5 October 2010, Global Issues Website, <<http://www.globalissues.org/article/74/the-arms-trade-is-big-business>>, viewed 28 August 2011.

⁸⁹John Langmore, *A Step towards Security Council Reform*, created October 2008, Nautilus Austral Review, <<http://www.nautilus.org/publications/essays/apsnet/policy-forum/2008/langmore-UNSC>>, viewed 28 August 2011.

⁹⁰Personal interview, May 2011.

addition of permanent members. They believe this extension would only give ineffective privileges to some countries while leaving the majority of the countries out.⁹¹

As Robert Hill said, in contrast to their stances a few years ago, the permanent members have started to support some reform proposals on membership expansion and have become increasingly public in that regard.⁹² According to what Kugel discusses, the relative openness of the Permanent Five to some reforms, such as the enlargement of the Council, was partly meant to legitimise their own seats and decisions. Those members are well aware that a majority of the Council's decisions affect African countries that have no permanent representative at the Council and therefore have realised that they have to give a stronger voice to that continent. It is the main reason for their support of the addition of African seats to the Council.⁹³ These members started supporting some of the G4 candidates as well. The US has recently supported the bid of India as well as Japan and Brazil although it has never publicly supported Germany. One Australian official, to whom I spoke in May, believed that the Americans are not supportive of the G4's bid but are prudent not to declare their stance since they do not want to be perceived as an impediment to the Council's reform. He believed the fact that all of the G4 members present at the Council abstained from voting for the resolution on Libya made the Americans more hesitant in continuing their support.⁹⁴ UK, France, and Russia, however, are more supportive of the G4 members. France and UK, in particular, are supportive of the access of African countries to permanent seats.⁹⁵ The stance of China, however, is completely different. This country does not support the addition of permanent members and opposes the G4. Although, this country is not part of the Uniting for Consensus, it strongly supports that interest group and lobbies for them. Although the Chinese have not publicly asserted that, it is believed the presence of Japan in the G4 is the main contributing factor.⁹⁶

There are other reform proposals for membership expansion as well. The Ezulwini Consensus adopted in 2005 by the African Union, asks for the allocation of two permanent seats with veto power as well as two non-permanent seats to the African continent. The unrealistic

⁹¹ Alischa Kugel, 'Reform of the Security Council: A New Approach', *Friedrich Ebert Stiftung*, Briefing Paper Number 12 (September 2009), p.4.

⁹² Personal Interview with Robert Hill, June 2011.

⁹³ Kugel, 'Reform of the Security Council', p.6.

⁹⁴ Personal Interview, May 2011.

⁹⁵ *UK-French Summit: Reform of the Security Council*, created 27 March 2008, France at the United Nations (Website of the Permanent Mission of France to the United Nations), <<http://www.franceonu.org/spip.php?article3767>>, viewed 28 August 2011; it should be pointed out that all of these countries support addition of permanent seats *without* the power of veto.

⁹⁶ Personal Interview, May 2011.

ambitions of this agreement (especially in terms of asking for the extension of veto power) and the African countries' inability to agree on the potential representative(s) are all great problems ahead of this proposal. Some of the more hopeful candidates who have comprehended the flaws of this agreement might think about ceasing support for the Ezulwini Consensus. However, that act may jeopardise their status in the African Union and consequently their status as African representatives.⁹⁷

During the Howard Government's term, Australia suggested reform of the Security Council to a three-tiered body with the members of the G4 and Indonesia joining as permanent members without the power of veto. It was argued that this proposal could give a stronger voice to developing countries and the presence of Indonesia would give representation to the largest Muslim country. However, it seems like the support for Indonesia has dropped off the public discourse. After Kevin Rudd took power, in his 2008 speech to the General Assembly, he reminded the international community of the support of our country for the reform of the UNSC, saying "*Australia supports the expansion of its permanent membership to reflect changes in the world since 1945*".⁹⁸ This stance has been pointed out once again in the Department of Foreign Affairs and Trade's publication advocating our bid for a non-permanent seat. It says that Australia believes that no-one should have a monopoly on decision making and therefore supports reform of the Council and its working methods.⁹⁹ Australia supports permanent membership for Japan, India and Brazil but has not been enthusiastic about Germany's bid because of the already large European representation in the Council. Australia has always been public in supporting two permanent members from Africa, but considering its opposition to the power of veto,¹⁰⁰ it does not endorse their appeal to be granted the veto power. It is believed, however, that our politicians are cautious not to talk about veto reform since it is a controversial issue with little chance of success, which can possibly cut the votes in our favour in the 2012 election for non-permanent seats if we start to advocate it.¹⁰¹

⁹⁷ Olivier Serrão, 'South African in the UN Security Council 2011-2012', *Friedrich Ebert Stiftung*, June 2011, p.3.

⁹⁸ Langmore, *Security Council Reform*, <<http://www.nautilus.org/publications/essays/apsnet/policy-forum/2008/langmore-UNSC>>, viewed 28 August 2011.

⁹⁹ *Australia: Candidate for the United Nations Security Council 2013-2014*, created April 2011, Department of Foreign Affairs and Trade Website, <http://www.dfat.gov.au/un/unsc_candidature_brochure.pdf>, viewed 28 August 2011.

¹⁰⁰ In 1946 and during the establishment of the Security Council and the negotiations in San Francisco, Australia was not supportive of the idea of veto power.

¹⁰¹ Personal Interviews, May 2011.

John Langmore, in his article and also during my personal interview with him, said that one less controversial and less difficult reform proposal can be calling for an increase in the number of non-permanent members and combining it with the elimination of the clause that prohibits the retiring non-permanent members from immediately nominating for re-election. This suggestion might not sound appealing to the G4 members, but it could help them stay in the Council for a long time without attracting as much opposition as when they explicitly ask for permanent seat. However, it is likely that they will reluctantly accept “*a tenth best reform rather than none at all*”.¹⁰² It can also be a compromise for Uniting for Consensus members and may reduce their opposition.

Lastly it has been suggested that that the G20 members can be suitable candidates for the UNSC membership as they represent more than 65% of the world’s population and their combined GDPs a great percentage of the total world’s GDP. Appendix IV further illustrates those statistics. None of the experts I spoke to supported this suggestion. John Langmore, in particular, strongly opposed it on the grounds that the G20 members, although well-selected in terms of relative economic power, involvement in trade and regional representation, are *selected* not elected. Therefore, their permanent inclusion to the Council would not only make the Council unmanageable, it would make it more undemocratic since the smaller and poorer countries with no prospect of joining the G20 cannot have access to the Council and cannot have any representation.¹⁰³ Moreover, the G20’s functions and policies have recently attracted lots of criticism especially because many UN Member States consider the UN as the principal mechanism for global economic governance.¹⁰⁴

Although the proposals about the enlargement of the Council are currently the leading proposals, there is a general feeling among the UN Member States that their fulfilment should not be a pre-requisite to other reform proposals. Veto and working methods of the Council should be reformed as well. There have been some proposals regarding the veto reform ranging from limiting its usage to the vital issues of national security, to its complete abolition, as well as requests for its extension to new permanent members. This category of reform is the most controversial one and does not have strong support. Therefore, veto is not usually on the agenda of international debates on the reform of the UNSC and not many countries canvass that. When

¹⁰²Langmore, *Security Council Reform*, <<http://www.nautilus.org/publications/essays/apsnet/policy-forum/2008/langmore-UNSC>>, viewed 28 August 2011

¹⁰³ Personal Interview with John Langmore, June 2011.

¹⁰⁴ Personal Interview, May 2011.

asked about his anticipation of the future of veto reform, one commentator asserted that he “*would be very surprised if we made much headway on this issue*”. This view was shared by other experts who believed that the permanent members would not give up their power of veto; therefore it is easy to dispense with veto reform. John Langmore, however, thought it might be possible that in the future the members may agree on limiting the circumstances under which the veto can be used - but those developments are more likely to be in the form of norms rather than legally binding limits.¹⁰⁵ On the other hand, the majority of countries support improvements in the working methods of the Council and have tried to make the Council more transparent about its meetings and decisions.

Some argue that the enlargement of the Security Council makes it too large and consequently unmanageable and ineffective. However, this body needs to be extended as was the case in 1965. This reform will not be achieved easily. There is now more support for equity in regional representation and enlargement of the Council than before and more countries believe in the reform of the Council in general.¹⁰⁶ The main problem is agreeing on the detail. It might seem that the majority of the international community support the expansion of the Council but if we delve deeper, we can see there are fundamental disagreements over the possible candidates and the best proposals. This, therefore, feeds into the question of whether we can reach any consensus on the reform of the Council and more importantly whether the more popular proposals, namely those about the membership expansion and improvement of the Council’s procedures, can effectively enhance the accountability and performance of the Council.

Timeline of the Security Council Reform

The UN Charter has been amended only three times: twice to include the changes in the number of Economic and Social Council (ECOSOC) seats and once in 1963¹⁰⁷ to incorporate the enlargement of the Security Council which so far has been the only reform of this Council. In 1963 the number of non-permanent members increased from six to ten and consequently the required number of affirmative votes to adopt a resolution (in addition to the concurring votes of the Permanent Five) changed from seven to nine. The number of permanent members, however, remained intact. Some argue the real impact of that reform was felt only years later and after the

¹⁰⁵ Personal interviews with Robert Hill, John Langmore, and an Australian official, May and June 2011.

¹⁰⁶ *Ibid.*

¹⁰⁷ The Charter was amended on 17 December 1963 to increase the number of non-permanent members but these amendments entered into force on 31 August 1965.

end of the Cold War because before that time the Council had been rendered ineffective as the result of ideological divisions between the great powers.¹⁰⁸

The question of equitable representation and the number of Security Council members was put on the General Assembly agenda in 1979 at the request of some countries including India and Nigeria, but was not considered until 1992. It is believed that Secretary-General Boutros-Ghali's "Agenda for Peace", published in January 1992, was influential in redirecting attention to the issue of Council reform. In 1993, Boutros-Ghali, at the request of the GA, submitted a report containing the comments of the UN Member States on the review of the UNSC membership. In December that year and during the 48th session of the General Assembly, an Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council (a lengthy name even by the standards of the UN) was established. The group met for three sessions and produced reports and recommendations on the issues related to the membership and veto as well as the issues related to transparency of the Council but they could not reach an agreement on any matters. Other subsequent meetings of this group (during the following GA sessions) were not fruitful and at the 60th anniversary of the United Nations, the debates almost stayed where it was at the 50th anniversary. The only difference was that in 2005 countries like Germany, Brazil, India and Japan became more assertive in their claims.¹⁰⁹

After the conflict generated by the US-led Iraq War, Kofi Annan, the then UN Secretary-General, appointed a High-Level Panel on Threats, Challenges and Change to report on different aspects of the United Nations including the Security Council. The panel recommended two models regarding the enlargement of the UNSC. Both models suggested an increase in the number of representatives from Africa, Asia and the Pacific, Europe and the Americas to six; making the total number of the UNSC members 24.

Model A suggested adding six permanent seats with no veto power and three additional non-permanent seats (with two-year terms).

Model B did not suggest any permanent seats but created a new category of eight 4-year re-newable seats (meaning that the holder of that seat is eligible for immediate re-election after

¹⁰⁸ Weiss, 'Overcoming Security Council Reform Impasse', pp. 8-10.

¹⁰⁹ *Ibid.*, pp.8-13.

servicing its four-year term). It also suggested adding one more non-permanent seat (with two-year term).

However, there was no suggestion of the abolition of veto. Kofi Annan, without mentioning his own preference, passed those recommendations to the 2005 Global Summit and urged the countries to decide on one model – a result the Summit did not achieve. The countries, however, agreed that the discussion on this issue should continue. The High-Level Panel also referred to a Charter provision which said the non-permanent members should be elected with more attention to their contributions to the maintenance of international peace and security. It consequently proposed more involvement in decision making by the countries which contribute more to the United Nations financially, militarily and politically. Therefore, the Panel proposed that the developed nations who made more effort to reach the target of allocating 0.7% of their national income to development aid be considered more worthy of being elected as non-permanent members.¹¹⁰

The failure of the 2005 UN World Summit to reach any agreement on the reform of the Security Council made the Member States reduce their efforts in that regard and the Working Group remained idle until the early 2007 when the President of the GA resumed its functioning. Its continued ineffectiveness led to growing calls for replacing the Group with direct intergovernmental negotiations. Those calls bore fruit and in September 2008 the Member States agreed to move the discussions to intergovernmental negotiations which are based on the proposals put forward by the Member States. It was not an easy replacement and the lead up to it was full of heated discussions. The main reason for opposition of some countries was that the Working Group worked with consensus while the intergovernmental negotiations could decide by a majority vote. Therefore, it was possible that some reforms, which could endanger the interests of some countries, could be implemented without the consent of all members.¹¹¹

So far, intergovernmental negotiations, chaired by Zahir Tanin, the Permanent Representative of Afghanistan, have not been very successful either.¹¹² The main reason for the lack of major success is that the countries reiterate their old stance and are reluctant to compromise. The G4 and the African group advocate for addition of permanent seats while the

¹¹⁰ Langmore, *Security Council Reform*, <<http://www.nautilus.org/publications/essays/apsnet/policy-forum/2008/langmore-UNSC>>, viewed 28 August 2011.

¹¹¹ Kugel, 'Reform of the Security Council', p.3

¹¹² When the intergovernmental negotiations started, Tanin was selected as the chair and was reappointed again in October 2010. He still holds this position.

members of the Uniting for Consensus oppose them and call for the addition of non-permanent seats only. There are too many reform proposals in each category of reform and this has proved to be counterproductive. The first round of the intergovernmental negotiations focused on getting the proposals of the Member States on five main topics of reform. Discussing the topics in more depth started from the second round. Towards the end of the first round, there was some hope that the two opposing country groups might reach an agreement on the issue of the enlargement of the Council by considering the so-called intermediate approach. This approach proposes that the implemented reforms, such as addition of permanent seats, are subject to review and reassessment after a certain period of time. The intermediate approach, however, is faced with the same problem because there have been too many variations of it put forward by different countries. Moreover, not all countries are supportive of this solution and the strong oppositions from India and African countries hindered its progress. Today, there is less hope that this solution can break the stalemate in the negotiations than there was in 2009.¹¹³

In May 2010 and at the suggestion of some countries, Ambassador Tanin sent the first draft of a text containing main proposals and parameters for the reform of the Security Council to all Member States and asked for their suggestions and feedback. By doing so, the process of reform entered into the phase of text-based intergovernmental negotiations. Tanin incorporated the countries' feedback into the first revision of the text and during the first meeting of the fifth round of the intergovernmental negotiations on June 2nd 2010, countries agreed to use that text as a basis for their negotiations.¹¹⁴ Since that time and during different informal plenaries, many countries called for the revision and shortening of the text. In particular, The G4 members, who had become increasingly impatient, emphasised the urgency for reform and called for the shortening of the text so that the actual negotiations could start. So far, the negotiation text has been revised three times with the last revision finalised in February 2011. It seems that the intergovernmental negotiations are going through the same path as the Working Group. Countries have held on to their old positions and are reiterating their stance. While the G4 countries are using every opportunity to expedite the negotiations, the members of the Uniting for Consensus tend to slow down the process by paying too much attention to the procedures and

¹¹³ Kugel, 'Reform of the Security Council', pp.4-5

¹¹⁴ *Text-Based Negotiations in Full Swing*, created June 2010, Centre for UN Reform Education, <<http://www.centerforunreform.org/node/426>>, viewed 4 September 2011.

stressing that the countries have to agree on the principles of the reform first. The latest round of the negotiations happened in March 2011.¹¹⁵

The members of the G4, dissatisfied by the current pace of the intergovernmental negotiations and the continuous interference of the Uniting for Consensus members, decided to take the initiative and bypass those negotiations by introducing a new resolution. That resolution, which has the potential to move the debate to some practical outcome, will call for the expansion of the Council both in terms of permanent and non-permanent seats.¹¹⁶ In July 2011, Japan and Brazil, who have been very active in lobbying to secure votes for this resolution, claimed they have attracted the support of around 100 members, without naming the countries or the regions they belonged to.¹¹⁷ Although this amount of support is a big achievement for the G4 countries, it is still short of the necessary 128 affirmative votes (two-third majority of the GA) needed for the adoption of a resolution. It is believed that the sponsors of this resolution want to present the draft to the General Assembly only when they are confident of having the minimum necessary support. Therefore, they have a considerable job to do in trying to convince more countries of the benefits of this resolution, especially when the Tanin process is still ongoing. The African countries, who still cling to the unrealistic Ezulwini Consensus, have proved to be major obstacles in the way of achieving this goal, although there are some signs that the main African aspirants, Nigeria and South Africa, have recently become more flexible and perhaps more likely to be persuaded.¹¹⁸ We will have to wait and see whether this resolution can break the deadlock in the reform of the UNSC. It might, as one Australian official pointed out, provide further impetus to the process of intergovernmental negotiations or it may move it to a different process.¹¹⁹

Although, it might seem that so far not much has been achieved in terms of the reform of the Council, the reality is that some changes in the working methods of the Council have happened without much publicity and albeit without any amendment to the Charter. Over the years, the states have modified the Council's procedures. Those reforms concern the issues

¹¹⁵ Mie Hansen, *Update on Security Council Reform*, created 5 April 2011, Centre for UN Reform Education, <<http://www.centerforunreform.org/node/435>>, viewed 4 September 2011.

¹¹⁶ Stewart M. Patrick, *Security Council Reform in Sight?*, created 7 July 2011, Council on Foreign Relations Website, <<http://blogs.cfr.org/patrick/2011/07/07/security-council-reform-in-sight/>>, viewed 4 September 2011.

¹¹⁷ *Brazil and Japan to Join Forces to Speed Up UN Security Council Reform*, created 1 July 2011, Brazilian Government Website, <http://www.brasil.gov.br/news/history/2011/07/01/brazil-and-japan-join-forces-to-speed-up-un-security-council-reform/newsitem_view?set_language=en>, viewed 4 September 2011.

¹¹⁸ Patrick, *Security Council Reform in Sight?*, <<http://blogs.cfr.org/patrick/2011/07/07/security-council-reform-in-sight/>>, viewed 4 September 2011.

¹¹⁹ Personal Interview, May 2011.

related to the transparency of the Council, accessibility to the GA, and being more inclusive in proceedings. Today, the Council is not as secretive as before and non-members and the press get regular briefings on the private consultations of the UNSC members from the President of the Council. The Council also holds meetings with the troop-contributing countries. Moreover, different Council members meet frequently with NGOs and experts with extensive knowledge on a conflict to achieve a better grasp of that conflict and be able to make more informed decisions.¹²⁰

As mentioned before, after the end of the Cold war, the permanent members of the Security Council have supported each other more. Robert Hill believes that the P5 countries are trying to minimise vetoes against each other in order to not undermine the exclusiveness of their small club and their collective power.¹²¹ The information in Appendix I confirms this thesis. For example since 1997, none of the anti-settlement resolutions that would obviously face the US veto were initiated by any of the P5 members. The efforts of the permanent members to not use veto against each other and to avoid issues that could publicly show some conflicts between them, as Robert Hill further explained, have led to more private meetings between the P5 in order to negotiate. Some endorse this relatively recent development as another style of reform because the outcome is more resolutions, fewer instances of division among the P5 (at least the public show of it) and less political theatre. On the other hand, many more are frustrated by this trend. They argue it takes a long time for a resolution to develop and sometimes the final text does not resemble the original draft. Moreover, some issues are not dealt with at all. They believe those meetings have rendered the Security Council incapable of containing some crises.¹²² As Jakob Silas Lund mentions, some believe that the improvements in the transparency of the Council and an increase in the number of open meetings of the Council are some of the reasons behind the stronger tendency of the P5 to hold private meetings as they believe there are some issues that have to be discussed in private.¹²³

Obstacles to the Reform of the Security Council

One can conclude that the veto power of the P5 is one of the biggest obstacles to the reform of the Security Council. Any fundamental reform, such as any changes to the number of

¹²⁰ Weiss, 'Overcoming Security Council Reform Impasse', pp. 38-41.

¹²¹ Personal Interview with Robert Hill, June 2011.

¹²² Ibid.

¹²³ Silas Lund, *Pros and Cons of Security Council reform*, <<http://news.bbc.co.uk/2/hi/europe/6587497.stm>>, viewed 4 September 2011.

the Security Council seats, has to be inscribed into the Charter. On the other hand, Articles 108 and 109 of the UN Charter give veto power to the P5 over any amendment to the Charter.¹²⁴ Therefore, no reform can materialise without the consent of the permanent members. For example, China, as a veto holding member of the Council, is strongly against the addition of permanent members. Consequently, the G4, as one of the most serious advocates of reform, does not have high chance in breaking the stalemate of the reform process while China is actively opposing part of its proposal. This is why Paul Kennedy, Yale University historian, calls the veto power “the Catch-22” of the Charter reform. Articles 108 and 109 of the Charter have made the prospect of the veto reform very slim, if not impossible. It is hard to expect that veto holder countries will support any reform of the power that gives them the last say in one of the most important bodies of the United Nations. The UN Charter gives them the means to eventually block any reform proposals suggesting changes to the power of veto.¹²⁵

Another serious obstacle, as may be concluded from what happened during the debates on reform, is the disagreement of countries on the details of the preferred reform proposal. The fact that countries cannot reach an agreement on the number of additional seats, the type of those seats (permanent or non-permanent), possible candidates, and the extension of veto power or its abolition, as well as the fact that each country is still advocating its own old proposal without much compromise, have proved to be big barriers against the progress of reform debates.¹²⁶

As already discussed, the Charter provisions requiring the agreement of all P5 to any reforms proved to be a great impediment against Security Council reform. However, among those P5, the status of the United States is different. On several occasions, such as the 2003 Iraq war or recent threats of ceasing the financial support of the United Nations in the event of the GA endorsement of Palestinian statehood, the USA has proved that it has the capacity to bypass the UN and its bodies and act according to its own interests. Thomas Weiss argues that currently Washington’s domestic and foreign policies have a considerable impact on the agenda of the Council and its actions. Considering the USA’s current impact and record, “*the idea that the remaining superpower will continue to participate, politically or financially, in an institution whose purpose would be to limit its power has no precedent*”. Therefore, among the P5, the USA has proved to be a bigger obstacle to the reform of the Council. It is not only unlikely to

¹²⁴ The United Nations, *Charter of the United Nations* (1945), United Nations Website, <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 4 September 2011.

¹²⁵ Weiss, ‘Overcoming Security Council Reform Impasse’, p.13.

¹²⁶ Probably *Ibid.*, pp. 16-18.

compromise, but is also capable of withdrawing from the Council or even the United Nations, if other members of the Security Council insist on reforms that are not in accordance with the its interests.¹²⁷

The USA might have lost some of its power, especially its economic supremacy, but it is still considered a superpower. This is not the case for some other permanent members, namely UK, France and Russia. When the Soviet Union dissolved to leave only Russia, its status and identity changed from a superpower to a country that aspired to become part of the capitalist world. Therefore, Russia does not have the same credentials as its predecessor. It is not as powerful and its economy is only half the size of the Soviet Union's economy.¹²⁸ Similarly, UK and France are no longer "great" powers. The question here is whether these countries will be more willing to compromise. The ideas of the experts in this regard differ. By considering the current power status of these permanent members and the fact that states use any available institutions to fulfil their national interests, Thomas Weiss believes that it is very unlikely that diminishing powers like France and UK would be willing to give up any of their power or share it with new rivals. After all, being permanently on the Security Council and having veto power give them the capacity to have a louder voice than "*their actual power merits*".¹²⁹ One Australian official that I spoke with shared this idea, believing the power status of these countries more than anything makes them very cautious in making any compromise.¹³⁰ On the other hand, John Langmore believes they will be more willing to compromise in order to showcase their flexibility and reasonability¹³¹ and might try to maintain their seats and status in that way.

The willingness of the permanent members to support the reform which would affect their status and their power can be partly estimated from their stance towards the possible resolution that the G4 is working on. This resolution can be the most serious attempt for reform in a long time, although we have to keep in mind that this resolution is not intended to seriously jeopardise the power of the P5 as it has not called for veto reform and has been rather vague about the type of the additional seats it is asking for. Stewart M. Patrick says that UK and France, which have realised their vulnerability "*as power shifts to new centres*", support this resolution. Russia, which has traditionally been against the addition of permanent members,

¹²⁷ Probably Ibid., pp. 19-22.

¹²⁸ Mohamed Sid-Ahmed, *P-5 Veto Outdated*, created July 1999, Global Policy Forum Website (this article was originally published in Egyptian Al-Ahram Newspaper), <<http://www.globalpolicy.org/component/content/article/200/41142.html>>, viewed 4 September 2011.

¹²⁹ Weiss, 'Overcoming Security Council Reform Impasse', p.13.

¹³⁰ Personal Interview, May 2011.

¹³¹ Personal Interview with John Langmore, June 2011.

supported India's bid for permanent membership in 2010. Consequently, Russia is likely to support the G4 resolution. China, however, has been very vocal in its opposition to the G4's bid and now is trying to dissuade the African countries from giving any concessions as they have been the main obstacles to this resolution and can provide good support for China's opposition. The USA, despite supporting Japan, Brazil and India, has not done anything in that regard and its support has been mainly rhetorical.¹³² USA has not publicly supported the resolution which shows that when that it comes down to the action, the USA is not sure of maintaining its support for the G4 and the reform in general.

¹³² Patrick, *Security Council Reform in Sight?*, < <http://blogs.cfr.org/patrick/2011/07/07/security-council-reform-in-sight/>>, viewed 4 September 2011.

Section 4: Australia's Bid for Non-Permanent Membership

Despite all of the flaws of the Security Council, being a member of this forum is important; even if that membership is a non-permanent, two-year term without the power of veto. After all, this body is one of the main organs of the United Nations which is in charge of the maintenance of international peace and security.

Australia is campaigning for a Security Council non-permanent seat for the 2013-2014 term. This campaign and the consequent measures taken to enhance the chances of success, have brought (more than before) the issue of the Security Council to the attention of Australian politicians and academics alike. There are increasing numbers of articles, debates, lectures and TV programs that not only focus on our campaign and its chances of success but also analyse the Security Council, its flaws and the prospects for its reform, as talking about the Security Council will inevitably draw us into this.

Why Does Australia Need to Be in the Security Council?

Some might ask why we need to be in the Council. What would be the benefits of our presence in an organ that many believe is flawed and in many cases has been unable in containing crises? Why should we lobby and sometimes change our priorities (if we do) in order to be able to serve for just two years in a Council that many believe is strongly influenced by interests and policies of powerful veto holding countries who are there on a permanent basis?

Although the UNSC has attracted lots of criticism, Langmore believes this forum is still the main organ of the United Nations mandated with the responsibility for conflict resolution, the

core purpose of the UN. The Security Council is where the issues of international and intra-national conflicts are discussed and it has the power to act if conflict resolution fails. Therefore, any country, including our own, which aspires to be a player in international relations, wants to be a member of this forum and use its power as a member to act for conflict resolution.¹³³ This is what Kevin Rudd, in his first public speech about our candidacy and its importance, mentioned as well. He believes that being a member of the Security Council provides us with the opportunity to “*to make a difference in shaping the international events that in turn shape our nation’s future*”.¹³⁴ As a member we can work towards conflict resolution rather than merely being a spectator.

Furthermore, Kevin Rudd in his speech to the National Press Club put forward other reasons why being on the Council is important for Australia. As he argued nowadays the countries of the world are engaged in each other’s business more than ever before - mainly because of globalisation. Considering the geographical distance of Australia from main centres of power in the world, we have to “*engage comprehensively across the councils of the world*” in order to survive as an important country that has a say. Obviously the core of this engagement is through various offices of the United Nations and of course the core of the UN is the Security Council. Kevin Rudd believes in the period ahead, the Security Council will be directly relevant to our core national security interests. Therefore, being in the Council can provide a good forum to safeguard those interests. One of the most important developments in this period will be related to Afghanistan. It is relevant to our national security interests since we have been deploying troops to this country for the past 10 years. In the period ahead, Afghanistan is of special importance because in 2014 the transition to the Afghan Government for it to take the security lead will be completed and the mandate under which ISAF operates is expected to shift considerably. 2014 can be a year with potential risks of destabilisation. Any future UNSC resolutions on Afghanistan can affect the Australian personnel currently in that country and can shape our future military and economic development presence in Afghanistan. Therefore, it is important to be on the Council and have a say on the resolutions that can affect Australian people and Australian interests. Afghanistan is not the only example. In the period of 2013-2014, when we hope to be in the Council, there will be some important developments in some of our neighbouring countries whose future and stability are strategic for us and for the region. The

¹³³ Personal Interview with John Langmore, June 2011.

¹³⁴ Kevin Rudd, *Australia's foreign policy priorities and our candidature for the UN Security Council*, Speech to the National Press Club in Canberra delivered on 1 June 2011, Foreign Minister Website, <http://www.foreignminister.gov.au/speeches/2011/kr_sp_110601.html>, viewed 6 September 2011.

international security forces, including many Australians, currently present in East Timor under existing UNSC resolutions will withdraw from this country after its 2012 elections. Being in the Council gives us the opportunity to have a say in any future resolutions that can determine the next steps in maintaining the stability of our northern neighbour. Further from the region, the Security Council is also engaged with the issues related to the Middle East.¹³⁵ Recent developments in this region have made the period ahead an interesting and important time for any countries to be on the Council - it is the same for Australia. The Middle East might not be our neighbouring region but it is a strategic region that has become increasingly important for Australia. Being on the Council and being able to affect the resolutions regarding this region is important for our country.

Another reason why it is the right time to be on the Council is simply the fact that we have not served in the Council for a very long time – not since the end of the Cold War. If Australia succeeds in winning the seat for the 2013-2014 term, it will be 27 years since we last served on it. As Kevin Rudd says, this is a long absence for a country with the global capacities of Australia. Since the last time Australia was on the Council, 90 other countries have served a term, many more than once. Japan and Brazil have been elected five times. Three of the countries in the Asia Pacific region and five of the countries in our regional group, WEOG, have served twice in the Council since 1986 and “*every other G20 nation, except Saudi Arabia, has served at least once since we last served*”. Many politicians including Kevin Rudd believe that Australia, as a Security Council non-permanent member, can be an effective voice for small and medium countries of the world.¹³⁶

One might also ask what Australia can bring to the Council and how we can be an effective and contributing member. Does Australia have any knowledge that few other countries can offer? Are we an attractive candidate that other countries want to see on the Council and therefore vote for us? Australia might have failed to address some vital conflicts like the situation in Darfur but it has been quite active in some other conflicts such as those in our region, most notably in East Timor and in Solomon Islands - both of these conflicts have been discussed in the Security Council. Some might be hesitant to vote for us because they consider us similar to the United States in terms of decisions and policies. This popular belief and its effects will be discussed later on. However, it should be pointed out that there are some regions such as the

¹³⁵ *ibid.*

¹³⁶ *ibid.*

Asia-Pacific, where we are more knowledgeable than the USA. We have greater experience and more knowledge regarding the conflicts related to this part of the world.¹³⁷ Moreover, among the 193 members of the United Nations, Australia is the 12th largest contributor to the UN's regular and peacekeeping budgets and our \$4.8 billion development assistance budget is the world's 11th largest. These show the commitment of Australia to the affairs of the United Nations and therefore its main body, the Security Council. We also have the capacity for "*creative middle power diplomacy*" and the ability to form coalitions which help bring "*diplomatic solutions to global diplomatic problems*", the main goal of the Security Council.¹³⁸

The Competition and Our Chances of Success

Australia last served as a non-permanent member on the Security Council between January 1985 and December 1986. It unsuccessfully campaigned for a seat in 1996 when we were defeated by two other candidates of WEOG, Portugal and Sweden. Australia started to campaign again in 2004 but withdrew well before the election. As Robert Hill pointed out, there were number of reasons associated with that withdrawal. The Howard Government was pursuing bilateral foreign policy objectives at that time and was not much engaged with multilateral foreign policies. There were some concerns about the cost of the campaign and stronger concerns about our chances of success. Australia at that time had to compete against Belgium and Italy, both strong candidates. Our involvement in Iraq War and our close alignment with the USA at that time led to resentment from many nations, especially Arab countries. Therefore, the politicians were not confident they could secure enough votes and consequently withdrew.¹³⁹ In this round, Australia is competing against Finland and Luxemburg in WEOG and is making every effort to be successful in the October 2012 election.

This time it seems that the politicians are much more determined to end our long absence. Since the announcement of the candidacy in March 2008, there have been several steps taken to boost our chances of success. Most importantly, Kevin Rudd in his 2008 speech to the General Assembly renewed our commitment to the principles of the United Nations and announced our return to "*full participation in the multilateral system*". The withdrawal of our troops from Iraq was an action in accordance with those commitments. Australia is also trying to focus on the high priorities of the United Nations which include the issue of climate change. We have signed

¹³⁷ Personal Interview with John Langmore, June 2011.

¹³⁸ Rudd, *Our Candidature for the UN Security Council*,

<http://www.foreignminister.gov.au/speeches/2011/kr_sp_110601.html>, viewed 6 September 2011.

¹³⁹ Personal Interview with Robert Hill, June 2011.

the Kyoto Protocol,¹⁴⁰ had key role in the formation of the Copenhagen Accord and its transformation into the Cancún Agreement, and co-facilitated negotiations in Cancún on the Green Climate Fund. Australia is the Vice-Chair of the UN Commission on Sustainable Development and is committed to the UN's work on the green economy and sustainable consumption and production.¹⁴¹

As mentioned before, the High-Level Panel established by Kofi Annan in 2005 emphasised on the importance of the contribution to the United Nations and suggested the developed countries should dedicate 0.7% of their national income to development aid. He said this should be considered when voting for the Council. According to the United Nations' target, rich countries of the world have to allocate 0.7% of their Gross National Income (GNI) to foreign development aid by 2015 in order to reduce poverty. Our two competitors, Luxemburg and Finland, are ahead of us in this regard. Luxemburg has already hit that target and currently dedicates 1.09% of its GNI to foreign aid. Finland currently donates 0.55% of its GNI to reduce poverty and is confident to reach the 0.7% target by 2015. Australia, however, allocates 0.32% of its national income to development aid and is among the countries that asked the United Nations to lower that target to 0.5% of the GNI in order to be able to fulfil it by 2015.¹⁴² To achieve this goal, we have doubled our aid budget over the last five years to \$4.36 billion and are committed to further increase it to \$8 billion over the next five years. Moreover, we are committed to dedicate 0.15% of our GNI to the least developed countries.¹⁴³

Although 87% of our aid program still goes to the neighbouring region (25% of this amount goes to the South Pacific region and 25% to East Asia), there has been more attention to Africa and the amount of aid to this continent has been doubled. One of the reasons for this increase in the amount of aid to Africa is the fact that our competitors has been active in this continent for a long time and we cannot afford to lose the 53 votes of the African countries.¹⁴⁴ Australia might be much further behind the other two competitors in terms of international aid but we started from a very low base, and although the aid is increasing rapidly, we still need time

¹⁴⁰Langmore, *Security Council Reform*, <<http://www.nautilus.org/publications/essays/apsnet/policy-forum/2008/langmore-UNSC>>, viewed 6 September 2011.

¹⁴¹ *Australia: Candidate for 2013-2014*, <http://www.dfat.gov.au/un/unsc_candidature_brochure.pdf>, viewed 7 September 2011.

¹⁴² *2010 International Aid Donated (Official Development Assistance)*, created in 2010 (data for 2011 will be released in April 2012), Poverty.com Website, <<http://www.poverty.com/internationalaid.html>>, viewed 7 September 2011.

¹⁴³ *Australia: Candidate for 2013-2014*, <http://www.dfat.gov.au/un/unsc_candidature_brochure.pdf>, viewed 7 September 2011.

¹⁴⁴ Personal Interview, May 2011.

to reach to the level of our competitors. John Langmore said that our much lower rank in aid giving in comparison to our competitors can be a serious impediment to our success. At the same time we have to remind ourselves that we managed to increase our aid when it was very difficult to do so and the constant increase of our aid is an achievement.¹⁴⁵ Some commentators might believe that we are not far behind our competitors if one considers the fact that in terms of the actual amount, Australia donates more to the developing world. One Australian official said that Luxemburg and Finland might be donating a higher percentage of their GNI, in terms of the actual amount of international aid, we donate 3 times the amount of Finland and 9 times the amount Luxemburg gives.¹⁴⁶ However, it seems the *percentage* of the GNI that a country donates matters more. Finland and Luxemburg are both smaller countries than Australia with lower total GNI.

From the announcement of candidacy in 2008 until the 2012 election and the end of the campaign, the total budget allocated to the campaign by the Australian Government will be \$23.6 million.¹⁴⁷ Referring to this amount, which is allocated over the course of 4.5 years and comparing it with \$26.5 billion we spent just this year on defence, John Langmore was highly critical of those who oppose the candidacy on the grounds of the costs that it would impose. He believes those who oppose the campaign have chosen to ignore the importance of conflict resolution in maintaining the international peace and security and the role of the Security Council in that regard. It seems they have chosen to believe the only way to protect a country is through having a large military and spending with abundance on defence.¹⁴⁸

As mentioned before, our politicians are quite serious about this campaign and are lobbying hard in order to secure votes. However, some commentators believe that the efforts to secure votes are distorting Australia's foreign policy interests. Many, including Hugh White,

¹⁴⁵ Personal Interview with John Langmore, June 2011.

¹⁴⁶ Personal Interview, May 2011.

¹⁴⁷ "Mid-Year Economic and Fiscal Outlook 2008-2009" asserted that "the government will provide \$1.9 million in 2008-2009 (including \$0.1 million in capital funding in 2008-2009) to support initial efforts promoting Australia's candidacy for a non-permanent seat". In budget measures 2009-2010, it was stated that the government would provide \$11.2 million over the course of the next two years (\$4.8 million in 2009-2010, \$5.7 million in 2010-2011, and \$0.6 million in capital funding in 2009-2010) to continue Australia's campaign for non-permanent seat. As the budget paper explained this budget supports the campaign through funding additional staff at the New York mission, deploying Special Envoys, supporting ministerial campaigning at key multilateral meetings and undertaking public diplomacy among other things. Finally in 2011-2012 budget paper it was mentioned that another \$10.5 million is being allocated to the campaign over two years and it will support additional positions in Canberra and New York, additional funding for small posts, Special Envoys and public diplomacy (from Mid Year Economic and Fiscal Outlook (2008-09), Budget Measures 2009-10, and Budget Measures 2011-12)

¹⁴⁸ Personal Interview with John Langmore, June 2011.

Head of the Strategic and Defence Studies Centre at Australian National University, argue that the Government is at a point where winning a seat in itself has become a foreign policy objective; something that is not acceptable. It has been said that some of our recent foreign policies and bilateral relations are being formed according to our campaign and the votes we want to secure. The mission to secure votes from major world alliances such as the Africa Union, the Arab League and the Caribbean community by Kevin Rudd has been criticised by some commentator. Hugh White again criticises Kevin Rudd for travelling to the countries that “*we wouldn’t bother visiting otherwise*” merely to negotiate and secure their support for our candidacy. It has been said that putting too much focus on the campaign is not beneficial for our foreign policy because it makes our international policies subject to the pressure from different countries as we need their votes.¹⁴⁹

Considering all of the effort to get a non-permanent seat on the Council, one might ask where we are now. Have our politicians been able to secure enough votes? Are we relatively confident of success? Different experts that I spoke with had different ideas about our chances of success and analysed our competitors differently. Robert Hill, despite affirming that WEOG contests are always difficult to win, is optimistic about our success. He believes that our competitors are two small European countries and it will be “*be equally hard to see us being beaten in that competition*”.¹⁵⁰ As he anticipated, not everyone shares this idea. Langmore is among those who are not optimistic, especially when considering the credentials of our competitors. According to him, Finland has an excellent record of development work. This country is supporting World Institute for Development Economic Research and is very active in the issues related to globalisation. In general, Finland has a high chance of getting to the Council. Luxemburg has never served on the Council but is a member of the European Union and is likely to get the support of other European countries.¹⁵¹ In agreeing with John Langmore, Hugh White asserted that we are participating in a difficult contest with strong competitors; specifically he believes that “*Finland will be very hard to beat*”. By pointing out that our competitors are likely to get the support of European and African countries (considering they have considerable aid programs in Africa), he is not quite hopeful for our win in 2012.¹⁵²

¹⁴⁹ *Australia’s Bid for UN Seat under Scrutiny*, created 28 July 2011, 7:30 Report Website, <<http://www.abc.net.au/7.30/content/2011/s3280520.htm>>, viewed 7 September 2011.

¹⁵⁰ Personal Interview with Robert Hill, June 2011.

¹⁵¹ Personal Interview with John Langmore, June 2011.

¹⁵² *Australia’s Bid for UN Seat*, <<http://www.abc.net.au/7.30/content/2011/s3280520.htm>>, viewed 7 September 2011.

We should also analyse from which countries or blocks Australia is hopeful to get support. Despite the recent increase in our development aid to Africa, Alexander Downer, former Foreign Minister, believes that Australia does not have a high profile in this continent and is not likely to get support from 53 members of the African Union.¹⁵³ I asked one Australian official what she thinks about the support from the European Union, considering we are competing against two EU members. She did not believe that European countries only vote for European candidates and mentioned that EU members campaign and present their cases individually to each of the European countries. Therefore, there is a chance that some of the European countries may choose to vote for us. She also mentioned that in the last round of the election, nineteen countries short-voted and cast only one vote. Obviously, if we can persuade some countries to short-vote for us, it will be an additional advantage but it requires extra complication and perhaps stronger lobbying.¹⁵⁴ It is also believed that Australia is not doing well among the South-East Asian countries as Fiji is lobbying hard against our country and is trying to convince other neighbouring countries not to vote for us.¹⁵⁵ However, when a country runs for candidacy, it will inevitably attract these unwanted attentions and we have to continue our efforts as the amount and type of the support might again change until the election year.

There are also some other issues that might affect the amount of support from other countries. One is the fact that Australia has started its campaign long after the two other competitors. Luxemburg started its campaign in 2001 and Finland announced its candidacy in 2002. However, Australia started its run in March 2008. Although there is no time limit for the candidacy and countries can nominate themselves at any time before the election, starting late might act as an impediment to our success. Some, like Robert Hill, might believe that this argument is “over-rated” as Germany started last in the previous election and was successful,¹⁵⁶ but it should not be overlooked that starting six years after our two competitors can be an obstacle to our success when many countries, like Indonesia, which could be a potential supporter, have already done deals and promised their support elsewhere.¹⁵⁷

The resemblance between our policies and those of the USA is another issue that might reduce the amount of support for us. Many countries may think that Australia is an adjunct of

¹⁵³ Ibid.

¹⁵⁴ Personal Interview, May 2011.

¹⁵⁵ *Australia's Bid for UN Seat*, <<http://www.abc.net.au/7.30/content/2011/s3280520.htm>>, viewed 7 September 2011.

¹⁵⁶ Personal Interview with Robert Hill, June 2011.

¹⁵⁷ *Australia's Bid for UN Seat*, <<http://www.abc.net.au/7.30/content/2011/s3280520.htm>>, viewed 7 September 2011.

Washington while on the Security Council, and therefore might be hesitant to support our bid for the seat. John Langmore agrees with this thesis while saying that this similarity in decision making was particularly true under the Howard Government but the current Labour Government has become relatively more independent. One example of this was Kevin Rudd's comments that urged the Israelis to be more open and transparent about their nuclear program; something that the USA clearly did not support. Moreover, Australia has been critical of the USA on trade issues. Nevertheless, some countries might still consider Australia too close to the USA's opinions (especially on many strategic questions) and therefore do not consider us able to offer a distinguishable input.¹⁵⁸

The usual pro-Israeli stance of Australia can affect the support of Arab nations. Hashem Yousseff, Chief of Cabinet for Arab League Secretary General Amr Moussa, by referring to the pro-Israeli stance of Australia and the fact that it usually opposes anti-settlement resolutions in the General Assembly in alliance with the US, Canada and some small Pacific island states, mentioned that this support is an important element that the members of Arab League would take into consideration when deciding who to vote for in the 2012 election. Therefore, it would be more difficult for us to outpoll European countries that are usually more critical of Israel. It has been discussed that the Arab League, the African Union and the Non-Aligned Movement members usually tend to vote in accordance with each other. If true, the determined opposition from any of these groups can be detrimental to our success. It seems, however, that Rudd was aware of this fact and under his government Canberra became slightly more critical of Israel; a stance that brought about lots of criticism from Jewish communities even though in general Canberra maintained its support for Israel for the majority of the resolutions.¹⁵⁹ Jake Lynch argues that the stance of Kevin Rudd towards Israel was among the reasons that cost him his job. He believes "*under Gillard, Australia has reverted to its previous form*" and is again voting without exemption against those GA resolutions that call for the withdrawal of Israel to pre-1967 borders. Yousseff in a conversation with Lynch and his colleague asserted that he had made it clear to Canberra that Australia could only look to Arab countries for support of its candidacy if it took some steps to distance itself from Washington on the issues related to Israel-Palestine

¹⁵⁸ Personal Interview with John Langmore, June 2011.

¹⁵⁹ Greg Sheridan, *Arabs to Block Canberra's UN Push*, created 2 February 2010, The Australian Newspaper, <<http://www.theaustralian.com.au/news/opinion/arabs-tobrblock-unbrpush-bybrcanberra/story-e6frg6zo-1225825706028>>, viewed 7 September 2011.

conflict.¹⁶⁰ However, upon asking, an Australian official rejected the possibility of changing any policies on this issue to secure more votes. While acknowledging the impact of our stance towards Israel on the votes of Arab countries, she asserted that “*Middle Eastern policies are not driven by the UNSC campaign*”.¹⁶¹ Despite this clear message, it still seems that one measure that can boost our chances of success and can lead to more support from Arab countries is supporting the Palestinian statehood bid, or at least abstaining from voting, because voting against this resolution can be much to our disadvantage in this crucial time. However, we have to wait and see if our Government will consider this fact.

Lastly, there are two other issues that might negatively affect our chances of success. One of them is our membership in the G20. Kevin Rudd in his speech to the National Press Club emphasised that the G20 is our first foreign policy priority. According to him, we want to be as engaged as possible in this group and are working hard with other G20 members to maintain the confidence of developing countries in this group.¹⁶² However, the amount of criticism around this group indicates that many countries do not highly value the G20. One of my interviewees commented that the Government is very mindful of this issue and its effects on the candidacy bid. He mentioned that the hard-earned membership in this group is a high priority for us but we are taking some measures to reduce the amount of criticism; one of them is encouraging the Secretary-General to act as a link between this group and the United Nations.¹⁶³ It is also believed that the Opposition is not as keen as the Labour party to get on the Security Council. If true, it can be a major impediment especially if we consider the example of Canada. In the October 2010 election, Canada withdrew before the third round of voting as it became obvious that they are not going to beat Portugal. There were many reasons involved in the defeat of Canada such as the stance of the Arab countries towards Canada because of its policies. However, the candidacy did not also have the necessary support from all houses.¹⁶⁴ After the election, Harper blamed the Opposition leader Michael Ignatieff for questioning the campaign and leading to the belief that the Canadian politicians were not one hundred percent united and

¹⁶⁰ Jake Lynch, *Toeing the Lobby Line*, created 8 February 2011, New Matilda Website, <<http://newmatilda.com/2011/02/08/toeing-lobby-line>>, viewed 7 September 2011.

¹⁶¹ Personal Interview, May 2011.

¹⁶² Rudd, *Our Candidature for the UN Security Council*, <http://www.foreignminister.gov.au/speeches/2011/kr_sp_110601.html>, viewed 7 September 2011.

¹⁶³ Personal Interview, May 2011.

¹⁶⁴ Interview in May 2011 and Personal Interview with Robert Hill, June 2011.

Conclusion

supportive of the bid as the Portuguese and German politicians were.¹⁶⁵ The same thing can happen to Australia.

In the end, we have to wait and see whether the efforts of Kevin Rudd and other politicians in lobbying for votes, and other measures taken to enhance our chance of success can finally overcome all of the problems and strong credentials of our competitors. After all, this forum despite all of its flaws is important and as Richard Woolcott, the last Australian Ambassador to the United Nations who sat on the Council said “*you can make a difference if you are on the Security Council*”.¹⁶⁶

The United Nations Security Council, the main body of the UN, is mandated by the Charter with the responsibility for the maintenance of international peace and security. Thorough analysis of the functions of this Council sheds light on the flaws of this body; the flaws that have led to increasing calls for reform. Five permanent members of the Security Council, who are the only veto holding members, have used the exclusive power of veto to affect the agenda and decisions of the Council and drive them according to their own interests or those of their allies. On numerous occasions, these countries have managed to keep an important conflict off its agenda.

Increasing calls for reform have led to numerous proposals for the better functioning of the Council which are put forward by different countries or group of countries. So far, these proposals have not been successful and several meetings and countless hours of discussions have not born fruit. Countries still actively oppose each other for self-interest and paying too much attention to the details of the procedure has distracted them from focusing on practical steps towards reform. So far, they have not been able to agree on any proposals. Moreover, any

¹⁶⁵ Joanna Slater, *Canada Abandons UN Bid in Embarrassing Turn for Harper*, created 12 October 2010, The Globe and Mail, <<http://www.theglobeandmail.com/news/politics/canada-abandons-un-bid-in-embarrassing-turn-for-harper/article1753222/>>, viewed 7 September 2011.

¹⁶⁶ *Australia's Bid for UN Seat*, <<http://www.abc.net.au/7.30/content/2011/s3280520.htm>>, viewed 7 September 2011.

amendment to the Charter does not seem achievable especially considering the fact that all permanent members have veto power over Charter change. We have to wait and see whether in the future there will be any proposals that can attract the support of the majority of the countries and whether that proposal can be inscribed into the Charter.

No matter how flawed, the Security Council is still the only UN body with the ability to issue binding resolutions and is the only organ in charge of conflict resolution and maintaining international peace and security. Australia is competing against Finland and Luxemburg to get one of the two non-permanent seats assigned to the WEOG and serve in the Council in the period of 2013-2014. The competition is tough and our competitors have strong credentials. The election in October 2012 will determine whether our efforts have been enough to get us onto the Council and end our long absence from this forum.

Appendix I: Trend of Use of Veto Powerⁱ

<i>Date</i>	<i>Vetoing member</i>	<i>Vote (for-veto-abstain or against)</i>	<i>Draft Text No.</i>	<i>Subject</i>	<i>Initiated by</i>
11 May 1993	Russia	14-1-0	S/25693	On the finances of UN operations on Cyprus	The UK
2 December 1994	Russia	13-1-1 (China abstained)	S/1994/1358	On Bosnia and Herzegovina (Transport of goods between the former Yugoslavia and Bosnia)	Bosnia and Herzegovina, Croatia, Djibouti, Egypt, Nigeria, Oman, Pakistan, Rwanda, Turkey
17 May 1995	USA	14-1-0	S/1995/394	On the Occupied Arab Territories (East Jerusalem)	Botswana, Honduras, Indonesia, Nigeria, Oman, Rwanda
10 January 1997	China	14-1-0	S/1997/18	Authorisation for 155 observers for the purpose of verification of the agreement of on the definite ceasefire in Guatemala	Argentina, Chile, Colombia, Costa Rica, Mexico, Norway, Portugal, Spain, Sweden, The UK, The US, Venezuela
7 March 1997	USA	14-1-0	S/1997/199	Calling upon Israel to refrain from East Jerusalem settlement activities	France, Portugal, Sweden, The UK

<i>Date</i>	<i>Vetoing member</i>	<i>Vote (for-veto-abstain or against)</i>	<i>Draft Text No.</i>	<i>Subject</i>	<i>Initiated by</i>
21 March 1997	USA	13-1-1 (Costa Rica abstained)	S/1997/241	Demanding Israel's immediate cession of construction at Jabal Abu Ghneim in East Jerusalem	Egypt and Qatar
25 February 1999	China	13-1-1 (Russia abstained)	S/1999/201	On the extension of UNPREDEP in the former Yugoslav Republic of Macedonia	Canada, France, Germany, Italy, Netherland, Slovenia, The UK, The US
27 March 2001	USA	9-1-4 (France, Ireland, Norway, the UK abstained)	S/2001/270	On establishing a UN observer force to protect Palestinian civilians (considering report of UNSC meeting SC/7040)	Bangladesh, Colombia, Jamaica, Mali, Mauritius, Singapore, Tunisia
14 December 2001	USA	12-1-2 (Norway and the UK abstained)	S/2001/1199	On the withdrawal of Israeli forces from Palestine-controlled territory and condemning acts of terror against civilians	Egypt and Tunisia
30 June 2002	USA	13-1-1 (Bulgaria abstained)	S/2002/712	On the renewal of the UN peacekeeping mission in Bosnia and the immunity of US peacekeepers from ICC jurisdiction	Bulgaria, France, Germany, Ireland, Italy, Norway, Russia, The UK

<i>Date</i>	<i>Vetoing member</i>	<i>Vote (for-veto-abstain or against)</i>	<i>Draft Text No.</i>	<i>Subject</i>	<i>Initiated by</i>
20 December 2002	USA	12-1-2 (Bulgaria and Cameroon abstained)	S/2002/1385	On the killing of the Israeli forces of several United Nations employees and the destruction of the World Food Programme warehouse	Syria
16 September 2003	USA	11-1-3 (Bulgaria, Germany and the UK abstained)	S/2003/891	On the Israeli decision to remove Palestinian Authority leader Yasser Arafat	Pakistan, South Africa, Sudan, Syria
14 October 2003	USA	10-1-4 (Bulgaria, Cameroon, Germany and the UK abstained)	S/2003/980	On the security wall built by Israel in the West Bank	Guinea, Malaysia, Pakistan, Syria
25 March 2004	USA	11-1-3 (Germany, Romania and the UK abstained)	S/2004/240	On the condemnation of killing of Ahmad Yassin, the leader of the Islamic Resistance Movement Hamas	Algeria and Libya
21 April 2004	Russia	14-1-0	S/2004/313	On the termination of the mandate of the UN Peacekeeping Force in Cyprus (UNFICYP) and replacing it with the UN Settlement Implementation Mission in Cyprus	The UK and The US
5 October 2004	USA	11-1-3 (Germany, Romania and the UK abstained)	S/2004/783	On the demand to Israel to halt all military operations in Northern Gaza and withdrawal from the area	Algeria, Pakistan, Tunisia

<i>Date</i>	<i>Vetoing member</i>	<i>Vote (for-veto-abstain or against)</i>	<i>Draft Text No.</i>	<i>Subject</i>	<i>Initiated by</i>
13 July 2006	USA	10-1-4 (Denmark, Peru, Slovakia, the UK abstained)	S/2006/508	On the demands for the unconditional release of an Israeli soldier captured earlier as well as Israel's immediate withdrawal from Gaza and the release of dozens of Palestinian officials detained by Israel.	Qatar
11 November 2006	USA	10-1-4 (Denmark, Japan, Slovakia, the UK abstained)	S/2006/878	On the Israeli military operation in Gaza, the Palestinian rocket fire into Israel, the call for immediate withdrawal of Israeli forces from the Gaza strip and a cessation of violence from both parties in the conflict	Qatar
12 January 2007	Russia and China	9-2-4 (South Africa against; Congo, Indonesia and Qatar abstained)	S/2007/14	On Myanmar (Burma)	The UK and US
11 July 2008	Russia and China	9-2-4 (Libya, South Africa and Vietnam against; Indonesia abstained)	S/2008/447	Condemning the violence by the government of Zimbabwe against the civilians after the election of June 27 and demanding an immediate cease of attacks against and intimidation of opposition members	Australia, Belgium, Canada, Croatia, France, Italy, Liberia, New Zealand, Netherland, Sierra Leone, The UK, The US

<i>Date</i>	<i>Vetoing member</i>	<i>Vote (for-veto-abstain or against)</i>	<i>Draft Text No.</i>	<i>Subject</i>	<i>Initiated by</i>
15 June 2009	Russia	10-1-4(China, Libya, Uganda and Vietnam abstained)	S/2009/310	On the extension of the UN observer mission's mandate in Georgia and Abkhazia	Austria, Croatia, France, Germany, Turkey, The UK, The US
18 February 2011	USA	14-1-0	S/2011/24	On describing the Israeli settlement in Palestinian territory occupied since 1967 "illegal" and demanding all settlement activities cease immediately	Co-sponsored by 130 countries

Country	Total number of veto used between 1991-2011	Issue
The US	14	13 regarding Israel-Palestine conflict, 1 regarding ICC
Russia	6	2 regarding Cyprus, 1 regarding Balkans, 1 regarding Georgia, 2 to support Burma and Zimbabwe (two of its allies)
China	4	2 against countries supporting Taiwan, 2 to support Burma and Zimbabwe (two of its allies)
The UK	0	-----
France	0	-----

¹*Subjects of UN Security Council Vetos*, created in 2009, Global policy Forum Website, <<http://www.globalpolicy.org/security-council/tables-and-charts-on-the-security-council-0-82/subjects-of-un-security-council-vetoes.html>>, viewed 24 August 2011; *UN Security Council (2010): Resolutions, Presidential Statements, Meeting records*, created in 2010, Security Council press releases, <<http://www.un.org/Depts/dhl/resguide/scact2010.htm>>, viewed 24 August 2011; *UN Security Council (2011): Resolutions, Presidential Statements, Meeting records*, created in 2011, Security Council press releases, <<http://www.un.org/Depts/dhl/resguide/scact2011.htm>>, viewed 24 August 2011.

Appendix II: The Legality of NATO Actions in Kosovo

The bombing of Yugoslavia by NATO forces generated extensive debates on the legality of those actions in terms of existing international law. The UN Charter, the main instrument of international law, in article 2(4) of chapter I prohibits the threat or use of force in international relations. This prohibition is binding to all UN Member States. The Charter, however, permits the use of force on three occasions: I) based on article 42 of Chapter VII of the Charter, if the measures not involving the use of force proved to be inadequate, the Council can take action by air, sea, or land forces to maintain or restore international peace and security. In order to do so and according to article 43, all UN members, upon being requested by the Council, should make available to the Council armed forces, assistance and facilities including rights of passage II) according to article 51 of Chapter VII, nothing can impair the inherent right of individual or collective self-defence if an armed attack happens against a Member State, until the Security Council takes necessary measures to restore international peace and security. Therefore, in this case no prior authorisation from the Council is needed. Only the actions taken should be immediately reported to the Council and should not undermine the authority and responsibility of the UNSC in maintaining international peace and security.¹⁶⁷ Moreover, in the case of collective self-defence there are other parameters which must be satisfied before the attack. There should be an actual armed attack on a victim state and that state must explicitly ask for help. The scale of self-defence must be proportionate to the attack as well.¹⁶⁸ III) according to article 53 of Chapter VIII, the Security Council, where appropriate, can use regional arrangements or agencies for enforcement actions. This article explicitly states that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorisation of the Security Council”.¹⁶⁹

In determining the legality of the NATO actions in Kosovo, we have to understand that the NATO falls under which chapter of the UN Charter. NATO is a powerful security organisation which according to its Charter is based on the provisions of article 51, Chapter VII of the Charter. NATO Charter explains that:

¹⁶⁷ The United Nations, *Charter of the United Nations* (1945), <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 25 August 2011.

¹⁶⁸ O’Connell, ‘The UN, NATO, and International Law after Kosovo’, p.59.

¹⁶⁹ The United Nations, *Charter of the United Nations* (1945), <<http://www.un.org/en/documents/charter/index.shtml>>, viewed 25 August 2011.

“the Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

This Charter further confirms that such an action must be reported to the Council and be terminated as soon as the Security Council steps in and takes the matter into its own hands (in compliance with the provisions of article 51).¹⁷⁰ Therefore, the NATO considers itself an organisation based on article 51. The Security Council, on the other hand, has been ambiguous about how it considers the NATO. For the first two missions of this security organisation (Bosnia bombing campaign and an arms embargo on Yugoslavia) and based on the language of the UNSC resolutions, it seems that the Council considered the NATO as a regional agency or an organisation under Chapter VIII. However, on some occasions and when the Council specifically referred to the NATO, the only Chapter it quoted was Chapter VII. When talking explicitly about the NATO, the Security Council usually mentioned that the NATO answered the call of the Council for troops and never said it gave authorisation to the NATO to take actions.¹⁷¹

It is believed that the NATO never took an action based on the principles of collective self-defence.¹⁷² What happened in Kosovo was not collective self-defence either as none of the NATO members were attacked by the Yugoslav army. As Boutros Boutros-Ghali in 1992 and in “Agenda for Peace” confirmed, any regional organisations in order to use force (not in collective self-defence) need Security Council authorisation.¹⁷³ Therefore, considering that what happened in Kosovo was not an example of collective self-defence, one can conclude that however the NATO is regarded (either Chapter VII or Chapter VIII organisation), it needed the UNSC authorisation to bombard Yugoslavia. If it is regarded as a Chapter VII organisation that can answer the call of the Security Council for troops, it needs the authorisation. Similarly if it is

¹⁷⁰ North Atlantic Treaty Organisation, *The North Atlantic Treaty (1949)*, NATO Website, <http://www.nato.int/cps/en/natolive/official_texts_17120.htm>, viewed 25 August 2011.

¹⁷¹ O’Connell, ‘The UN, NATO, and International Law after Kosovo’, pp.62-70.

¹⁷² *Ibid.*, p.60.

¹⁷³ *Ibid.*, p.70.

regarded as a Chapter VIII regional agency, it again needs that authorisation prior to attack. Therefore, the NATO actions were illegal in terms of international law.

Appendix III: Arms Exporters

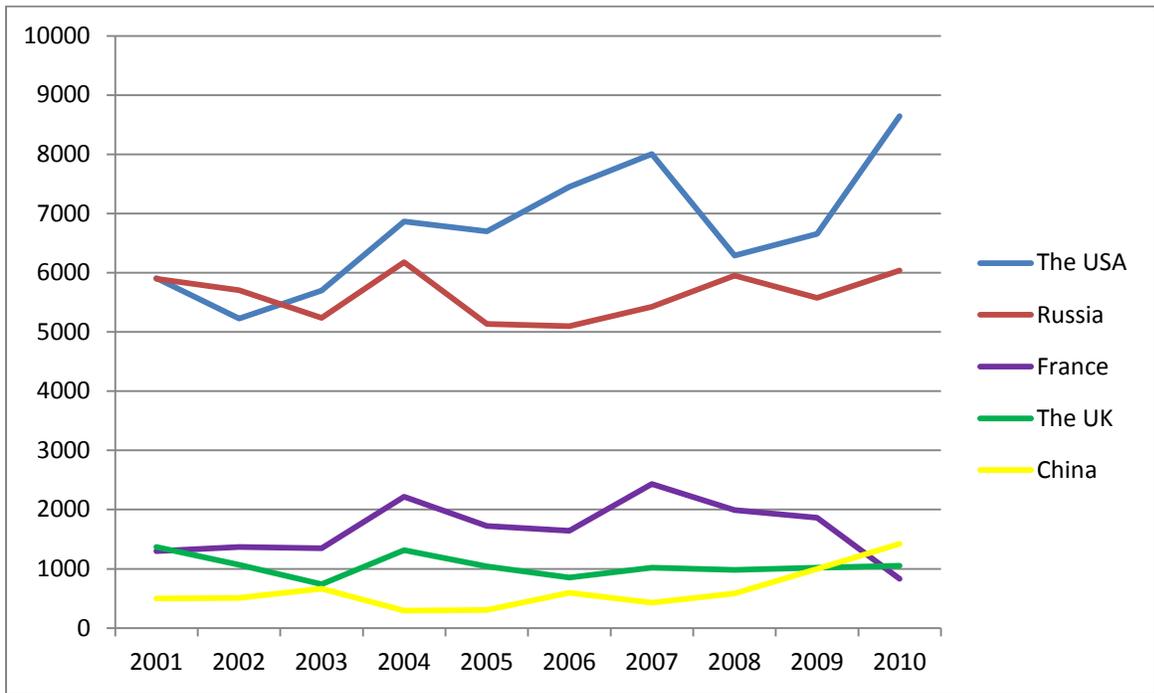
The following table shows ten top arms exporting countries in the last decade:¹⁷⁴

	<i>First rank in arms export</i>	<i>Second rank in arms export</i>	<i>Third rank in arms export</i>	<i>Fourth rank in arms export</i>	<i>Fifth rank in arms export</i>	<i>Sixth rank in arms export</i>	<i>Seventh rank in arms export</i>	<i>Eighth rank in arms export</i>	<i>Ninth rank in arms export</i>	<i>Tenth rank in arms export</i>	<i>Contribution of other countries</i>
2010	USA (8641)	Russia (6039)	Germany (2340)	China (1423)	UK (1054)	France (834)	Sweden (806)	Italy (627)	Netherlands (503)	Israel (472)	2249
2009	USA (6658)	Russia (5575)	Germany (2432)	France (1865)	UK (1022)	China (1000)	Israel (807)	Netherlands (545)	Italy (514)	Sweden (383)	3221
2008	USA (6288)	Russia (5953)	Germany (2500)	France (1994)	UK (982)	China (586)	Netherlands (530)	Sweden (454)	Italy (417)	Israel (281)	3253
2007	USA (8003)	Russia (5426)	Germany (3194)	France (2432)	Netherlands (1326)	UK (1018)	Italy (684)	Israel (438)	China (430)	Sweden (366)	3067
2006	USA (7453)	Russia (5095)	Germany (2567)	France (1643)	Netherlands (1187)	UK (855)	China (597)	Italy (502)	Sweden (432)	Israel (299)	3155
2005	USA (6700)	Russia (5134)	Germany (2080)	France (1724)	UK (1039)	Italy (774)	Netherlands (583)	Sweden (538)	Israel (368)	China (303)	1776
2004	USA (6866)	Russia (6178)	France (2219)	UK (1316)	Germany (1105)	Israel (628)	Sweden (314)	China (292)	Italy (212)	Netherlands (209)	1913
2003	USA (5698)	Russia (5236)	Germany (1713)	France (1345)	UK (741)	China (665)	Sweden (526)	Israel (368)	Netherlands (342)	Italy (341)	2294
2002	Russia (5705)	USA (5229)	France (1368)	UK (1068)	Germany (916)	China (509)	Israel (436)	Italy (426)	Netherlands (239)	Sweden (191)	1820
2001	USA (5908)	Russia (5896)	UK (1368)	France (1297)	Sweden (880)	Germany (850)	China (499)	Israel (407)	Italy (216)	Netherlands (203)	1879

(The numbers in parenthesis are Trend Value Indicators expressed in US million dollars at constant 1990 prices. They might not present real financial flows but are a crude instrument to estimate the volumes of arms transfers, regardless of the contracted prices.)

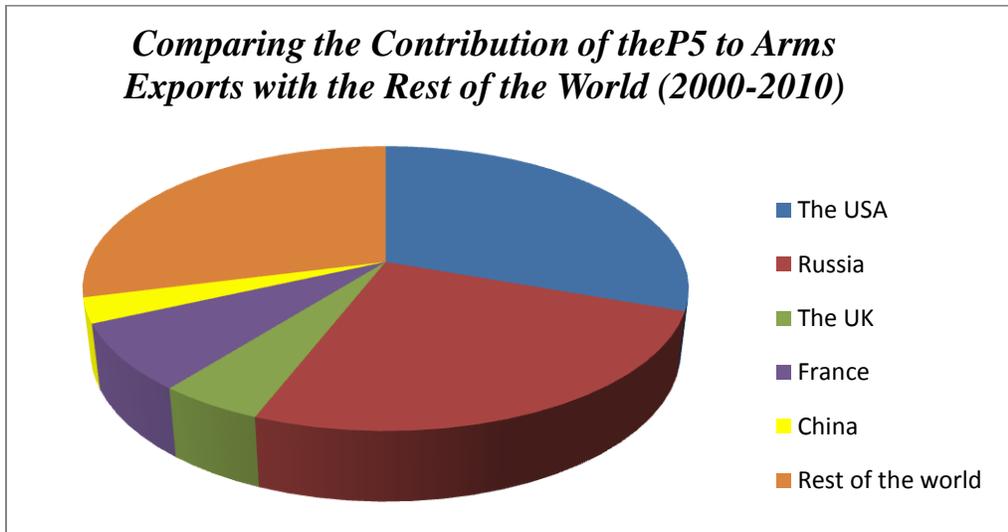
The following graph shows the trend of the arms exportation of each of the P5 during the last decade. The horizontal axis is the year and the vertical axis is the Trade Indicator Value expressed in US million dollars constant at 1990 prices.

¹⁷⁴ SIPRI Arms Transfers Database, created in real-time, Stockholm International Peace Research Institute, <<http://www.sipri.org/databases/armstransfers>>, viewed 28 August 2011.



Trend of the P5's arms exportation in the last decade (2001-2010)

Finally, the following pie chart shows the percentage of the contribution of the P5 to arms export in the last decade (2000-2010) in comparison with the rest of the world.



Appendix IV: G20¹⁷⁵

The following table provides some information about the current population of the G20 countries and their GDP, both in terms of the actual numbers and in terms of the percentage of the world's total population and the world's total GDP. Considering the total population of the world is 6.95 billion,¹⁷⁶ the combined population of the G20 countries represents 67.6% of the world population. Moreover, the GDP of the world in 2010 was 74.54 trillion dollars, therefore the combined GDP of the G20 countries represents 95% of the world's GDP.

Country	Population (July 2011 estimate)	GDP (PPP)* (2010 data)	Percentage of the world population	Percentage of the world's GDP
Argentina	41.8 million	\$596 billion	0.60%	0.85%
Australia	21.8 million	\$882.4 billion	0.31%	1.26%
Brazil	203.4 million	\$2.2 trillion	2.93%	3.14%
Canada	34.0 million	\$1.3 trillion	0.49%	1.86%
China	1.3 billion	\$10.1 trillion	18.70%	14.43%
European Union	492.4 million	\$14.8 trillion	7.08%	21.14%
France	65.3 million	\$2.1 trillion	0.94%	3.00%
Germany	81.5 million	\$2.9 trillion	1.17%	4.14%
India	1.2 billion	\$4.1 trillion	17.27%	5.86%
Indonesia	245.6 million	\$1.0 trillion	3.53%	1.43%
Italy	61.0 million	\$1.8 trillion	0.88%	2.57%
Japan	126.5 million	\$4.3 trillion	1.82%	6.14%
Mexico	113.7 million	\$1.6 trillion	1.64%	2.28%
Russia	138.7 million	\$2.2 trillion	2.00%	3.14%
Saudi Arabia	26.1 million	\$622 billion	0.37%	0.89%
South Africa	49.0 million	\$524 billion	0.70%	0.75%
South Korea	48.7 million	\$1.5 trillion	0.70%	2.14%
Turkey	78.8 million	\$960.5 billion	1.13%	1.37%
The UK	62.7 million	\$2.2 trillion	0.90%	3.14%
The US	313.2 million	\$14.7 trillion	4.51%	21.00%
Total	4.7 billion	\$70 trillion	67.6%	95%

* GDP: Gross Domestic Product (the value of all final goods and services produced within a nation in a given year). GDP is usually described on PPP basis (Purchasing Power Parity).

¹⁷⁵ The data presented in this table are from CIA World Factbook.

¹⁷⁶ US Consensus Bureau Website, viewed 20 August 2011.

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