

**THE EUROPEAN UNION'S LEADING ROLE ON THE UNITED NATIONS TARGETS TO A
FURTHER EU PARTICIPATION IN THE UNITED NATIONS SECURITY COUNCIL. HENCE,
WHAT IS THE EU'S POSITION IN THE UNSC REFORM PROCESS?**

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LIST OF ABBREVIATIONS:

• African Union	AU
• Common Foreign and Security Policy	CFSP
• Court of First Instance	CFI
• Democratic Republic of Congo	DRC
• Eastern European Group	EEG
• European Community	EC
• European Court of Justice	ECJ
• European Economic Community	EEC
• European Parliament	EP
• European Union	EU
• Group of Four	G4
• High Level Panel	HLP
• High Representative/ Vice-President of the Commission	HR/VP
• Members States	MSs
• United Kingdom	UK
• United Nations	UN
• United Nations General Assembly	UNGA
• United Nations Security Council	UNSC
• United States of American	USA
• Uniting for Consensus	UfC
• Western European and Others Group	WEOG

ABSTRACT

Despite the variety of sources regarding the relationship of the European Union (EU) and the United Nations (UN), little is known about the EU's role in the reform of the United Nations Security Council (UNSC) and particularly none of the pieces of research are updated, especially after the very recent political and global developments. This study begins by explaining the EU contribution in the UN's affairs, namely analysing its involvement in the maintenance of international peace and security which is the UNSC's main function. Subsequently, the project explores the controversial debate for a potential UNSC reform. This thesis explains the potential reform proposals that were put forward so far and it deduces that those scenarios for reform have not been enforced due to national interests and international political impediments. Recently, the UK's referendum for Brexit emphasised the importance to discuss the EU's place in the international arena and mainly in the UNSC without the UK as a European permanent member. Subsequently, this study analyses the proposals for a further EU participation in the UNSC and examines whether the EU's position in the UNSC will be enforced or deteriorated after Brexit. Implications for future research exist regarding the EU's proportionate representation in the UNSC; explicitly whether the EU's impact on shared threats or capability to balance contra to US supremacy will be diminished after Brexit or if a single EU seat is granted. Finally, the research methodology of this project is a synthesis of doctrinal and empirical research.

INTRODUCTION

The European Security Strategy stated that ‘in a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system’ and so ‘strengthening the United Nations, equipping it to fulfil its responsibilities and to act effectively, is a European priority’¹. Indeed, the European Union (EU) has become a principal actor in the global community and as it will be justified later in this thesis, it plays a fundamental role within the United Nations (UN)². Initially, the EU has been an observer State in the UN since 1974 through the participation of the European Economic Community (EEC) which was then transfigured into the EU³. Then, in 2011 the EU claimed enhanced participation rights⁴. Interestingly, in the United Nations Security Council (UNSC), the EU itself does not have voting rights and does not participate as a single regional organisation⁵. It is only represented alongside its 28 Member States (MSs), two of which are permanent members⁶. Those are France and the United Kingdom (UK)⁷.

Brown, the previous UN Deputy Secretary General, claims that the EU representation in the UN will be gradually extended; it has started by assisting the support departments, and eventually it will undertake a seat in the UNSC⁸. However, the growth of the EU's role in the UN is politically sensitive among its MSs. This study will examine the participation of the EU within the UN's affairs, by focusing at the EU's commitment about the maintenance of international peace and security. It will then explain the need for a UNSC reform by mentioning the potential reform proposals which have already been forwarded. On this point, it is essential to clarify why these reform scenarios have not been enforced so far due to national interests and international political impediments. Subsequently, this project will examine the possibilities for a further EU participation in the UNSC through a reform of the

¹ ‘How the European Union and the United Nations cooperate’ (UNRIC 2007) <https://www.unric.org/html/english/pdf/Leporello_EU-VN_e.pdf> accessed 3 April 2016

² Ibid

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸Helena Spungenberg, ‘EU heading for single UN seat, UN official says’ (*EU observer*, Brussels, 3 October 2006) <<https://euobserver.com/foreign/22553>> accessed 6 April 2016

UNSC itself. Inevitably, if the EU gains a single permanent seat at the UNSC, it will be representing 28 States. However, it is doubtful whether the interests of the UNSC permanent members, the ambitions of the African Union (AU) and the views of some of the most powerful EU MSs could make the enforcement of such reform possible and acceptable. Similarly, it is worth questioning how a regional organisation with international responsibilities like the EU can be involved in another international organisation, the UN.

Adding to the above, the recent UK referendum, the so-called Brexit and its global effects, are emphasising the importance to discuss the place of the EU in the international arena; and mainly in the UNSC without the UK as an EU member. It is vital to examine whether the EU's position in the UNSC will be enforced or entirely deteriorated after Brexit. Nonetheless, even though Article 50 of the TEU has been recently triggered by the UK government and so the UK has formally notified its intention to withdraw from the EU, 'the implementation of article 50 TEU is unprecedented, and the way ahead raises many unanswered questions'⁹. Therefore, at this early stage of the situation at hand any conclusive arguments in this thesis would be immature.

The above aimed perspectives will be better explained by dividing this project into three chapters: a) EU participation in the UN System; b) The UNSC and the potential reforms and; c) The EU and its role in the reform of the UNSC. Finally, the research methodology will be a synthesis of doctrinal and empirical research by using data such as primary sources i.e. legislation, case law, UN resolutions, EU policies, directives and regulations etc. and; secondary sources i.e. books, journal articles and others studies.

CHAPTER 1: EU PARTICIPATION IN THE UN SYSTEM

Introduction

The modern world is full of paradoxes and absurdities due to the constantly updated political, economic and military issues. Terrorism, climate change, poverty, racism, nuclear

⁹ Ignasi Guardans and Piers Coleman, 'Article 50 Has Been Triggered by the UK: What's Next?' (*K&L Gates*, 29 March 2017) <<http://www.klgates.com/article-50-has-been-triggered-by-the-uk-whats-next-03-29-2017/>> accessed 5 April 2017

weapons, financial crisis and refugees are considered some of the most serious problems which afflict humanity and intensify intercontinental relations¹⁰. At the same time, there is 'a broader than ever set of tools that may be used to fight or reduce the negative aspects of these threats and problems¹¹'. The UN can be reasonably considered to be the most fundamental entity which can react over the current challenges. In addition, the EU's evolution and interference in global affairs through its specialist agencies, finance and support programmes declare that the EU has also the intention to play a more fundamental role in the international arena¹². However, despite the fact that all EU countries are UN members and the EU's contribution in the UN has increased in the last twenty years, 'EU-UN relations are complicated by a history of crises'¹³.

This chapter will briefly explain the role and the main purposes of those two organisations and it will then critically analyse the efficiency of their existence in the international community. Subsequently, it will focus on how the EU and the UN cooperate nowadays and it will assess the nature of their relations by discussing their reactions in some recent cases. As it will be observed, there are many flaws in the cooperation of those two institutions but at the end of this chapter, it will be investigated the possibility of forming closer bonds between them in the future.

The UN and the EU

Nature and functions of the UN and the EU

The UN, the most recognised and fundamental international organization, was created in the aftermath of World War II in an attempt to continue the ergo of the League of

¹⁰ 'Global issues overview' (*United Nations*) <<http://www.un.org/en/sections/issues-depth/global-issues-overview/>> (accessed 19 January 2017)

¹¹ Rafal Willa, 'EU-UN Relations. How much of a Partnership?' (2016) *Batorego* 39L 87

¹² Mary Farrell, 'EU representation and coordination within the United Nations' in Katie Verlin Laatikainen and Karen E Smith (eds), *The European Union at the United Nations* (Palgrave Macmillan UK 2006) 1, 2

¹³ Franziska Brantner and Richard Gowan, 'Complex engagement: The EU and the UN system' in Knud Erik Jorgensen (ed), *The European Union and International Organizations* (Routledge: London 2009) 3

Nations, namely to ensure peace and collaboration between world nations¹⁴. The official existence of the UN was ratified by the UN Charter. This contains nineteen chapters which are not considered as 'a mandatory set of rules' but 'a skeletal framework of principles and voluntary obligations'¹⁵. In Article 1 of Chapter 1 are outlined the four main purposes of the UN which are: to retain international peace and security; to grow friendly relations between States; to increase cooperation in order to deal with universal problems and foster fundamental freedoms; and to perform as a core factor in harmonizing these efforts¹⁶. According to Whittaker, 'these purposes are action loaded' and 'they only bear fruit if "collective measures" are appropriate and effective'¹⁷. He continued by stating that the UN should serve three correlated functions: to be a congress for negotiations and decisions; to congregate as an association for action (non-forcible); and to be a promoter of moral values¹⁸.

The UN is also identified as a body with a triple notion. It is of course 'the world organization as an arena for State decision-making'; this is the 'first UN'¹⁹. It is 'a broad and complex system of policymaking and administration in which some decisions are made by individuals who are not instructed by States' (i.e. the Secretary-General and the international civil service)²⁰; this forms the 'second UN'. And sometimes, Nongovernmental Organizations and autonomous specialists and commissions are vigorous and influential within the intergovernmental system²¹, this constitutes the 'third UN'. Despite the fact that there are many contributors, the UN's principal organs today are six, the United Nations General Assembly (UNGA), the UNSC, the Secretariat, the Economic and Social Council, the Trusteeship Council and the International Court of Justice²².

¹⁴ Amanda Briney, 'All about the United Nations' (*about education*, 13 October 2016) <<http://geography.about.com/od/politicalgeography/a/unitednations.htm>> accessed 18 January 2017

¹⁵ David J Whittaker, *United Nations in Action* (UCL Press 1995) 5

¹⁶ Article 1 of the UN Charter

¹⁷ David J Whittaker, *United Nations in the Contemporary World* (Routledge 2006) 6

¹⁸ *Ibid* 9

¹⁹ Thomas G Weiss, David P Forsythe, Roger A Coate and Kelly-Kate Pease, *The United Nations and Changing World Politics* (6th edn, Westview Press 2010) lix

²⁰ *Ibid*

²¹ *Ibid*

²² *Ibid* (n 15) 9

In the meantime, the EU, ‘an economic political State of security and defence’²³, was also created in the aftermath of World War II, as a result of the economic, political and social desolations that the war caused²⁴. Nowadays, the EU, is consisted of 28 sovereign and independent MSs²⁵. Those MSs delegated a part of their ‘sovereignty’ to the EU supranational institutions, namely they granted some of their decision-making powers in order for the joint interest matters to be completed at a European ground. It is noteworthy here that the EU’s key institutions are the European Commission, the Council of Ministers and the Assembly. The above way of action is based on the rule of law and particularly it is found in the treaties which the MSs have democratically and voluntarily approved²⁶. Thus, the EU ‘sits between the fully federal system found in the United States and the loose, intergovernmental cooperation system seen in the United Nations’²⁷. A significant clarification here is that the EU is a regional based system, the UN is an international organisation and both are State-based.

The EU’s operation in the international community has been remarkable. It has established within its MSs the right of free movement of goods, services and persons and it has also created a single currency, the euro²⁸. Today, the EU is the main supplier of the international programmes concerning development and non-profitable philanthropic aid. It is also trying to overcome the financial crisis and other global problems such as climate change. At the same time, it is focusing on its enlargement and on spreading its values worldwide²⁹.

Criticisms on the UN and the EU

²³ Evelina Andrijauskaite, ‘EU institutions, their functions, decision making processes’ (*Prezi*, 14 November 2012) <<https://prezi.com/zfhxydpf8ucm/eu-institutions-their-functions-decision-making-processes/>> accessed 31 January 2017

²⁴ ‘How the EU Functions’ (*finding Dulcinea*) <http://www.findingdulcinea.com/guides/Politics/The-European-Union-EU.pg_00.html> accessed 31 January 2017

²⁵ ‘EU member countries in brief’ (*Europa.eu*) <https://europa.eu/european-union/about-eu/countries/member-countries_en> accessed 30 January 2016

²⁶ ‘The European Union explained: How the EU works’ (*EUBookshop*, 2014) <<http://bookshop.europa.eu/en/how-the-european-union-works-pbNA0414810/>> accessed 31 January 2017

²⁷ Ibid

²⁸ Ibid

²⁹ Ibid (n 26)

Interestingly, the view that the UN is an international system which is represented equally by its members, is supposed to be misleading and questionable³⁰. The fact that ‘five are given votes to the SC, and a very small percentage of the members pay the lion’s share of the bills’ demonstrates that there is a ‘disproportionate say in decision making’³¹. Thus, the argument that ‘the UN is a creature of the world’s strongest States’ intended to operate their interests, seems reasonable³². On the other hand, the UN has recently been characterised as ‘what the French would call a pis-aller’, namely ‘a makeshift expedient that is the best organizational structure that we seem to have been able to create to deal with a set of problems that cannot be dealt with by a traditional State system’³³. There is no doubt that the opinions regarding the utility of the UN are divergent and yet none can express objectively an accurate description which will comprise, fully, the value of the UN.

Respectively, it is well said that ‘not all EU initiatives have been beneficial, and some advocate for the return of certain areas to the nation States’³⁴. Nevertheless, there are convincing reasons which sustain the continuity of the European integration³⁵. For example, it makes war less possible³⁶. But again that ‘capacity’ of the integration system to overcome new challenges, it will always be an object for criticism as if ‘the EU fails to react, it can be quickly portrayed as irrelevant, an organisation that was useful in the past, but is no longer able to tackle the issues of the 21st century’³⁷.

UN-EU Cooperation

As it was previously mentioned, it is obvious that the EU and the UN share similar values and goals and so they should have collaborative and constructive relations³⁸. Although Article 3 of the UN Charter makes it impracticable for the EU to become a UN member; it

³⁰ Thomas G Weiss and Sam Daws, *The Oxford Handbook on the United Nations* (OUP 2007) 43

³¹ *Ibid* (n 19)

³² *Ibid*

³³ Thomas G Weiss, *What’s Wrong with the United Nations and How to Fix it* (2nd edn, Polity Press 2012) 4

³⁴ Iyiola Solanke, *EU Law* (Pearson 2015) 32

³⁵ *Ibid*

³⁶ *Ibid*

³⁷ Jukka Snell, “European constitutional settlement”, an ever closer union, and the Treaty of Lisbon: democracy or relevance?’ (2008) 33 *EL Rev* 9

³⁸ *Ibid* (n 1)

declares that only States can possess full participation³⁹, the EU has been strengthening its present and influence in the UN since the 1970s⁴⁰. It is noteworthy here that in 1974 the EEC had been the first non-State permanent observer at the UNGA⁴¹. This EEC's privilege was broadened after the merging of the European Community (EC) (this is the title given to the EEC after the formation of the EU) and the EU in 2011, when the EU obtained speaking rights at the UNGA⁴². Notably, nowadays, the 28 EU MSs consist over one eighth of the votes in the UNGA⁴³.

The EU's 'full' participation in the ECOSOC Commission on Sustainable Development, in Food and Agriculture Organization and 'in UNGA special sessions such as the Millennium Summit and in ad hoc UN conferences - from Rio to Kyoto' also verify its fundamental position in the UN⁴⁴. Since the establishing of the Common Foreign and Security Policy (CFSP), a greater coordination is required between the EU MSs, the Council and the Commission⁴⁵. In addition, it should be underlined here that the EU is the UN's main financial contributor and it is largely considered as a significant supporter on peacekeeping and conflict prevention; human rights; development assistance; sustainable development and environment; humanitarian aid; combating terrorism and crime; trade and culture⁴⁶.

Despite the dynamic role that the EU has in the UN, it should be underlined that the EU does not take a place in the UNSC. For that reason, the EU MSs which are also participants in the UNSC are required under Article 34 of the Lisbon Treaty to completely inform the other EU MSs and 'defend the positions and the interests of the Union⁴⁷'. Alongside, the UK and France which have a permanent seat in the UNSC shall forward the interests of the EU⁴⁸. Interestingly, although EU MSs should 'undertake coordinated actions in the arena of the UN with reference to the common EU standpoint, in the event of a conflict of interest individual

³⁹ Article 3 of the UN Charter

⁴⁰ Knud Erik Jørgensen and Katie Verlin Laatikainen, 'The EU at the UN: Multilateralism in a New Key?' (2004) 2

⁴¹ UN General Assembly Resolution 3208 (XXIX)

⁴² UN General Assembly Resolution A/RES/65/276

⁴³ Ibid (n 1)

⁴⁴ Ibid (n 40)

⁴⁵ Ibid

⁴⁶ Ibid (n 40)

⁴⁷ Article 34 of the Lisbon Treaty

⁴⁸ Ibid (n 1)

countries put priority on the obligations' resultant from the UN Charter over the EU's interest⁴⁹.

Interference and Interactions in Recent Cases

Indeed, the EU and the UN have been considered by several academics and scholars, consummate partners for collaboration in military and civilian 'crisis management', notwithstanding the acknowledge of current competing and conflicting tools and visions⁵⁰. One of the most controversial military and civilian crisis of the 20th century is the case of Africa. Charbonneau stated that 'the UN seems to be elsewhere, somewhere, barely noticeable, and at best to have a secondary role' in the processes of Africa⁵¹. In contrast, the EU's military operations and reactions in Africa demonstrated its effectiveness to intervene in global military crisis⁵². Therefore, it is aptly to argue that the EU's valuable military capacity can of course be used 'to solve the UN's limited capacity problem'⁵³. Particularly, in 2003, the EU military operation in the Democratic Republic of Congo (DRC) called Operation Artemis, was the EU's first autonomous action to reinforce the UN Organisation Mission in the DRC⁵⁴. It is sufficient to point out that the French significant contribution was determinant to the EU's operation. The aforementioned case proves the needs of the UN and at the same time, evidences the ability of the EU to handle the UN's weaknesses⁵⁵.

The Cyprus issue is another recent and complicate example of the EU-UN interaction. In this case, the UN's mediation attempts were unsuccessful but by drafting the 2014 Annan Plan, the mediating team verified its impact on the UNSC and other MSs⁵⁶. On the other hand, the EU's perspective to Cyprus 'was determined mainly by Greek preferences'⁵⁷. The EU's decision to make the Greek-Cypriot part a full EU member proved that the EU did not take

⁴⁹ Ibid (n 11) 89

⁵⁰ Bruno Charbonneau, 'What Is So Special about the European Union? EU-UN Cooperation in Crisis Management in Africa' (2009) 16 *International Peacekeeping* 546, 548

⁵¹ Ibid 551

⁵² Ibid 549

⁵³ Ibid

⁵⁴ Claudia Morsut, 'Effective Multilateralism? EU-UN Cooperation in the DRC, 2003-2006' (2009) 16 *International Peacekeeping* 261, 262

⁵⁵ Ibid

⁵⁶ Ramazan Erdağ, 'Ensuring Peace: The EU and UN's Approaches on International Conflicts' (2015) 22 *International Peacekeeping* 603, 605

⁵⁷ Ibid 606

into account the Annan Plan and so it disturbed the UN's efforts⁵⁸. Hence, an efficient EU-UN coordination regarding the Cyprus dispute did not take place as both institutions functioned independently following their own beliefs and preferences.

Regarding the operation in Kosovo and Serbia in 2008, 'the EU seems to have learned lessons from the Cyprus case', and so it 'used the enlargement process as a conflict resolution tool towards Kosovo and Serbia'⁵⁹. In contrast, the UN's action was constrained due to the absence of consensus on Kosovo's status; the opposition of China and Russia regarding the independence and the leading role that the United States of America (USA) played in Kosovo's conflict and independence⁶⁰. Hence, although 'the UN had more autonomy than the EU in general, both organizations had "limited bureaucratic autonomy" in policy making'⁶¹. This happened because their verdicts and preferences are not solely depended on their MSs' decisions and partialities, but also on the bureaucrats' conclusions⁶². Arguably, succeeding in military operations is a difficult and complex case because of both institutional and operational obstructions.

The interplay between UN law and EU law, a field widely unexplored yet, has recently been concerned in the *Kadi* case, one of the most contentious cases treated by the European Court of Justice (ECJ)⁶³. In that case, a regulation adopted by the EU following a UNSC resolution to freeze the funds of Yassin Abdullah Kadi and Al Barakaat International Foundation⁶⁴. The defendants argued that the Regulation should be withdrawn under Article 263 of the Treaty on the Functioning of the European Union (TFEU) as it was contrary to their fundamental human rights⁶⁵. The Court of First Instance (CFI) held the validity of the regulation and explained its decision through a 'dogmatically convincing' way⁶⁶. It declared, based on Article 25 of the UN Charter, that all UN members are bound by the UNSC

⁵⁸ *Ibid*

⁵⁹ *Ibid*

⁶⁰ *Ibid*

⁶¹ *Ibid*

⁶² *Ibid* (n 56) 606

⁶³ Peter Hilpold, 'EU Law and UN Law in Conflict: The Kadi Case' (2009) 13 Max Planck UNYB 141, 142

⁶⁴ *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council and Commission* (2008) C-402 and 415/05, [2008] ECR I-6351

⁶⁵ Article 263 Treaty on the Functioning of the European Union

⁶⁶ *Ibid* (n 63) 160

resolutions⁶⁷ which according to Article 103 triumphed over all treaties⁶⁸. The EU may not be a UN member, but all its MSs are UN MSs too and hence, regarding the decision of *International Fruit Company Case (1972)*,⁶⁹ the UN law prevailed over EU law and so they are obliged to obey the resolutions⁷⁰. Finally, the CFI stated that the above situation does not occur only when there is an infringement of a *jus cogens* norm, something which did not happen in this particular case⁷¹. The defendants appealed and the ECJ concluded that the resolution was void in EU law by reviewing the validity of the EU regulations⁷². The ECJ could not reconsider the UN resolution but it could certainly re-examine the EU regulation. In fact, the UN Charter's formal supremacy is contradicted in this case by a claim of worthwhile and moral dominance of EU fundamental rights⁷³. Hilpold claims that:

Most astonishing at all, in a dynamic perspective, it is not even clear whether the security-preference or the human rights-preference really are best suited to attain the purported goal, as both goals are strongly interrelated. In the end, doubts arise whether it is really the conflict between the two mentioned goals that has given rise to this controversy between the two international institutions or rather a power struggle between them⁷⁴.

The EU and the UN: a shared future

As it was stated above, a complex relationship between EU-UN has been observed through a history of crises and precisely during the 1990s (the loss of European faith in the UN in the Western Balkans) and 2000s (EU-UN military operations mentioned above)⁷⁵. Therefore, having in mind this complicated and competitive background, it seems impractical to talk about a EU-UN shared future. What is more, the EU's effort to improve its relationships with the UN can be regarded as a commitment towards crossing multilateralism reinforced by the EU's intergovernmental and supranational fundamentals⁷⁶. However, the effective EU

⁶⁷ Article 25 of the UN Charter

⁶⁸ Article 103 of the UN Charter

⁶⁹ *Fruit Company Case 21-4/72* [1972] ECHR 1219

⁷⁰ *Ibid* (n 63) 159

⁷¹ *Ibid* 162

⁷² *Ibid* (n 64)

⁷³ *Ibid* (n 63) 158

⁷⁴ *Ibid*

⁷⁵ *Ibid* (n 13) 37

⁷⁶ *Ibid* (n 12) 1

involvement in the UN is restrained by the EU's peculiarities⁷⁷. Namely, the synthesis of intergovernmentalism and supranationality of the EU enlarges the power and the influence of MSs. This produces a complicated tension between the two organisations as the UN is an 'organisation of sovereign States' and the EU is an 'evolving political community of sovereignty-sharing MSs'⁷⁸. Adding to the above, the UN structure retains many integral impediments for the entrance of a constant EU identity⁷⁹. Namely, it is doubtful as to whether an institutional frame based on State sovereignty can incorporate the EU as a consistent actor⁸⁰.

A contrary point of view may be that through further collaboration with the UN, the EU should take a better advantage of partnership with the UN's programmes, committees, commissions, specialised agencies and funds⁸¹. The European Parliament (EP) underlined that in the post-2015 improvement scheme, the EU and its MSs should have a primary position and that they should cooperate with the UN and all the linked bodies in order to ensure that determined dedications are made towards the accomplishment of the future objectives⁸². Nonetheless, nothing has changed since then and most importantly, the EU remains out of the UNSC.

One can say that a new 'political and strategic – programmatic – content' has been formed between the EU and the UN through the last few years and as Ojanen claimed, their interactions and inter-behaviour can be characterised as a 'paradigm shift'⁸³. Regarding the EU interference in DRC which was mentioned above, Morsut stated that 'this pioneering peace operation can offer insights into possible future collaboration between the two organizations in peace and security matters'⁸⁴. She also affirmed 'that it is possible to establish a "partner model" from the example of cooperation in the DRC: in the case of a UN deficit,

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Ibid

⁸⁰ Ibid (n 12) 1

⁸¹ Committee on Foreign Affairs, *Report on the role of the EU within the UN - how to better achieve EU foreign policy goals* (Cm 2015/2104, 2015) 10

⁸² Ibid 14

⁸³ Hanna Ojanen, *The EU and the UN: a shared future* (6th edn, 2006) 10

⁸⁴ Ibid (n 54) 261

the EU may intervene as supporting organization⁸⁵.

Interestingly, Vale de, the current EU ambassador in the UN, recently stated that: We don't compete with each other; we cooperate wherever we can. We see this as mutually beneficial. There's a lot to be done around the world that we cannot do entirely alone. Take Africa, for instance, which is the continent in which the European Union and UN cooperate the most⁸⁶.

As it was elaborated above, EU-UN collaborate in many ways, but they do not actually seem to have a mutual partnership. What they have done together so far was because of the inevitability of some serious situations. Of course, the problematic aspects of their interrelationship prevail over the benefits of their coordination. Therefore, one can say that Vale de's words demonstrate the misleading trend of political people to present the EU-UN interrelationship and interactions as reciprocal and constrictively. In fact, it is very difficult for those two superpowers to mutually agree and react as a single body. They will always try discreetly to serve their own interests and ascertain their superiority. Consequently, despite the positive aspects that will inevitably occur from a greater EU-UN cooperation and although the international community surely needs such a 'perfect' combination, there are some practical difficulties for this to happen.

Conclusion

Taking everything into consideration, both the EU and the UN emerged after World War II but at the beginning, they served different purposes: the EU aimed to improve the economy in Europe and the UN intended to sustain international peace and security⁸⁷. The UN, in order to achieve its aim, started intervening in intercontinental conflicts through mediations and military processes⁸⁸. These interventions have gained many criticisms and a large literature has arisen to evaluate the efficiency of the UN's actions. In the meantime, the EU gradually changed⁸⁹. From an economic association became an organisation 'concerned

⁸⁵ Ibid

⁸⁶ Forum Fletcher, 'EU-UN Cooperation, A Conversation with Joao Vale De Almeida' (2016) 40 World Aff 159, 160

⁸⁷ Ibid (n 56) 603

⁸⁸ Ibid

⁸⁹ Ibid

with unification and political, military and economic realms⁹⁰. Although ‘these integration processes remain incomplete and not without controversy, the EU has gradually become a key player in international politics and conflicts’⁹¹. Since then, ‘arguments in both the scholarly literature and official documents are made for the “special”, unique and/or particular value of EU–UN cooperation’⁹². However, the recent military and civilian operations by the UN and the EU illustrate that practical difficulties and problems occur during the whole processes: the interests of the relevant stake-holders clash; the EU’s and UN’s preferences are sometimes contradicted; bureaucrats’ interests affect the decision-makings; the desire of both the EU and the UN to prevail and; the UN’s weaknesses⁹³. As it was justified above, the EU-UN cooperation is a controversial area in the international arena and it is doubtful whether they can build closer and more efficient relations in the future. However, one thing is absolutely certain, that for the time being, the EU-UN cooperation is a necessary evil.

⁹⁰ Ibid

⁹¹ Ibid (n 56) 603

⁹² Ibid (n 50)

⁹³ Ibid

Introduction

Hosli attests that:

The developments and changes in geopolitics that have occurred since the Second World War make clear the need for urgent reform of the UN—particularly the Security Council—but it is the myriad of effects, brought on by precisely these changes, that renders the task of reform so arduous¹.

Namely, one of the most controversial international law issues of the last two decades has been the reform of the UNSC. Relatively, Szewczyk claimed that the existing analysis of international lawyers and scholars on this topic has not been completed or updated². The author justifies his above view by claiming that the inaccuracy of the assessment of the reform proposals, the inadequate attention that is given to the main problem of the UNSC, (which according to him is the disagreement as to its purpose), and finally the failure of recent studies to take into consideration the future developments regarding the division of power in the world, are the three main reasons for the lack of such scholarship on the topic³. Correspondingly, regarding the global, political and economic developments, there is an indisputable need to reconsider deeper the so contentious topic of UNSC reform and particularly to reconstruct a new, updated thesis. This chapter will start by explaining briefly what is the UNSC and what its main functions are. It will then present and criticise the flaws of the UNSC which make it essential to discuss a UNSC reform. Complementary, it will present the most important of the existing reform proposals and the ambitions of the different regions regarding their future participation in the UNSC. Notably, the very significant position of the EU in the whole UNSC reform will be examined separately and extensively in the next chapter. This chapter will finally conclude that none of the reform scenarios have been implemented so far because of national interests and political impediments.

¹ Madeleine O. Hosli and others, 'Squaring The Circle? Collective and Distributive Effects Of United Nations Security Council Reform' (2011) 6 Rev Int Organ 163, 183

² Bart MJ Szewczyk, 'Variable Multipolarity and UN Security Council Reform' (2012) 53 Harv ILJ 449, 451

³ Ibid

Nature and functions of the UNSC

The UNSC is one of the six principal organs of the UN and it was created to function as an effective executive entity of limited membership⁴. It comprises of fifteen members from which five have been chosen to be permanent, based on which was most powerful and capable politically and military-based in 1945, after the end of WWII. These five members are the USA, the UK, Russia, China and France and they all have the right to veto⁵. The remaining ten members are selected for two-year periods by the UNGA according to the following allocation: five from Afro-Asia States, one from Eastern Europe, two from Latin America, two from Western Europe and other States⁶. Under Article 27 of the Charter, in order for a decision on any procedural matter to be granted, there must be nine positive votes by the members, including, of course, the agreeing votes of the permanent members⁷. Accordingly, under Article 25, all the MSs are bound by the UNSC's decisions. The veto right has been used mostly by the Soviet Union (133 times), less frequently by the USA (83 times) and scarcely by the other members (UK, France and China have vetoed 32, 26 and 11 times respectively)⁸. Finally, under Article 23 of the UN Charter, the UNSC's main function is 'the maintenance of international peace and security'⁹. For the above to be achieved, the UNSC has also the powers to arrange the disputes peacefully and to adopt enforcement measures¹⁰.

Flaws of the UNSC

The weaknesses of the UNSC begun to emerge since its existence and increased fundamentally until today¹¹. Initially, the UNSC-UNGA relations were strained and not only because the UNSC is consisted exclusively by fifteen members which do not necessarily operate in favour of the majority's best interests, but also the UNSC's ability to endorse binding resolutions; whereas the UNGA's resolutions decided by 193 members are not legally

⁴ Malcolm N Shaw, *International Law* (7th edn, CUP 2014) 877

⁵ Ibid

⁶ A/RES/1991 (XVIII)

⁷ Article 27 of the UN Charter

⁸ 'The veto' (*Security Council Report*, 7 December 2016)

<<http://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.php>> accessed 9 March 2017

⁹ Article 23 of the UN Charter

¹⁰ Ibid (n 3) 878

¹¹ Sahar Okhovat, 'The United Nations Security Council: its veto power and its reform' (2011) CPACS Working Paper 15/1, 31

<https://sydney.edu.au/arts/peace_conflict/docs/working_papers/UNSC_paper.pdf> accessed 3 March 2017

compulsory and the view of numerous UN members that the UNSC's mandate is progressively extending, are issues which aggravated this disturbed relationship¹². Also, it is notable that the sole reform of the UNSC in 1965 was aiming to increase the amount of non-permanent members¹³. Essentially, this happened because the UN MSs had augmented more than twice (from 51 to 114)¹⁴. Since then, the UN MSs have fundamentally increased again (193 UN members to date), mainly because many new members were incorporated in the UN after the decolonisation era¹⁵. The above situation creates a significant imbalance between the representatives of the GA and the UNSC as the UNSC's size does not reflect anymore the UN's increasing membership¹⁶. Thus, the UNSC operates contrary to Article 2 of the UN Charter which excels the 'principle of the sovereign equality of (...) all Members'¹⁷. Similarly, the regional representation of the organ is another problematic aspect¹⁸. Two of its five permanent members are Western European States (with current population 191,646,779) while South America (with current population 425,555,353) and Africa (with current population 1,238,816,961) have no permanent seats¹⁹. Obviously, it seems unfair for the last two regions not be fully represented in the UNSC while the EU with the smallest population 'enjoys' two permanent seats.

As it has been widely argued, the right to veto is one of the major drawbacks of the UNSC because it 'allows' the 'P5' to make the organ's operation 'unjust' and 'undemocratic'²⁰. 'Lack of transparency of the Council, many of its working methods and to some extent its agenda' are also some of the main flaws of the UNSC which have been criticised since its initial formation²¹. A final point is that the UNSC's five permanent members have been five of the biggest arms exporting States for more than ten years²². Article 26 of the UN Charter declares that for the UNSC to sustain international peace and security, it 'shall be responsible for

¹² Ibid (n 11) 32

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Thomas G. Weiss, 'Overcoming the Security Council reform impasse. The Implausible versus the Plausible' (2005) Dialogue on Globalization Paper 14, 10

¹⁷ Article 2 of the UN Charter

¹⁸ Ibid (n 11) 32

¹⁹ Ibid

²⁰ Natalino Ronzitti, 'The reform of the UN Security Council' (Documenti IAI 1013, Istituto Affari Internazionali 2010) 14

²¹ Ibid (n 11) 32

²² Ibid

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 armament²³. Thus, the 'P5' are obliged to establish an armament regulation system and at the same time to regulate this large trade²⁴. As it was observed in the Syrian example, airstrike by US was enforced in response to the chemicals used in Syria²⁵. The particular battle of interests does not permit the UNSC to fulfil its duty and as Jimmy Carter recognised and stated in his 1976 presidential campaign, the UNSC 'cannot have it both ways' and it 'cannot be both the world's leading champion of peace and the world's leading supplier of arms'²⁶.

Potential Reform Proposals

These defects of the UNSC resulted in numerous requests and proposals for reform from the bulk of the UN MSs²⁷. In 2016, during the seventy first session of the UNGA, it was agreed that after twenty years of stalled action on UNSC reform, it is the time for an updated UNSC which would represent more adequately the comprehensive worldwide changes that had arisen since the establishment of the UN²⁸. Nonetheless, it was turned out from the speakers representing the UN MSs in this particular session that the MSs held contrary positions regarding the UNSC reform²⁹. Their disagreements were based on five fundamental reform matters: membership types, veto, regional representation, the UNSC's enlarged size and the organ's working methods³⁰.

A starting point here is the thesis of the Uniting for Consensus (UfC), a movement that developed in the 1990s by twelve UN MSs (Italy, Spain, Argentina, Canada, Mexico, South

²³ Article 26 of the UN Charter

²⁴ *Ibid* (n 11) 33

²⁵ Michael R Gordon, Helene Cooper and Michael D. Shear, 'Dozens of U.S. Missiles Hit Air Base in Syria' (The New York Times, 6 April 2017) <https://www.nytimes.com/2017/04/06/world/middleeast/us-said-to-weigh-military-responses-to-syrian-chemical-attack.html?_r=0> accessed 10 April 2017

²⁶ Anup Shah, 'The Arms Trade is Big Business' (*Global Issues*, 5 January 2013) <<http://www.globalissues.org/article/74/the-arms-trade-is-big-business>> accessed 3 March 2017

²⁷ *Ibid* (n 11) 33

²⁸ 'Updated Security Council Must Reflect Changing Global Reality, Member States Say, as General Assembly Debates Ways to Advance Progress on Reform' (*United Nations*, 7 November 2016) <<https://www.un.org/press/en/2016/ga11854.doc.htm>> accessed 10 March 2017

²⁹ *Ibid*

³⁰ *Ibid*

Korea, Pakistan, Turkey, Malta, Costa Rica, Columbia and San Marino). All the UfC's proposals for reform insist on its fundamental point of view, namely that the UNSC should be reformed through the addition of more non-permanent members and not within the increase of the UNSC permanent members³¹. Hence, the UfC group argues that the main purpose of the reform should be enhancing 'the Security Council's representativeness, transparency, effectiveness and accountability' and that this can be achieved by adding new permanent members. The UfC's newest model of reform in 2014 was 'based on the creation of long-term non-permanent seats, with the possibility of an immediate re-election'³². According to UfC, 'this formula could offer the basis for a fair and equitable compromise solution' that can fulfil the ambitions of those countries which desire to be part of the UNSC for a longer period³³.

Entirely opposed to the above is the view of the Group of Four (G4), namely a group consisted by Germany, Japan, India and Brazil, whose supporters constantly claim that the reform of the UNSC will occur by establishing new permanent seats³⁴. Both Germany and Japan grounded their assertions on the fact that they are important donors in the UNSC³⁵. India based its claim on the point that it is the earth's second biggest country regarding population, it has one of Earth's biggest economies and it is the third larger provider of troops in UN peace-keeping operations³⁶. Brazil's claim is based on the fact that it is the biggest country in South America in regards to territory, population and economy³⁷. The last two countries have also importantly supported their argument on their status as principal countries of the 'global south'³⁸.

The African Union (AU) represents fully its position in all UN organs (and particularly in the UNSC) through the Ezulwinni Consensus, this is the common position of the African

³¹ 'Uniting for Consensus group reaffirms opposition to UNSC expansion' (*The Nation*, 30 September 2015) <<http://nation.com.pk/national/30-Sep-2015/uniting-for-consensus-group-reaffirms-opposition-to-unsc-expansion>> accessed 10 March 2017

³² *Ibid*

³³ *Ibid*

³⁴ Jonas Von Freiesleben, 'Reform of the security council' (2008) *Managing change at the United Nations* 1, 3

³⁵ *Ibid*

³⁶ *Ibid*

³⁷ *Ibid*

³⁸ *Ibid*

States which they adopted in 2005³⁹. In regards to the UNSC reform they advocate that ‘the continent should be granted no fewer than two permanent seats on the UNSC with all privileges, including veto power, and an additional five non-permanent member seats’⁴⁰. The impact that external factors have on the African case, and especially the influence of France, is considered as a major contributing factor of the AU’s position in the UNSC reform debate⁴¹. The G4 agrees in some point with the AU as it forwards the idea of four non-permanent members and six permanent seats⁴². Also the UK and France are pressing for making Germany, India, Brazil and Japan permanent members on the UNSC in company with African representation⁴³.

The Ezulwini Consensus specifies that it should be under the AU’s responsibilities to choose the AU representatives in the UNSC⁴⁴. However, nothing has been mentioned so far regarding the African States which should undertake the two permanent seats⁴⁵. Hence, ‘there are realistic threats of power politics and national interests’ as the two dominant African States, Nigeria and South Africa, will possibly seek to obtain ‘a seat for themselves rather than pushing for a continental approach driven by unity and African interests’⁴⁶. Accordingly, the political interests of Nigeria and South Africa are contradicted and their desire to prevail one over the other may definitely lead to a conflict rather than advancing UNSC reform⁴⁷. Scholars have stated that obtaining a permanent seat in the UNSC might be an adequate reason to cause separations between the dominant states of AU, and specifically between South Africa and Nigeria⁴⁸.

³⁹ Jonathan Oshupeng Maseng and Frank Gadiwele Lekaba, 'United Nations Security Council Reform and The Dilemmas Of African Continental Integration' (2014) 23 African Security Review 395, 396

⁴⁰ Ibid

⁴¹ Ibid 395

⁴² Ibid 397

⁴³ Ibid

⁴⁴ Ibid (n 132) 396

⁴⁵ Ibid

⁴⁶ Ibid 398

⁴⁷ Ibid

⁴⁸ Francis Nguendi Ikome and Nhamo W Samasuwo, 'UN reform: towards a more (in)secure world?' (2005) 48 Global Insight 2, 3

A significant actor in the whole process of the UNSC reform is the US. Since 1990 the US government has supported some kind of reform to the membership of the UNSC⁴⁹. Particularly, ‘the Clinton administration backed permanent seats for Germany and Japan, George W. Bush’s team narrowed the focus to Japan’ and ‘president Barack Obama thrilled India by (vaguely) endorsing its bid for a permanent seat during a trip there in 2010’⁵⁰. Nevertheless, in practice, US ambassadors have obtained the competence to observe the diverse factions in the squabble with the UNGA and thus, ‘when Washington has bestirred itself, it has been to signal its opposition to any hasty moves’⁵¹. It is interesting to mention here the statement made by David Bosco regarding America’s lethargy which ‘reflects the reality that...U.S. leaders aren’t convinced that council reform is in the national interest’⁵². Indeed, amendments that occur in ten or twenty years may be less favourable in terms of the US’s politics and economics⁵³. For this reason, ‘the US would be better served by leading than by reacting to whatever plan eventually takes hold among the broader membership’⁵⁴.

In 2003, the UN Secretary General Kofi Annan appointed the High Level Panel (HLP) to examine present threats which affect the international peace and security; to assess what the existing institutions and policies have made to face those hazards; and to recommend ways which can strengthen the UN in order for security to be established for everyone in this century⁵⁵. A year after, the HLP drafted a report based on dangers to peace and security⁵⁶. The Report of the Secretary-General's HLP on Threats, Challenges and Change includes recommendations which are divided into three parts regarding the UNSC reform⁵⁷. Firstly, it suggests two options for an extended 24-member UNSC: ‘Model A provides for six new

⁴⁹ David Bosco, ‘The United States Doesn’t Want to Reform the U.N. Security Council. But it’s going to have to. And it’s better to act now, when America is still strong.’ (*Foreign Policy*, 29 September 2015) <<http://foreignpolicy.com/2015/09/29/the-united-states-doesnt-want-to-reform-the-u-n-security-council/>> accessed 13 March 2017

⁵⁰ *Ibid*

⁵¹ *Ibid*

⁵² *Ibid* (n 142)

⁵³ *Ibid*

⁵⁴ *Ibid*

⁵⁵ ‘General Assembly Critiques High-Level Panel Report’ (*Global Policy Forum*, 1 February 2005) <<https://www.globalpolicy.org/component/content/article/226/32358.html>> accessed 11 March 2017

⁵⁶ *Ibid*

⁵⁷ Thomas G. Weiss and Karen E. Young, ‘Compromise And Credibility: Security Council Reform?’ (2005) 36 *Security Dialogue* 131, 150

permanent seats... and three new two-year term non-permanent seats’ and ‘Model B provides for no new permanent seats but... a new category of eight four-year renewable term seats and one new two-year term non-permanent (and non-renewable) seat’⁵⁸. In both cases, it is stated that the privilege of veto should be available only to the ‘P5’ and that the seats should be distributed between the main regional areas⁵⁹. Secondly, it has never been notified in Article 23 of the UN Charter that diversity is a ‘criterion for membership but rather the willingness of Council members to contribute to the maintenance of international peace and security along with equitable geographical representation’⁶⁰. The HLP would like to implement this unnoticed standard ‘as part of the selection and re-election criteria of those aspiring to membership’⁶¹. Thirdly, the HLP stated that the above proposal is going to be reconsidered in 2020⁶².

Weiss has criticised the existing reform proposals as he argues that a UNSC which ‘grows into [a] “rump” General Assembly would not stimulate activism’ and that the existing reform recommendations do not promote decision-making⁶³. Namely he criticises the HLP’s recommendations because of their nature⁶⁴. What he rationalises is that by offering two options to the States, makes the process of decision-making much more complicated and inefficient⁶⁵. Moreover, both Weiss and Young argue that a recommendation which is formed as an option is something unprecedented in recent history and which ‘would seem to be *prima facie* evidence of paralysis’ because if ‘a group of sixteen individuals cannot come up with a single recommendation, how will 193 States and their parliaments?’⁶⁶.

Martin claims that in order for the UNSC to become more representative, it needs to enlarge its permanent membership by choosing contestants willing full and capable ‘to assume

⁵⁸ United Nations, High-level Panel on Threats, Change and United Nations Dept. of Public Information, *A More Secure World: Our Shared Responsibility: Report of the High-level Panel on Threats, Challenge and Change* (Vol. 5, United Nations Publications 2004) 81

⁵⁹ *Ibid* 79

⁶⁰ *Ibid* (n 57)

⁶¹ *Ibid* (n 57) 151

⁶² *Ibid*

⁶³ Thomas G Weiss, ‘An Unchanged Security Council: The Sky Ain’t Falling’ (2005) 36 *Security Dialogue* 367, 368

⁶⁴ *Ibid*

⁶⁵ *Ibid*

⁶⁶ *Ibid* (n 57) 151

a special responsibility for the maintenance of international peace and security⁶⁷. He then declares that Article 23.1 of the UN Charter also requires those conditions by the States which wish a more active position in the UN⁶⁸. Thereby, he agrees with the previous authors that a UNSC reform is required. According to him, this is going to happen through a UN Charter reform and under 'patient negotiation between the various regional groups and UN MSs'⁶⁹. Nevertheless, he disagrees with Weiss in regards to the HLP report as he believes that if the proposal is directed and performed properly, it could strengthen the global order⁷⁰.

Except from the UNSC's configuration, one of the most vital and traditional obstacles has been the veto power which is a privilege only for the permanent members of the UNSC and which allows the P5 to prevent any resolution that they consider as unnecessary or inappropriate⁷¹. The majority of the UN MSs considers that the veto is fundamentally unjust and unfair and 'one of the main reasons why the Council failed to respond adequately to humanitarian crises such as in Rwanda (1994) and Darfur (2004)'⁷². Therefore, it is not surprising that most UN MSs want to eliminate or control it⁷³. Similarly, unsurprising is that the P5 discard any restriction of their veto power⁷⁴. For the aforementioned reason, 'as the P5's concurring votes and ratifications are needed to achieve an amendment of the UN Charter, most States have abandoned elimination proposals and have put forward less far-reaching suggestions'⁷⁵. Such a reform is being encouraged by the Arab League, the AU, the Group of Non-Aligned Nations and by many western States too⁷⁶. Interestingly, excluding the P5 'hardly any State explicitly supports the existing veto power (Poland, Australia and Singapore figuring among the rare exceptions)'⁷⁷. Besides, the attention regarding the veto

⁶⁷ Martin Ortega, *The EU and the UN: Strengthening Global Security* (Report 1: 'Effective Multilateralism': Europe, Regional Security and a Revitalised UN, The Foreign Policy Centre 2004) 20

⁶⁸ *Ibid*

⁶⁹ *Ibid* 21

⁷⁰ *Ibid* (n 160) 20

⁷¹ Jan Wouters and Tom Ruys, 'Security Council Reform: A New Veto For A New Century?' (2005) 44 *Mil L & L War Rev* 139, 141

⁷² *Ibid*

⁷³ *Ibid*

⁷⁴ *Ibid*

⁷⁵ *Ibid*

⁷⁶ Ingo Winkelmann, *Bringing The Security Council Into A New Era* (1st edn, 1998)

⁷⁷ B Fassbender, 'Pressure for Security Council reform' in DM Malone (ed), *The UN Security Council: From the Cold War to the 21st Century* (London: Boulder 2004) 352

power seems to have moved to the query whether the potential expansion of the number of permanent members would result in a concur enlargement of the veto or not⁷⁸.

Conclusion

By taking everything into consideration, ‘every MS recognizes the need for a more representative and accountable UNSC... but the different groups have different ideas of how the reformed Council should represent the new order’⁷⁹. Indeed, the future processes regarding the UNSC reform will be blocked by ‘the “jealousies” and vested interests that have plagued this issue since the 50th anniversary’⁸⁰. It is doubtful whether the most important candidates (specifically Germany) ‘will agree to take half of loan’, namely a permanent seat without veto⁸¹. It is also unclear whether the UK and France will approve the discussion regarding an EU seat in the UNSC which this project will explore below⁸². Moreover, there are doubts about the USA’s agreement for the consideration of a 24-member organisation and why Eastern European States should approve an allocation which does not involve any exclusive distribution to them⁸³. Further, it is unlikely ‘that some of the main “losers” (the Italys, Algerias, Mexicos, Pakistans, and Nordic countries of this world) will not go to the mat over the very issues to which they have consistently objected’⁸⁴. Finally, it is vague whether ‘the recommended changes will improve the chances of reaching consensus on decisions regarding the use of force’⁸⁵. Thus, it is uncertain whether the future debates ‘will pacify the usual nemeses or why many delegations will find the suggested changes preferable to the status quo’⁸⁶.

⁷⁸ Ibid (n 71)

⁷⁹ Elisabetta Martini, ‘UN Security Council Reform: Current Developments’ (2009) Istituto Affari Internazionali IAI 0926, 3 <<http://www.iai.it/sites/default/files/iai0926.pdf>> accessed 8 April 2016

⁸⁰ Ibid (n 57) 151

⁸¹ Ibid

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

Introduction

Marchesi states that ‘UN and EU reform are mutually reinforcing; EU integration pressures for UN reform and in turn it has an effect on the EU’¹. Since the existence of the UNSC, numerous articles have been written regarding the UNSC reform debates, focusing particularly on the number of the States that should participate in the UNSC, the number of the permanent seats, the veto power and of the necessity for a UNSC which will be able to ‘offer greater legitimacy, effectiveness and more equitable representation of different regions of today’s world’². After presenting in the previous chapter the potential UNSC reform proposals that have been introduced so far, it is essential to examine the position of the EU in the whole UNSC reform process. Journalists and academics have been concentrated on the EU contribution in the UN, the EU’s fundamental position in the UNGA³ and how the EU can increase its influence and efficiency in the UNSC⁴. Thus, at a time where the international peace and security is threatened and the EU is changing dramatically, a limited range of sources are related with the so important issue the position of the EU in the potential UNSC reform.

Considering everything, the main purpose of this chapter is to fill the particular research gap regarding the EU’s position in the UNSC after its potential reform. For this reason, the chapter begins by repeating briefly the significant EU contribution to UN peacekeeping in order to emphasize its significant influence on the UNSC operations. It continues by discussing the proposals that have been forwarded for a further EU participation in the UNSC. Namely, this chapter focuses on how the EU broadens its coordination in the UN after the Lisbon treaty and it mentions the proposals for a single EU-seat. Subsequently, it

¹ Daniele Marchesi, ‘The EU Common Foreign and Security Policy in the UN Security Council: Between Representation and Coordination’ (BRIGG Paper 3, Belgium, 2008) 4

² Marina Klavina, “United we stand”- The European Union at the United Nations Security Council’ (Bachelor thesis, University of Munster 2009) 2

³ K.E. Smith, ‘Speaking with one voice? European Union co-ordination on human rights issues at the United Nations’ (2006) 44 JCMS 113

⁴ MB Rasch, ‘Single Actorness Nonexistent – EU Security Policy at the UN’ (2008) GARNET Working Paper 3508

<<http://www2.warwick.ac.uk/fac/soc/pais/research/researchcentres/csgr/garnet/workingpapers/3508.pdf>> accessed 25 March 2017

presents the scenario that introduces Germany as a third EU permanent State in the UNSC and the opposing to Germany's view, Italy's position. Particular attention is given to the ambitions of Germany and Italy because they play a fundamental role in the UNSC reform process. Additionally, it critically assesses why the scenarios of reform have not yet taken place, this is achieved by analysing the views of some scholars who review the impediments and the ambiguities which prevent the amendment of the UNSC. Finally, the referendum for Brexit which took place in the UK, demonstrates the importance to assess the EU's place in the international arena and particularly in the UNSC, without the UK as a European member-state, as of 2017.

EU contribution to UN Peacekeeping

Nowadays, the EU is one of the most important contributors to UN peacekeeping and similarly to the UNSC's operations⁵. However, it is asserted that during the last ten years the EU's commitment to UN peacekeeping has quantitatively declined due to the doubts of the EU MSs regarding the efficiency of UN peacekeeping⁶. Those statements can be easily contradicted, the EU's financial commitment is up to nearly forty percent of the UN's budget and thus it can be considered the largest sponsor to the UN budget⁷. In addition, in 2015 the current EU's High Representative/ Vice-President of the Commission (HR/VP) Federica Mogherini, reaffirmed that the EU-UN strategic cooperation is a fundamental relationship and underlined that 'multi-layered partnerships – under the guidance of the UNSC (...) – will be the only possible foundation of the future global security agenda'⁸. From the UN's perspective, it has been claimed that the EU along with the AU are of the most essential regional associates in UN peacekeeping operations⁹. Indeed 'the AU's peacekeeping capabilities still need support, including from the EU and UN' whereas 'the EU has managed to develop a broad

⁵ Alice Stelmach and Magalie Bemba, 'EU Contribution to UN Peacekeeping' (IPP, 17 March 2016) <<https://ippjournal.wordpress.com/2016/03/17/eu-contribution-to-un-peacekeeping/>> accessed 26 March 2017

⁶ Ibid

⁷ Ibid

⁸ Carmen-Cristina Cîrlig, 'EU-UN cooperation in peacekeeping and crisis management' (2015) EPRS PE 572.783, 5 <[http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572783/EPRS_BRI\(2015\)572783_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572783/EPRS_BRI(2015)572783_EN.pdf) > accessed 26 March 2017

⁹ Ibid (n 8)

crisis-management agenda, including conflict prevention, mediation, peacekeeping as well as post-conflict stabilisation¹⁰.

Proposals for further EU representation in the UNSC

Lisbon treaty and the Common Foreign and Security Policy

The Lisbon Treaty 'is said to [have] increase[d] the international profile of the EU, by improving the coherence and visibility of its external representation' and particularly in the UNSC¹¹. To start with, a fundamental improvement coming from Article 46 of the Lisbon Treaty is the legal personality that the EU finally assumes¹². This provision might have in the future a favourable outcome for the EU in the UNSC¹³. The EU, as a legal personality, can now undertake responsibilities and sign legal documents with the UN¹⁴. Nevertheless, the innovation of this provision 'would not have all its effect until the UN reforms itself to accept the membership also of regional organizations'¹⁵. Thus, Article 46 of the Lisbon Treaty appears insufficient for the EU to obtain a permanent seat in the UNSC, which illustrates again how interrelated the reform processes are¹⁶. Notwithstanding, giving international legal personality to the EU is undoubtedly a grand step forward from institutional to legal perspective¹⁷.

Another interesting fact occurs from the operation of Article 34 of the Lisbon Treaty which has reformed Article 19. Article 34 declares that:

Member States which are also members of the United Nations Security Council will concert and keep the other Member States and the High Representative fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions

¹⁰ Ibid

¹¹ Edith Drieskens, 'EU Actorness at the UN Security Council: A Principal Agent Comparison of the Legal Situation Before and After Lisbon' (2008)10 Eur. J.L. Reform 599

¹² Article 46 of the Lisbon Treaty

¹³ Ibid (n 1) 15

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Inge Govaere, Jeroen Capiu and An Vermeersch, 'In-Between Seats: The Participation of the European Union in International Organizations' (2004) 9 European Foreign Affairs Review 155

and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.¹⁸

The amendment of the particular Article has finally eliminated the reference to the ‘permanent members’¹⁹. From the European perspective this change could assist to establish again the equality among the members of the EU in the UNSC, but at the same time it cannot affect the privilege of the veto power that UK and France hold in the UNSC²⁰. Nonetheless, it is well said that this minor modification is an additional evidence of continuing evolution and an affirmation of the great pressure for change²¹.

The last and possibly the most significant improvement arising from the Lisbon Treaty is the formation of the ‘double-hatted’ HR/VP in the CFSP²². This innovation is supposed ‘to ensure the consistency of the Union’s external action’²³; it has been long expected in order to approach ‘the problem of the dispersive representation of the EU’²⁴. The HR/VP by representing the EU could also ensure a single European voice in New York; on this idea, significant role plays the new state of things that was introduced by Article 34 of the Lisbon Treaty²⁵. This Article states that: ‘When the Union has defined a position on a subject which is on the UNSC agenda, those MSs which sit on the UNSC shall request that the High Representative be invited to present the Union’s position’²⁶. The above provision codified an already established operation as the then HR Javier Solana has been invited more and more frequently in the open meetings of the UNSC in order to represent a CFSP common view²⁷. Thus, the HR/VP’s attendance in the UNSC continues to be reliant on the invitation and the good will of the UNSC members and certainly when a common view has been taken unanimously by the EU MSs in Brussels, the EU members of the UNSC are bound to it²⁸. By taking into consideration all the innovative provisions of the Lisbon treaty, it is worth

¹⁸ Article 34 of the Lisbon Treaty

¹⁹ *Ibid* (n 1) 16

²⁰ *Ibid*

²¹ *Ibid*

²² Article 18 of the Lisbon Treaty

²³ *Ibid*

²⁴ *Ibid* (n 1) 16

²⁵ *Ibid*

²⁶ *Ibid* (n 18)

²⁷ *Ibid* (n 1) 16

²⁸ *Ibid* 17

considering that 'to a certain extent, the lack of reform of the UNSC, has translated in efforts to improve upstream EU coordination'²⁹.

A single EU-seat in the UNSC

Although the new provisions of the Lisbon Treaty seem beneficial for the EU's position in the UNSC as an institution, inside the EU, it is obvious that the EU MSs are divided and differentiated³⁰. Based on their relative power and expectancies, the different views of some MSs can significantly digress from the EU mutual interest³¹. In brief, Germany supports the addition of a new permanent seat for itself³² whereas Italy, as a member of the Uniting the Consensus Coalition, advocates the expansion of the non-permanent membership³³. In this regard, the view of a single European seat has emerged while it has been affirmed by the EP that 'an EU seat in an enlarged UNSC remains a central, long-term goal of the European Union'³⁴. Although this possibility appears improbable without the withdrawal of the two EU permanent members from the UNSC, many recommendations have been forwarded for a single EU seat³⁵. Missiroli indicated that 'a more representative UNSC need not be larger', and that "more Europe" in the Security Council need not entail more European members, either permanent or re-eligible'³⁶. Some of the most interesting and prevalent proposals which favour the existence of a single EU seat in the UNSC will be presented below. It is noteworthy here, that all the proposals have been made before the Brexit referendum took place.

²⁹ Ibid

³⁰ Jan Wouters and Matthieu Burnay, 'The EU and Asia in the United Nations Security Council' (2011) Leuven Centre for Global Governance Studies Working paper 78, 6 <<http://ssrn.com/abstract=2020332>> accessed 28 March 2017

³¹ Ibid

³² 'Fact Sheet: Germany's Approach to UN Security Council Reform' (The Permanent Mission of Germany to the United Nations, 13 May 2011) <http://www.new-york-un.diplo.de/Vertretung/newyorkvn/en/___pr/press-releases/2011/110513_20SC_20reform.html> accessed 28 March 2017

³³ 'Interview - Ambassador Terzi, Italy's UN Security Council reform proposal' (Farnesina, 23 April 2009) <http://www.esteri.it/mae/en/sala_stampa/archivionotizie/approfondimenti/2009/04/20090423__intervista__ambterzi.html> accessed 28 March 2017

³⁴ European Parliament Resolution 2010/2298/INI of 11 May 2011 on the EU as a Global Actor: its Role in Multilateral Organisations [2011] P7_TA-PROV/0229

³⁵ Michael Emerson and Jan Wouters, 'The EU's Diplomatic Debacle at the UN: What Else and what Next?' [2010] CEPS Commentary 1, 68

³⁶ Antonio Missiroli, 'The UN security council needs fewer Europeans and more Europe' (2005) 40 The International Spectator 41, 45

To start with, 'the first option would lead to a de facto pooling of sovereignty in the EU'³⁷. In this scenario, to attain a common European representation, the two EU permanent members of the UNSC would have to withdraw from the SC and the other EU MSs would have to show their aspirations for distinct 'national' seats³⁸. Moreover, based on Article 108 of the UN Charter, all the UN permanent members should see an advantage in such recommendation since it encloses a potential reform of the UN Charter upon their consensus³⁹. This scenario is supported by Giannangeli, who argues that both UK and France should withdraw from the UNSC and be replaced by an EU single-seat, as they do not warrant their positions by representing adequately the European interests⁴⁰. However, this is correctly assumed by many scholars as an idealistic proposal; indeed, it is unlikely for France and the UK, which enjoy power and privileges from the present set-up, to abandon their permanent seats for the EU⁴¹. Specifically, the UK showed its contradiction to such ideas when it made sure that the provisions of the Lisbon Treaty 'would not affect their ability to conduct their own independent foreign and defence policy'⁴², and even more striking when it has recently decided to exit the EU, in the so-called Brexit which will be better explored below.

Regarding the UNSC reform the UK 'supports new permanent seats for Brazil, Germany, India and Japan, alongside permanent African representation' and 'a modest expansion in non-permanent seats'⁴³. France shares the same view with the UK. Both based their opinion on the fact that a powerful State which aims permanent seat could offer political

³⁷ Ibid (n 2) 18

³⁸ Mary Farrell, 'EU Representation and Coordination within the United Nations' (2006) GARNET Working Paper 06/06, 20
<http://gala.gre.ac.uk/4233/1/EU_representation_and_coordination_within_the_UN_farrell.pdf
> accessed 29 March 2017

³⁹ Article 108 United Nations Charter

⁴⁰ Marco Giannangeli, 'Outrage over EU plot to kick UK out of UN Security Council' Home of the daily and Sunday express (UK, 29 November 2015)
<<http://www.express.co.uk/news/politics/622814/EU-plot-to-kick-UK-out-UN-security-council-Nigel-Farage-Theresa-May>> accessed 3 April 2016

⁴¹ Ibid (n 38)

⁴² Maria Lorca, 'The Reform Treaty: Its impact on the Common Foreign and Security Policy (CFSP)' (2007) 4 EUMA 1, 7

⁴³ Sir Mark Lyall Grant, 'Security Council reform: The UK supports new permanent seats for Brazil, Germany, India and Japan, alongside permanent African representation' (GOV.UK, 12 November 2014) < <https://www.gov.uk/government/speeches/security-council-reform-the-uk-supports-new-permanent-seats-for-brazil-germany-india-and-japan-alongside-permanent-african-representation>> accessed 29 March 2017

or even economic improvements with no costs gaining in the future⁴⁴. The other permanent members of the UN would probably not accept the idea of an EU permanent seat as this would influence their own seats and ‘open a Pandora’s box for regional organisations’⁴⁵. Nonetheless, Italy and Spain support an EU seat which would prevent Germany’s aspiration for a permanent seat, thus giving effect to a more fair and equal European approach in the SC rather than having ‘the larger and middle range powers that currently rotate more often than the rest’⁴⁶.

Moreover, numerous questions based on institutional concerns exist if this proposal is implemented. For example: ‘What would happen to the three non-permanent seats that the Western European and Others Group (WEOG)/ Eastern European Group (EEG) currently possesses? Is the EU seat compatible with the current regional groupings in the UNGA?’ and also ‘[w]ho will lead the EU? Will the EU get a collective veto?’⁴⁷. In response to these, one who favours the idea of an EU permanent seat in the SC could argue that the three non-permanent seats could be allocated to Africa, Asia and Latin America⁴⁸. Whether this geographical allocation of seats will be much fairer and effective in the UNSC, should be evaluated by another study⁴⁹. However, what can be possibly claimed is that at least Africa, Asia and Latin America would obtain seats as a result of the EU permanent seat⁵⁰. The permanent seat of the EU could be given to the HR of Foreign Affairs and Security Policy which also offers the crucial legal personality to the EU⁵¹. Concerning the veto power, it is unlikely that the US and Russian Federation will favour the supplement of the veto to the EU⁵². If an EU permanent seat could finally be allocated, either the UN Charter should be modified in order to adjust regional and/or international institutions, or the EU should be converted into a federation⁵³. However, this is not something happening soon, since both the EU and the UN

⁴⁴ Ibid (n 1) 22

⁴⁵ Ibid (n 36)

⁴⁶ Christopher Hill, ‘The European Dimension of the debate on UN security council membership’ (2005) 40 *The International Spectator* 31, 37

⁴⁷ Ibid (n 2) 19

⁴⁸ Ibid (n 2) 20

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid (n 1) 15

⁵² Ibid (n 2) 20

⁵³ K Graham, ‘UN-EU Cooperation on Security: in Search of “Effective Multilateralism” and a Balanced Division of Tasks’ in J Wouters, F Hoffmeister and T Ruys (eds), *The United Nations and The European Union: An Ever Stronger Partnership* (TMC Asser Press 2006)

are not ready for such a radical change. Furthermore, the EU proportionate representation in the UNSC will be diminished if an EU single seat is granted, leading to interesting research questions⁵⁴. Indeed, a single EU vote is less powerful than two EU permanent members' votes in the UNSC. For instance, could the EU seat affect the EU's impact on shared threats or capability to balance the situation, contra to US supremacy and would it influence the efficiency of the EU?⁵⁵

The second potential scenario is the addition of a single permanent EU seat along with France and the UK, it is noteworthy that soon enough the UK will not be considered as an EU MS and as a result the EU seat will be considered as an addition only to the French EU permanent seat⁵⁶. This could evade the clash with those MSs which wish to reserve their unique status and superiority⁵⁷. However, the rest of the EU MSs may disagree with the particular idea as it will strengthen the privileged positions of the UK and France⁵⁸. This may also result to European overrepresentation and so it is improbable to be supported by other regions, such as Africa, unless it can obtain equal privileges⁵⁹.

Another interesting scenario which favours the single EU seat in the UNSC is that supported by Denny, who proposed the replacement of France with an EU representative⁶⁰. Although he rightly understands that it is unlikely for France to give up its UNSC position, he insists on his view⁶¹. Apart from the expected French refusal, this would inevitably cause political reactions as 'other international unions, such as the AU, may use an EU seat on the Security Council to press for their own UN representation'⁶². Nonetheless, Denny notes correctly that the appearance of the EU in the UNSC would be beneficial for the future in a

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⁵⁴ Ibid (n 2) 20

⁵⁵ Ibid

⁵⁶ The Secretariat, 'The European Convention, Working Group VII – "External Action"', (2002) Working document 21 Rev 1, 20

⁵⁷ Ibid

⁵⁸ Ibid (n 1) 26

⁵⁹ Ibid (n 2) 20

⁶⁰ Rick Denny, 'There is a Seat on the UN Security Council for the European Union-The French Seat' (22 December 2010) <<http://hir.harvard.edu/pressing-changethere-is-a-seat-on-the-un-security-council-for-the-european-union-the-french-seat/>> accessed 2 April 2016

⁶¹ Ibid

⁶² Ibid (n 60)

political, judicial, and economic level while in the case of the AU this is improbable to occur⁶³. Another contrasting to this proposal would be that the substitution of France would give rise to enquiries about the UK. Despite this, Denny rationalises that until now ‘Great Britain is not a fully integrated EU member, retaining, among other powers, its own currency’ and so this may rationalise the postponement of any amendment on Great Britain’s seat⁶⁴. His statement was verified six years later, when in the summer of 2016, the British people voted for Brexit.

Germany as a third EU permanent State in the UNSC

Germany is another significant actor in the UNSC reform process. In the early 1990s, Germany expressed for the first time its demand for a permanent seat in the UNSC by explaining that this advancement should be considered as a third EU permanent seat⁶⁵. The particular argument reiterated in 2007 by Chancellor Angela Merkel and it was supported by the US government which suggested that a new permanent seat would be a good way to decrease its own financial contributions⁶⁶. The German government claimed that the country is a ‘natural candidate’ for the UN due to its ‘political, material, financial and human resources’ contributions⁶⁷. Article 23 of the UN Charter states that the choice for the non-permanent seats of the UNSC should be made according to ‘the contribution of Members of the UN to the maintenance of international peace and security and to the other purposes of the Organization’⁶⁸. Thus, according to the German ambitions, when a reform takes place, Germany as the third largest financial contributor to the UN should be ‘into the top league of candidates for a permanent seat’⁶⁹.

On the contrary, there are many factors which explain why Germany is not the most appropriate candidate for a permanent seat. At first, it is possible that the Germany’s contribution will be reduced progressively in the follow years as China, India and Brazil are

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ulrich Roos, Ulrich Franke and Gunther Hellmann, ‘Beyond the Deadlock: How Europe Can Contribute to UN Reform’ (2008) 43 *The International Spectator* 43, 46

⁶⁶ Angela Merkel, ‘Speech by Chancellor Angela Merkel at the United Nations General Assembly’ (German Missions in the United States, 27 September 2007) <<http://www.germany.info/relaunch/politics/speeches/092507.html>> accessed 3 April 2017

⁶⁷ Ibid (n 65)

⁶⁸ Article 23 of the UN Charter

⁶⁹ Ibid (n 65)

due to expand their influences⁷⁰. In addition, it has been observed that since 1974, Germany reduced its voluntary donations to the UN and the forces that offers for UN operations are less imposing than before⁷¹. German diplomats claim that the Germany's 'multilateralist reputation' is presumably the core argument to being supported internationally for its nomination⁷². Nevertheless, its reputation is exactly what has been destroyed in the last years as Germany usually works individually⁷³. Examples of this behaviour are its imperialistic and authoritarian aspiration during the first and second world war, its 'involvement in NATO's air campaign against the Federal Republic of Yugoslavia in 1999 without a clear UN mandate' and 'the refusal of the Schröder government to participate in any UN measures against Iraq, even if unanimously adopted by the Security Council'⁷⁴.

Italy's position in the reform of the UNSC

Italy has also a strong thesis on the table of the UNSC reform. It represents the ideas of the UfC regarding the UNSC and it usually speaks on behalf of them⁷⁵. Explicitly, 'Italy is adamant that a political reality like the EU cannot still be neglected by the UNSC, especially since the EU has a CFSP'⁷⁶. Italy supports that for a better UNSC accountability and for a better representation of the regional interests, a further allocation of non-permanent seats based on regions is needed⁷⁷. In the seventy-first session of the UNGA in 2016, Cardi asserted that such a reform would also benefit the UNSC by creating an advantageous 'ratio of non-permanent to permanent members, thus improving its working methods, augmenting its decision-making capacity, presenting a democratic challenge to the veto and bolstering the

⁷⁰ Ibid

⁷¹ Ibid

⁷² Ibid 47

⁷³ Ibid

⁷⁴ Ibid (n 65) 47

⁷⁵ General Assembly, 'Updated Security Council Must Reflect Changing Global Reality, Member States Say, as General Assembly Debates Ways to Advance Progress on Reform' (*United Nations*, 7 November 2016) <<https://www.un.org/press/en/2016/ga11854.doc.htm>> accessed 3 April 2017

⁷⁶ Elisabetta Martini, 'UN Security Council Reform: Current Developments' (IAI0926, Istituto Affari Internazionali 2009) 7

⁷⁷ Ibid (n 76) 8

overall relationship between the Council and the UNGA⁷⁸. For a time, Italy's ambition for increasing the number of non-permanent members puts it at odds with Germany⁷⁹.

Criticisms on the UNSC reform process

As it has been illustrated above, many proposals and attempts have been submitted for a further EU participation in the UNSC, yet no significant change has been observed. Blavoukos and Bourantonis support that the EU MSs contribute effectively in the UNSC but without participating in the shaping of its activities as a single and permanent member⁸⁰. This is an accurate observation, but since the EU MSs focus on their national interests, the scenario of a single EU seat seems impossible. As they correctly attest, some MSs give priority to the defence of their own advantaged position (e.g. UK and France), some others pursue their national priorities (e.g. Germany), whereas others undermine the political aspirations of other EU partners (e.g. Italy and Spain)⁸¹. Hence, they correctly conclude that the 'EU engagement in the UNSC reform debate lacks focus and cohesion, reflecting the varying relevance attributed by its MSs to the EU as a forum to pursue national objectives'⁸².

Also noteworthy here is the analysis made by Edith, Marchesi and Kerremans regarding the performance of non-permanent members of the UNSC which pursue a closer partnership between the UNSC and the EU⁸³. Specifically, it is noted that Spain and Germany foster many extra efforts to promote EU-UNSC coordination (e.g. arranging coordination meetings between the EU members of the UNSC more frequently), Italy has importantly sustained the extensive interpretation of the EU Treaty Articles relevant to the EU contribution internationally, and Belgium also targets to improve coordination among the EU MSs of the UNSC in Brussels, New York and the national capitals⁸⁴. Interestingly, the attempts

⁷⁸ Ibid (n 75)

⁷⁹ Mark Malloch-Brown, 'Reforming the UN' (*Europe's world*, 24 February 2014) <<http://europesworld.org/2014/02/24/reforming-the-un/#.WOqo01MrLdR>> accessed 3 April 2017

⁸⁰ Spyros Blavoukos and Dimitris Bourantonis, 'The EU's Performance in the United Nations Security Council' (2011) 33 JEI 731, 734

⁸¹ Ibid (n 80) 738

⁸² Ibid

⁸³ Edith Drieskens, Daniele Marchesi, and Bart Kerremans, 'In search of a European dimension in the UN Security Council' (2007) 42 *The International Spectator* 421, 425

⁸⁴ Ibid (n 83) 428

of the above countries to reinforce a European dimension in the UNSC face many obstacles, especially coming from the contradiction of France and the UK⁸⁵.

Pirozzi and Ronzitti argue that a European seat along with those EU MSs who are already permanent members in the UNSC is impossible at the moment because ‘the European States are over-represented, having two permanent seats and usually two or three non-permanent seats’⁸⁶. This is a reasonable argument which can be supported considering that the AU and other important regions are still completely out of the UNSC and so it seems unfair for them to enhance the EU participation. Even though British voted for Brexit, EU continues to be represented satisfactorily having France as a permanent EU MS and three others non-permanent MSs represent EU’s interests in the UNSC. Additionally, the authors pointed out that it is practical for the EU to assume further involvement in the UNSC work and that this will undeniably enhance the UNSC effectiveness, specifically on the implementation of resolutions⁸⁷. Finally, they make an important and well-accepted statement that ‘the big challenge for the main EU actors is now to agree on a unitary and strong stance at the UN’⁸⁸ which means that they should leave behind their national interests and aspirations. However, this is not likely to happen soon.

The EU’s position in the UNSC after Brexit

While the case of UNSC reform stays stagnant because of its controversy, the Brexit referendum made the whole process even more problematic. All the aforementioned proposals, arguments and views are based on the fact that the EU is represented in the UNSC by two permanent seats. However, since last summer this state of things has changed extremely and thus a new era starts for the international world of legal and politics.

Although this is a very new situation, several arguments have been raised regarding the formation of the UNSC after Brexit. To start with, Muspratt, a supporter of the Get Britain

⁸⁵ Ibid

⁸⁶ Nicoletta Pirozzi and Natalino Ronzitti, ‘The European Union and the Reform of the UN Security Council: Toward a New Regionalism?’ (2011) Istituto affari internazionali IAI Working Papers 1112, 18 <file:///C:/Users/User/Downloads/iaiw1112%20(2).pdf> accessed 10 April 2016

⁸⁷ Ibid (n 86)

⁸⁸ Ibid

Out campaign, claims that Brexit reinforces the UK's position in the UNSC because now, Brussels cannot demand from the UK to merge its seat with France for a single EU seat⁸⁹. Another argument is that Brexit would not affect at all UK's permanent seat⁹⁰. Specifically, professors Smith and Laatikainen assert that since the UNSC is the most significant global organisation, Brexit would not have great effect in this 'powerful multilateral body'⁹¹. This argument is neither complete or convincing. Other academics believe that the UN may lose legitimacy if the UK retains its permanent seat and the veto power. Gegout doubts 'whether States such as India, Brazil and South Africa would continue to support the UN decision-making process if a small State – the UK, outside the EU and very likely without Scotland – had veto power'⁹². Interestingly, Woollard claims that if Brexit results to Scotland leaving the UK, potentials for UNSC reform would increase⁹³. In agreement, Karim, a Member of the EP, believes that 'England' alone could not maintain the UK's permanent membership and especially because Russia and China will not permit a permanent seat to be kept only by England⁹⁴. However, it is possible that 'England' will be considered as the successor of the UK and so to retain its UNSC membership⁹⁵. This presumption is based on the precedent of the Soviet Union dissolution, when the legal successor of the Soviet Union on the UNSC has been recognised the (smaller) Russian Federation⁹⁶ 'even though the Charter still refers to the Union of Soviet Socialist Republics rather than the Russian Federation'⁹⁷.

⁸⁹ Arabella Lang, 'Brexit and the UN Security Council' (7597, House of Commons Library, 19 May 2016) 1 <www.parliament.uk/commons-library | intranet.parliament.uk/commons-library> accessed 28 October 2016

⁹⁰ Karen E Smith and Katie Laatikainen, 'Without EU clout, how would the UK fare at the United Nations?' (*LSE blog*, 8 March 2016) <<http://blogs.lse.ac.uk/brexit/2016/03/08/without-eu-clout-how-would-the-uk-fare-at-the-united-nations/>> accessed 28 October 2016

⁹¹ *Ibid* (n 90)

⁹² Catherine Gegout, 'Brexit would be death knell for British influence in the world' (*The Conversation*, 18 May 2016) <<https://theconversation.com/brexit-would-be-death-knell-for-british-influence-in-the-world-58890>> accessed 28 October 2016

⁹³ Catherine Woollard, 'Brexit Is Not All Bad for the EU' (*Strategic Europe*, 8 March 2016) <<http://carnegieeurope.eu/strategieurope/?fa=62982>> accessed 28 October 2016

⁹⁴ Sajjad Karim, 'Juncker's EU Commission bid is not backed by the Treaty' (*Euractiv.com*, 8 January 2015) <<http://www.euractiv.com/section/uk-europe/interview/sajjad-karim-juncker-s-eu-commission-bid-is-not-backed-by-the-treaty/>> accessed 28 October 2016

⁹⁵ 'Scotland, independence and the EU' (*Parliament.uk*, 8 November 2011) <<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06110>> accessed 28 October 2016

⁹⁶ 'Member States' (*United Nations*) <<http://www.un.org/en/member-states/#top>> accessed 28 October 2016

⁹⁷ *Ibid* (n 89) 3

Conversely, it is expected that the effort to move Britain out of the UNSC ‘could be taken up with zeal by those who’ve been campaigning for years to restructure’ the UNSC and mainly by the G4 and the AU⁹⁸. Lall has correctly observed that ‘Brexit I – UK out of the EU – and Brexit II – from the P5 – could offer an easier solution without wholesale reform’⁹⁹. He also reasonably assessed that ‘by allowing a replacement European member, Germany, to take Britain’s seat at the UN top table, the G4 countries’ demands would be a quarter of the way to fulfilment’¹⁰⁰. However, a German permanent seat on the UNSC is unlikely to represent fully the EU’s ambitions in the UNSC. History has showed that Germany reacts mostly regarding its own interests, as this has already been justified above when the reputation of Germany through its performance and aspirations in the military operations was mentioned. Therefore, it is risky for the EU to rely on it as an alternative of a European seat. Politicians, scholars and professors who commended on Brexit and its impact on the UNSC so far, focused primarily on the future of the UK in the UNSC and the possibilities of its replacement from another country. None however has examined the future of the whole EU in the UNSC and the option for a single EU seat. Thus, it is worth arguing that if the EU really desires a seat on the UNSC, now is the time to claim it. Certainly, the EU’s demands in the UNSC negotiations will depend on how the EU sees the scenario of Germany as taking European seat in the UNSC; namely if it considers Germany as a partner country that will support EU’s interests or as a country which puts the EU seat as an occasion to gain its own seat and forward its own interests.

Conclusion

In fact, the EU has continuously increased its influence in the UN and particularly in the UNSC and so this is exactly why it seeks for a more representative seat in the UNSC. It has been widely argued that the EU should speak with one voice and therefore a substantial amendment is required in either the UNSC itself or in Europe's conformity because alternatively a developing disconnection may exist between the two diplomatic organisations¹⁰¹. So far, many proposals have been forwarded for furthering the EU’s

⁹⁸Rashmee Roshan Lall, ‘Will Britain be unseated from the UN’s top table?’ (*The National Opinion*, 6 July 2016) <<http://www.thenational.ae/opinion/comment/will-britain-be-unseated-from-the-uns-top-table>> accessed 15 November 2016

⁹⁹ Ibid (n 98)

¹⁰⁰ Ibid

¹⁰¹ Ibid (n 46) 35

participation in the UNSC but ultimately they were all rejected for the aforementioned ‘institutional impediments and political considerations’¹⁰². As it was proved above, States such as Germany and regions such AU do not accept the case of a single EU seat and they forward their interests by claiming further representation in the UNSC. Indeed, those contradictive views are based on reasonable arguments and so there is no best scenario for the UNSC reform. Interestingly, Hill affirmed that the likelihood of a single European seat in UNSC cannot happen at least until 2020, when amongst other alterations, the Europeans might be more prepared to accept this idea¹⁰³. While 2020 is coming closer, indeed many changes have been noticed in the EU and especially the very fundamental and recent incident of Brexit. This made the whole process even more complicated and as Lall rightly stated: ‘[Reform] is not about to happen soon. [But] Britain’s place in the UNSC may become the point at which to start moving the furniture around’¹⁰⁴. However, whether the result of Brexit will be either positive or negative for the future of the EU in the UNSC, it is yet doubtful.

¹⁰² Ibid (n 76) 8

¹⁰³ Ibid (n 46) 39

¹⁰⁴ Ibid (n 98)

This project started by clarifying briefly the role of the EU and the UN and continued by exploring the interaction between them. Evidently, it has been observed that the EU-UN cooperation is a concept that is still evolving. The relationship between them can be characterised as complicated and competitive, but it is justified that the EU is extremely necessary for the UN and vice versa. Subsequently, the project explained why a UNSC reform is required nowadays, hence it investigated the most important of the potential reform proposals. What is evident from these reform scenarios and the concurring ambitions of the States involved is that '[the] present composition of the UNSC reflects the situation in 1945, immediately after the end of the Second World War... [however], the world has changed over the past 70 years'¹⁰⁵. The first two chapters are linked to the final part of this research which examined the position of the EU in the whole UNSC reform process. Indeed, the EU is now one of the biggest contributors of the UNSC, in terms of budget and man-power for its operations, and has frequently expressed its desire to gain a permanent seat in the UNSC. By comparing the 'UNSC reform to the EU's own development', it is correctly asserted that this interrelation 'never stops due to constantly evolving challenges and risks and (...) it is a politically difficult process for national States concerned about the transfer of power'¹⁰⁶. Brexit, the position of Germany and the AU and the national interests of the States mentioned above, could be considered as the new challenges faced by both the EU and the UNSC. Therefore, in order to democratise and so to reform the UNSC, it is important to take into consideration all the contemporary state of negotiations prompting important issues for potential materialisation of a UNSC reform¹⁰⁷. Regarding the EU, it is worth arguing that now more than ever is the time for a further EU participation in the UNSC, when Brexit will eventually terminate the belief that the EU is overrepresented in the UNSC. Hence, the EU can reasonably postulate that its enormous contribution to the UN must be rewarded with a seat in the UNSC.

¹⁰⁵ 'Germany Seeks Seat on UN Security Council in 2019 and 2020' (*German Misssions in the United States*, 23 September 2016)

<http://www.germany.info/Vertretung/usa/en/___pr/P___Wash/2016/09/23-UNSC.html> accessed 10 April 2017

¹⁰⁶ Helena Spungenberg, 'EU heading for single UN seat, UN official says' (*EU Observer*, Brussels, 3 October 2006) <<https://euobserver.com/foreign/22553>> accessed 6 April 2016

¹⁰⁷ See Chapter 2, Ibid (n 34) 17

Indeed, what is at risk in the 21st century is the very ‘survival, legitimacy and efficiency of the collective security system’ and so particular emphasis should be given to organisations such as the EU and the UN which are the ultimate bodies responsible for global peace operations¹⁰⁸. This research concludes that a way to secure the maintenance of international peace and security is with a UN reform, which will be achieved only if a UNSC reform occurs previously. Hitherto one thing is certain, the potential reform of the UNSC membership is a grave change in the international mechanism that is inevitably identified as ‘a process which is hostage to the great, unpredictable dramas of international politics’¹⁰⁹.

¹⁰⁸ See Chapter 2, Ibid (n 71)

¹⁰⁹ See Chapter 3, Ibid (n 108) 39

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