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# THE UN & COLLECTIVE SECURITY: Can the EU Transform the UN? Let's Get Our History Right

**M**ost books and historians' accounts dealing with the foundation of the United Nations portray the organization as primarily a collective security arrangement to maintain "international peace and security", which arose from the "ashes of World War II" and represented a collaborative global effort unanimously supported by the states that gathered at San Francisco in the summer of 1945 to approve the Charter of the new organization. And further the main UN organ tasked to maintain global peace and security in this new international order was the Security Council and its five permanent members (P5).

This popular historical account is partly true. The first version of the "United Nations" was in fact set up in 1942 as part of the Atlantic Treaty and primarily as a military alliance to combat the Axis powers. However, the UN was essentially, albeit for good intentions, the project of one super-state – the USA – and its leader, President Franklin Roosevelt, having originated in the US State Department's plans for a new world order. It was the USA that shepherded the UN project through its various stages: the Tehran Conference of 1943, where the leaders of the "Big-3" powers, Roosevelt, Stalin and Churchill, met for the first time; the Dumbarton Oaks Conference of 1944, where the nuts and bolts of the new organization were finalized; the Crimea Conference of 1945, where the Yalta formula setting out the "veto"

power of the permanent five (P5) was devised; and the San Francisco Conference of 1945, where the UN Charter was finally adopted.

By and large, it was the USA that funded, designed and oversaw the creation of the UN. Of the other two Big-3 partners, the role of the UK was essentially advisory, while that of the Soviet Union was principally to lend legitimacy to the proposed UN system.

As for the role of the other European nations in the formation of the UN, and particularly the SC, this was virtually non-existent. Countries such as Germany and Italy that were labelled "enemy states" obviously did not participate in the San Francisco Conference, but many other European states were also excluded – among them Spain, Austria, Hungary, Portugal, Romania, Bulgaria, Sweden and Finland. As for the few European nations that were invited, when it came to discussing the UN's main function of peace and security, it seems that their sovereign voices and their opposition to the proposed structure of the SC did not count.

The Netherlands' foreign minister, Eelco van Kleffens, for example, objected to the fact that the SC would possess both "quasi-judicial" and executive powers, thus combining the role of jury, judge and executioner.



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The Belgian delegation, headed by foreign minister Paul-Henri Spaak, although bowing to its US and UK liberators, nonetheless registered its objection to the proposed structure of the SC by abstaining rather than casting a “yes” vote. Both countries, along with their other European partners, also sought countermeasures to the power of the P5, with their efforts culminating in the inclusion of Article 109, which provides for a “full examination” of the Charter in a future review conference, in the belief that this would allow for subsequent reform of the SC. As an additional safeguard, Greece’s foreign minister, Ioannis Sofianopoulos, in collaboration with other European states, Australia, and many Latin American nations, pushed for the inclusion of what became paragraph 3 of Article 109, providing for a facilitated review conference to be held within a maximum of 10 years from the date of the Charter coming into force.

Even France, the state which was coopted as the fifth permanent member of the SC at San Francisco, but which had not been invited to either Dumbarton Oaks or Yalta, raised objections at the outset of the conference. France objected to the characterization of states as either “great” (the label the Big-3 had arrogated to themselves), or “small”, and had initially submitted proposals to modify the workings of the SC it deemed unfair.

However, with the exception of the would-be P5 members, the very limited number of European states invited to the 1945 conference saw their efforts to forge a more democratic and workable SC frustrated. In essence, the text of the Charter adopted in San Francisco remained as originally dictated by the Big-3 at Dumbarton Oaks. The non-permanents’ only hope was that the SC would be reformed in the not-too-distant future: following the review conference promised in Article 109.

### **The Beautiful UN and its Dark Side**

**A**fter seven decades of existence, the UN can be viewed as made up of two contrasting parts: one of which has been largely beneficial, while the other has proved to be much less so. The valuable part consists of the General Assembly, the Economic and Social Council, and the many related UN agencies that have become indispensable to the functioning of the global order and the lives of all the world’s citizens. The promotion and protection of human rights, how we use network connectivity and internet protocols, the way in which we deal with pandemics, and how we fly from one

corner of the earth to the other are all largely the fruits of the efforts of, respectively, the General Assembly and its sponsored human rights covenants, the International Telecommunication Union, the World Health Organization and the International Civil Aviation Organization. These are just a few examples of what makes the UN system an integral part of our interdependent global lives.

The second, much less successful, aspect of the UN is the SC, charged with maintaining “international peace and security” and, under international law, the ultimate authority in respect of conflict resolution. It is also, by intention of its founders, the exclusive global organ mandated to employ coercive measures (military or non-military sanctions). However, the P5-dominated SC has failed in its mission, and failed miserably. After more than 70 years – spanning the earlier wars in Korea and Vietnam to the more recent conflicts in parts of Africa, and in Ukraine and Syria – the SC’s global security regime has witnessed hundreds of armed conflicts with tens of millions of dead, tens of millions more injured or displaced, and many trillions of dollars wasted on armaments and conflict-associated economic losses.

In resolving conflicts, the SC has essentially two modes of operation: intervention or inaction. On the few occasions where a member of the P5 has not wielded its veto – such as in respect of the First Gulf War in Iraq in the early 1990s, or in authorizing coercive action in Libya in 2011, essentially for regime change – to the far too frequent cases of the P5 having exercised their implied or explicit vetoes, the SC regime has largely failed. The catastrophic humanitarian situation in Syria, involving many states and non-state actors, is the latest example of such SC inaction.

This dark side of the UN, inherent in the structural and democratic deficiency of the SC, has not only been demonstrated in practice but the defect was fully apparent in 1945, foreseen by the non-P5 European and Latin American nations, as well as the few other “invited” states from Asia and Oceania. However, their concerns about the defects of the SC and the veto power of the P5 were ignored, even though these nations constituted the majority of states present at the UN conference. And, of course, many states forming the current membership of the UN were not in attendance at San Francisco, and hence played no role whatsoever in the shaping of the organization and its most powerful organ.

But why did those European nations that did attend the San Francisco Conference, and which objected to the proposed structure of the SC, nevertheless finally give their consent?

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## UN: Reform or Transformation? The EU's Role in Conducting a Charter Review

The year 1945 represents a significant date in human history and, as far as international law is concerned, can be considered year zero in the formation of the current system of global governance. It should be remembered that the world was still at war when the San Francisco Conference took place, but it was apparent that the Big-3 powers would be the victors. The delegates at the Conference therefore found themselves between a rock and a hard place when confronted with the Big-3's vision of the post-war global security regime, and the insistence of the USA, the UK and the USSR that the SC they had devised, complete with its veto power, be accepted "as is". With essentially no say and no choice in the matter, the other states consented to the proposed structure of the SC, but did so in exchange for what they regarded as an important bargain: the P5's promise that the UN Charter would be subject to amendment in the future, including the democratization of the SC. This commitment was enshrined in Article 109 Paragraph 3 of the Charter, which, in the view of most of its signatories and almost all the European states present at the conference, provided for a "general" and comprehensive review of the Charter to take place within 10 years of the instrument coming into force – a review that has still not occurred.

Instead of fulfilling their promise, it appears that the P5 have intentionally derailed any meaningful attempts at Charter revision, diverting them into multiple "open ended" UN reform committees that never reach a concrete conclusion. Furthermore, whether explicitly or implicitly, the guidelines and procedures of these various committees and working groups invariably prevent them from introducing amendments or reviewing the Charter. The *Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation*, for example, has been meeting since its formation in 1971, but has no right to propose changes to the Charter, and therefore has singularly failed to comply with its supposed mission to "strengthen" the UN.

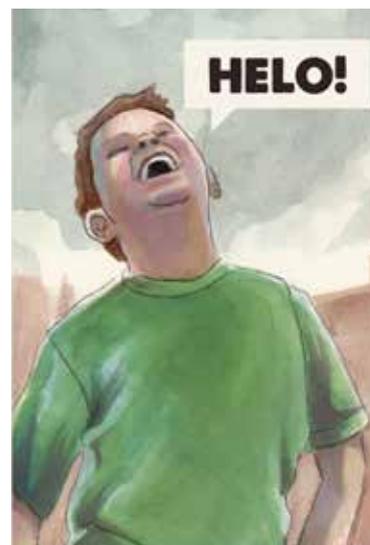
With the Charter essentially frozen and "UN reform" an empty promise, it seems the member states need to become more proactive, initially outside of New York and the UN forum.

The 27-member European Union (assuming exclusion of the UK) includes not only P5-member France, with its

SC veto privilege, but also economic powerhouse Germany and influential global powers such as Italy, Spain, the Netherlands and Sweden. It thus constitutes a formidable bloc that the veto-wielding Russia, USA and China, and any other proponents of the SC status quo, cannot ignore.

In fact, Article 34 of the Treaty on European Union provides a legal basis for EU members to adopt a united stance in respect of the UN, since it requires, inter alia, EU member states that are also members of the Security Council (whether permanent or not) to "defend the positions and the interests of the Union". Thus, Article 34 enables EU members to forge a common policy towards the UN, including demanding the yet-to-be-held review of the Charter and its enhancement, in order to correct the UN's birth defect — the SC.

With most European states having had very little to do with the creation of the UN, and taking into account the great economic and geopolitical shifts of the past 70 years, coupled with the fact that the USA has long abandoned the vision of a UN-type of global common security (even more so under President Trump), it now appears that it is Europe's turn to take the initiative. The EU as a bloc should therefore audaciously take the lead in triggering the Charter review process, and be the primary change agent for democratizing and transforming the United Nations.



\* The UN foundational accounts are mostly based on the 21-volume: *United Nations Conference on International Organization (UNCIO), 1945*, New York, UN-DPI.