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Expanding Permanent Membership in the UN Security Council: Opening a Pandora's Box or Needed Change?

I. Introduction

The United Nations (UN) arose from the dust and debris of World War II. The victorious Allies formed this organization to promote peace and to protect the world from the devastation of another such war. Its principal organs are the General Assembly, the International Court of Justice, the Economic and Social Council, the Trusteeship Council, the Secretariat, and the Security Council.¹ Of the six, it is the Security Council that has the primary responsibility for maintaining peace and security,² making membership highly prized.

The Security Council consists of permanent and nonpermanent members.³ Over the years, permanent membership has been the subject of much controversy. The victors from the War, the United States, France, the Soviet Union, England, and China, gave themselves permanent membership on the Security Council in order to ensure that world peace and security were in good hands.⁴ The world, however, has changed since the end of the Second World War. With the Cold War, the fall of the Soviet Union, and other major world events, came a change in world leadership and the balance of power. As a result, many believe that the Allies from the War are no longer adequate representatives of the world's composition. They assert that new countries have come into power and, consequently, new voices need to be heard.

This Comment examines the structure of the Security Council and addresses the question of whether new permanent members should be added. Part II reviews the history, functions, and composition of the Security Council. Part III analyzes the debate over expansion and examines the role of Russia, Germany, and Japan in the debate. Part IV concludes by suggesting that the time has come for the Security Council to consider restructuring.

1. U.N. CHARTER art. 7, ¶ 1.

2. *Kinkel Implicitly Claims Permanent Security Council Seat for Germany*, Agence France Presse, Sept. 18, 1992, available in LEXIS, Nexis Library, OMNI File.

3. Throughout this Comment, "members" with a lower case "m" will refer to the members of the Security Council, and "Members" with a capital "M" will refer to the Members of the UN.

4. *U.N. Charter Reform Studiously Avoided in Summit*, Reuter Libr. Rep., Jan. 29, 1992, available in LEXIS, Nexis Library, OMNI File [hereinafter *U.N. Charter Reform*].

II. The Security Council

The UN Security Council met for the first time on January 17, 1946.⁵ Seven months earlier, the UN Charter had been approved in San Francisco.⁶ The Security Council operates within the framework of the Charter.⁷ While membership to the UN is open to all "peace-loving states,"⁸ provisions in the Charter and elections determine membership to the Security Council.⁹ The first Security Council included the five permanent members and six non-permanent members that the General Assembly selected, Australia, Brazil, Egypt, Mexico, the Netherlands, and Poland.¹⁰ Although many changes have occurred both in the world and in UN Membership since this first historic meeting, the Security Council's purpose and importance remain the same.

The purpose of the UN, as stated in the Charter, is to maintain international peace and security.¹¹ The UN Charter designates the Security Council as the organ primarily responsible for accomplishing this purpose.¹² By the terms of the Charter, the Security Council consists of fifteen Members of the UN.¹³ It includes the five previously mentioned permanent members, with the new Russia taking the former Soviet Union's seat, and ten non-permanent members that the General Assembly elects.¹⁴ Although the UN Charter declares that all UN Members are equal,¹⁵ in reality they are not. The permanent members of the Security Council hold unique veto powers that give them greater control over the Security Council than other Members.¹⁶

The Security Council is headed by a President. Under Article 30 of the Charter, the Security Council may adopt its own methods for

5. SYDNEY D. BAILEY, *THE PROCEDURE OF THE UN SECURITY COUNCIL* 1 (1988).

6. *Id.*

7. *Id.*

8. U.N. CHARTER art. 4, ¶ 1. Article 4(1) states: "Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations." *Id.*

9. *Id.* art. 23, ¶ 1.

10. BAILEY, *supra* note 5, at 1.

11. U.N. CHARTER art 1, ¶ 1.

12. *Id.* art. 24, ¶ 1. Article 24(1) states: "In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf." *Id.*

13. *Id.* art. 23, ¶ 1.

14. *Id.*

15. U.N. CHARTER art. 2, ¶ 1. Article 2(1) states: "The Organization is based on the principle of the sovereign equality of all its Members." *Id.*

16. BAILEY, *supra* note 5, at 111.

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selecting the President.¹⁷ The chosen method rotates the Presidency monthly among the members based on their names in English alphabetical order.¹⁸ The President of the Security Council performs a dual role. He is both an officer of the Security Council and the representative for his country.¹⁹ Although these roles can potentially conflict, rarely do any problems occur.²⁰

The Charter permits UN Members not on the Security Council to participate in the Security Council's affairs.²¹ Although not permitted to vote, they may participate in Security Council discussions whenever their interests are affected.²² The UN Charter further allows non-UN Members to participate in Security Council discussions if the non-Member is involved in a dispute that is under the Security Council's consideration.²³

A. Powers and Functions

The powers the Charter grants to the Security Council make Security Council membership an important position and give the permanent members significant authority. Although only fifteen UN Members sit on the Security Council at any one time, all UN Members are bound by its decisions.²⁴ Moreover, in contrast to the General Assembly, which meets only at certain times of the year, the Security

17. U.N. CHARTER art. 30. Article 30 states: "The Security Council shall adopt its own rules of procedure, including the method of selecting its President." *Id.*

18. U.N. PUBLICATIONS, EVERYONE'S UNITED NATIONS 14 (1979).

19. BAILEY, *supra* note 5, at 99.

20. *Id.* A quote from the former U.S. Security Council representative illustrates the complications that arise from an individual occupying the position of President and representing his or her respective country. He said, "I believe that Mr. Malik's reply was perhaps, at least in part, given as the representative of the USSR rather than as President, but I rather suspect that the President of the Security Council would agree with the representative of the USSR." *Id.* (quoting UN SCOR, 3d year, 354th mtg. at 29 (1948)).

21. U.N. CHARTER art. 31. Article 31 states: "Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected." *Id.*

22. *Id.*

23. *Id.* art. 32. Article 32 states:

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

Id.

24. U.N. CHARTER art. 25.

Council functions at all times.²⁵ The Security Council must be able to meet within a few hours notice in order to deal with any crisis that may suddenly arise.²⁶

As part of its peace-keeping duties,²⁷ the Security Council has the power to investigate any dispute or situation that could lead to an international problem.²⁸ Any Member of the UN can bring such matters to the attention of the Security Council or the General Assembly.²⁹ Non-Members can also bring these matters to the Security Council or the General Assembly, provided that they are a party to the dispute.³⁰ However, the UN will only attempt to resolve the problem if the non-Member agrees to accept the settlement terms and obligations delineated in the Charter.³¹

The Security Council also has the power to determine the existence of threats to peace and can make recommendations or decisions determining what measures should be taken to resolve them.³² The Security Council can have UN Members take actions against transgressors short of the use of armed force.³³ Possible enforcement actions include the interruption of "economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."³⁴ However, if the Security Council determines that these methods are inadequate, they can also use land, sea, or air forces to maintain or restore international peace and security.³⁵ Article 43(1) limits such action as follows:

25. *Id.* art. 28, ¶ 1. Article 28(1) states: "The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization." *Id.*

26. BAILEY, *supra* note 5, at 4.

27. When a dispute arises, "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means" are to be used first to settle the dispute. U.N. CHARTER art. 33. If any one of these methods fails, the Security Council can take stronger action to settle the dispute and maintain the peace. *See* U.N. CHARTER arts. 39, 40, 41, & 42.

28. U.N. CHARTER art. 34. Article 34 states: "The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security." *Id.*

29. *Id.* art. 35, ¶ 1.

30. *Id.* ¶ 2.

31. *Id.*

32. U.N. CHARTER art. 39.

33. U.N. PUBLICATIONS, *supra* note 18, at 14.

34. U.N. CHARTER art. 41.

35. *Id.* art. 42. Article 42 states:

Should the Security Council consider that measures provided for in article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land

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All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.³⁶

Thus, Members are to agree in advance to provide assistance.³⁷ Nevertheless, when a crisis arises, a Member may provide voluntary assistance if it so desires.³⁸

Despite Article 43, the UN has not had the access to Members' military forces its founders originally anticipated.³⁹ Members have been reluctant to promise the use of their military forces, thus limiting the Security Council's ability to maintain peace and security.⁴⁰ Notwithstanding this reluctance, on occasion Members have furnished armed forces to the UN. For example, during the Korean War, the UN had military forces from several Members under its direction.⁴¹ More recently, Members have provided military contingents for peace-keeping duties in countries such as Yugoslavia, Somalia, and Vietnam. Perhaps this recent increase in Members' military participation indicates an end to their reluctance to provide military forces to the UN.

B. The Non-Permanent Members

To understand the importance of permanent membership in the Security Council, examining the position held by the non-permanent members is helpful. A non-permanent member needs a two-thirds majority of the General Assembly to be elected to the Security Council.⁴² Once elected, a non-permanent member serves a two year

forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Id.

36. *Id.* art. 43, ¶ 1.

37. *See id.*

38. Alan M. James, *Unit Veto Dominance in the United Nations Peace-Keeping*, in *POLITICS IN THE UNITED NATIONS SYSTEM* 76 (Lawrence S. Finkelstein ed. 1988).

39. DONALD C. BLAISDELL, *INTERNATIONAL ORGANIZATION* 59 (1966).

40. *Id.*

41. *Id.*

42. U.N. CHARTER art. 18, ¶ 2.

term,⁴³ with five members retiring each year.⁴⁴ Retiring members are not eligible for immediate re-election.⁴⁵

A 1965 amendment to the Charter changed the number of non-permanent members from six to ten.⁴⁶ The General Assembly decided to increase the number of non-permanent members after actions by forty-four African and Asian states in 1963.⁴⁷ The African and Asian states argued that, since membership in the UN had increased to 112 Members by 1963, a larger Security Council would lead to better representation.⁴⁸ Even though some Members opposed the increase, the proposal was ratified.⁴⁹

According to the Charter, when electing the non-permanent members, the General Assembly is to give "due regard" to a Member's contribution to the maintenance of international peace and security and to the other purposes of the UN.⁵⁰ Although the elections are conducted by secret ballot, UN Members interested in obtaining a seat on the Security Council usually make their availability and interest known.⁵¹ No set rule exists for allocating seats based on geographic distribution. However, the Charter provides that the General Assembly is also to give "due regard" to geographic distribution when electing the non-permanent members.⁵² In the first Security Council election, the General Assembly allocated the non-permanent seats as follows: two seats for Latin America, one seat for the Middle East, one seat for Eastern Europe, one seat for Western Europe, and one seat for the British Commonwealth.⁵³

The Soviet Union claimed that this distribution constituted a "gentleman's agreement" on the proper distribution of the elective seats

43. *Id.* art. 23, ¶ 2. Article 23(2) states:

The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

Id.

44. BLAISDELL, *supra* note 39, at 51.

45. U.N. CHARTER art. 23, ¶ 2.

46. U.N. PUBLICATIONS, *supra* note 18, at 13.

47. BAILEY, *supra* note 5, at 119.

48. BLAISDELL, *supra* note 39, at 53. There are presently 166 UN Members. *U.N. Charter Reform*, *supra* note 4.

49. BAILEY, *supra* note 5, at 119.

50. U.N. CHARTER art. 23, ¶ 1.

51. BAILEY, *supra* note 5, at 111.

52. BLAISDELL, *supra* note 39, at 52.

53. BAILEY, *supra* note 5, at 112.

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to be followed in future elections.⁵⁴ The United States, on the other hand, claimed that the distribution applied only to the first election and would not set a precedent.⁵⁵ The geographic pattern was repeated for the first four years, but as new states joined the UN and regional interests changed, observance to the formula was abandoned. Presently, no formula is utilized.⁵⁶

C. The Permanent Members

Article 23(1) of the UN Charter lists the five permanent members of the Security Council.⁵⁷ One goal of the UN's founders, having suffered through World War II, was to avoid another world war.⁵⁸ Desiring to continue the good faith and cooperation that started among them during the War and to continue playing a dominant role in the maintenance of international peace and security,⁵⁹ the Allies gave themselves permanent membership in the Security Council.⁶⁰ In addition, they excluded the "enemies" from World War II, Germany, Japan, and Italy, from UN membership. Because these countries could not become UN Members, they were also excluded from membership in the Security Council.⁶¹ Unfortunately, the spirit of wartime cooperation died down at the beginning of the Cold War.⁶²

Presently, some doubt exists whether the five permanent members would be given permanent membership if the Charter were drafted *de novo*.⁶³ Changes have occurred in the international status of UN Members and permanent members of the Security Council. Members have increased and decreased their wealth and influence, have become more or less democratic, and have fought for and against world peace. These changes have caused many to question the Five's right to permanent membership. Much of the controversy surrounding the Security Council exists because of the permanent members' voting and veto powers.

54. *Id.* at 113.

55. *Id.*

56. BLAISDELL, *supra* note 39, at 52.

57. See U.N. CHARTER art. 23, para. 1.

58. Sir Crispin Tickell, *The Role of the Security Council in World Affairs*, Speech for the John A. Sibley Lecture (Feb. 2, 1989), in 18 GA. J. INT'L & COMP. L. 307, 307 (1988).

59. BAILEY, *supra* note 5, at 107.

60. *Id.* at 108.

61. Tickell, *supra* note 58, at 308. Germany, Japan, and Italy were eventually admitted into the UN in 1973, 1956, and 1955, respectively. Treaty 180 UN Charter, June 26, 1945, 59 Stat. 1031, 1 U.N.T.S. xvi.

62. Tickell, *supra* note 58, at 308.

63. BAILEY, *supra* note 5, at 109.

1. *Voting*.—The members of the Security Council all receive one vote.⁶⁴ Any member of the Security Council may submit a proposal to be voted upon.⁶⁵ Whoever submits the proposal is known as the proposal's sponsor.⁶⁶ UN Members not on the Security Council can also submit a proposal, but the matter will only be voted upon at the request of a Security Council member.⁶⁷

Procedural matters require an affirmative vote of at least nine of the Security Council members.⁶⁸ While substantive matters also require nine affirmative votes, they additionally require concurring votes from the five permanent members.⁶⁹ If a permanent member does not provide a concurring vote, the proposal cannot pass. This rule is called the "great power unanimity" and gives the permanent members their veto power.⁷⁰

2. *The Veto*.—The veto power of the permanent members of the Security Council has received both criticism and praise. Although the permanent members have rarely used the veto in recent years, it is still the subject of controversy.⁷¹ Some look upon this power as a form of elitism.⁷² Others call it the UN's "fatal flaw".⁷³ Still others contend that the idea of having five "big powers" was a farce from the beginning.⁷⁴ At the end of the war, England was economically exhausted.⁷⁵ France was trying to recover from wartime occupation, and China soon became involved in a civil war.⁷⁶ Accordingly, critics assert that three of the five "big powers" were not really in "big power" positions at the war's end.⁷⁷

64. U.N. CHARTER art. 27, ¶ 1.

65. BAILEY, *supra* note 5, at 192.

66. *Id.*

67. *Id.*

68. U.N. CHARTER art 27, ¶ 2.

69. *Id.* ¶ 3.

70. U.N. PUBLICATIONS, *supra* note 18, at 14.

71. Stanley Meisler, *First Security Council Veto in Three Years*, L.A. TIMES, May 12, 1993, at A4. In May 1993, Russia shocked the Security Council by exercising its first veto since the Cold War's end. *Id.* Russia vetoed the financing of a peace-keeping operation in Cyprus. *Id.* For almost thirty years, the peacekeeping operation had been financed on a voluntary basis. *Id.* The current proposal sought UN funding and support. *Id.* Prior to Russia's action, the permanent members had not formally vetoed a proposal in three years. Stanley Meisler, *First Security Council Veto in Three Years*, L.A. TIMES, May 12, 1993, at A4.

72. EDWARD McWHINNEY, UNITED NATIONS LAW MAKING 88 (1984).

73. ERNEST VAN DEN HAAG & JOHN P. CONRAD, THE U.N. IN OR OUT? 223 (1987).

74. McWHINNEY, *supra* note 72, at 88.

75. *Id.*

76. *Id.*

77. *Id.*

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The veto came about at the request of the Soviet Union.⁷⁸ It is said that Stalin pushed for the veto because he was afraid that the other Security Council members would out-vote his representative on most issues and, thus, wanted to protect himself against unfavorable majority votes.⁷⁹ Although "it upset American democratic sensibilities," the requirement of unanimity for substantive matters was included in the Charter.⁸⁰

At first, the Soviets frequently used the veto to stop the "American-dominated majority."⁸¹ In the first two decades of the UN's existence, the Soviet Union cast 103 of the 111 vetoes issued.⁸² In the following two decades, however, other permanent members increasingly used the veto, with the United States using it most.⁸³

Essentially, any of the five permanent members can prevent the Security Council from taking action by utilizing the veto.⁸⁴ Accordingly, if a crisis arises threatening international peace and security and a permanent member votes against taking action, the Security Council will not be able to act.⁸⁵

The UN's involvement in the Korean War illustrates the consequences the veto can have. After North Korea invaded South Korea, the United States attempted to help the South Koreans by making a proposal to the Security Council for UN assistance.⁸⁶ Although the Security Council subsequently passed a resolution to give the proposed assistance,⁸⁷ it only passed because the Soviet Union was boycotting the Security Council at the time.⁸⁸ If the Soviets had participated in the vote, they would have likely voted against the proposal and the UN would not have taken action.⁸⁹ Despite the passage of the resolution, the Soviets refused to supply aid to the South Koreans as required and, instead, aided the North Koreans.⁹⁰ The Soviets never accepted the

78. VAN DEN HAAG & CONRAD, *supra* note 73, at 224.

79. *Id.*

80. *Id.*

81. *Id.*

82. BAILEY, *supra* note 5, at 209.

83. *Id.* In the first two decades, 111 vetoes were cast. *Id.* In the following 21 years, 119 vetoes were cast. *Id.* Over the first four decades of the UN's existence, China exercised 22 vetoes, France 16, the Soviet Union 121, England 26, and the United States 57. *Id.*

84. James, *supra* note 38, at 76.

85. *Id.* at 77.

86. VAN DEN HAAG & CONRAD, *supra* note 73, at 225.

87. *Id.*

88. *Id.* The Soviet Union boycotted the Security Council because the Security Council would not permit the People's Republic of China to occupy China's seat. *Id.*

89. James, *supra* note 38, at 78.

90. VAN DEN HAAG & CONRAD, *supra* note 73, at 225.

legitimacy of the resolution because of their absence during the vote.⁹¹ Accordingly, Security Council and, ultimately, UN action can depend on a single vote of a permanent member.

Because of the potential severity of such a situation, the General Assembly developed a way to circumvent this problem by adopting the "Uniting for Peace Resolution" in 1950.⁹² This Resolution allows the General Assembly to use collective measures, including armed force when necessary, to "restore international peace and security" if the Security Council fails to take action.⁹³ Thus, under this Resolution, the General Assembly has the power to circumvent the veto's potentially debilitating effect.

While the veto has caused frustration and prevented the UN from resolving many disputes between the East and West,⁹⁴ its supporters claim that the very survival of the UN depends on the veto.⁹⁵ According to Sir Crispin Tickell, a Security Council Representative for the United Kingdom and Northern Ireland, the "veto is vital" because it ensures that the UN is taken seriously.⁹⁶ Without the veto, resolutions might pass that order the permanent members to take actions they do not intend to follow.⁹⁷ Such resolutions would undermine the Security Council and eventually the UN itself.⁹⁸ In ignoring Security Council resolutions, the permanent members would set a bad example for other Members and encourage them to ignore resolutions.⁹⁹ Sir Tickell further argues that the veto ensures true international consensus before action is taken that affects the international community and provides the Security Council with continuity.¹⁰⁰ Thus, although the veto appears to be undemocratic because it gives significantly more power to the permanent members than to others, this discrepancy in power seems to hold the UN together and give the Security Council legitimacy.

In addition to the veto, permanent members may exercise obligatory and voluntary abstentions.¹⁰¹ The Charter provides for obligatory abstentions, stating that a Security Council member that is a "party to a

91. BLAISDELL, *supra* note 39, at 56.

92. G.A. Res. 377(V), UN GAOR, 5th Sess., 302d plen. mtg., UN Doc. A/1456 (1950).

93. *Id.*

94. Tickell, *supra* note 58, at 311.

95. VAN DEN HAAG & CONRAD, *supra* note 73, at 227.

96. Tickell, *supra* note 58, at 312.

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. BAILEY, *supra* note 5, at 224.

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dispute shall abstain from voting.”¹⁰² The voluntary abstention, in contrast, was not created by a formal document. Initially, the permanent members decided that only a permanent member that is a party to a dispute could abstain from voting.¹⁰³ The United States then changed its mind and drafted a rule that would allow a voluntary abstention.¹⁰⁴ Before the matter could actually be decided, a situation arose where the Soviets wished to abstain from a vote, rather than vetoing it.¹⁰⁵ The members allowed the Soviet Union to abstain, and the other members eventually started using this practice.¹⁰⁶ In 1971, the International Court of Justice upheld the use of the voluntary abstention as a “generally accepted” procedure.¹⁰⁷

Another voting method is the “hidden veto.”¹⁰⁸ The hidden veto occurs when not enough members vote to obtain the total votes needed to pass a resolution.¹⁰⁹ Thus, instead of casting a negative vote, a member can simply persuade other Security Council members to abstain.¹¹⁰ Without the requisite nine affirmative votes, a proposal is defeated.¹¹¹ Britain’s difficulties in 1966 illustrate the use of the hidden veto.¹¹² That year, terrorists hijacked an aircraft, and Britain made a proposal to condemn aerial hijacking.¹¹³ When put to vote, an insufficient number of members voted, thereby defeating the proposal.¹¹⁴

III. Should Permanent Membership be Expanded?

Whether to expand the number of permanent members on the Security Council is not a new question. In 1966 when non-permanent membership was increased, suggestions were made to increase permanent membership.¹¹⁵ In 1979, proposals were made for amendments that

102. U.N. CHARTER art. 27, ¶ 3.

103. BAILEY, *supra* note 5, at 225.

104. *Id.*

105. *Id.*

106. *Id.*

107. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, 1971 I.C.J. 16, 22.

108. BAILEY, *supra* note 5, at 223.

109. *Id.*

110. *Id.*

111. *Id.* at 224.

112. *Id.*

113. BAILEY, *supra* note 5, at 224.

114. *Id.*

115. *Id.* at 157.

would increase the number of permanent members, but no changes were ultimately made.¹¹⁶ Interest was re-initiated in 1991 with the fall of the Soviet Union. UN Members without permanent Security Council seats began to set their sights on the seat of the falling communist country, and in December of 1991, the Non-Aligned Movement (NAM) members and Italy reasserted the issue of altering the representation of the Security Council.¹¹⁷

Many UN Members are discontented with the make-up of the Security Council, feeling that its composition does not appropriately represent the international community. For example, neither Latin America nor Africa has a permanent member, but Europe has two.¹¹⁸ In 1945, when the UN came into existence, Africa only had four Members.¹¹⁹ Now, Africa has fifty-one Members in the UN and is the largest regional group.¹²⁰ Regardless, they do not have a permanent seat on the Security Council. Opponents of expansion claim that adding new seats would "open a Pandora's box" and lead to "chaos and inefficiency."¹²¹ Given the complexity of the issue and strong feelings by both those who oppose and support expansion, no easy solution exists.

Ironically, the decision on whether to expand permanent membership once again lies in the hands of those with veto power. Expansion of the Security Council requires amending the Charter, and any amendment to the Charter needs the approval of the five permanent members.¹²² Thus, one of the Five could veto the proposal, and it would not pass. It seems unlikely that all five, at least in the near future, will agree on a proposal of such consequence. England, for

116. *United Nations: Eyes Shift to the Soviet Security Council Seat*, IPS, Dec. 11, 1991, available in LEXIS, Nexis File, OMNI Library [hereinafter *Eyes Shift*].

117. *Id.* NAM was formed as an attempt by developing countries to stay out of the way of the East and West during the Cold War. *What the Others Say*, BUS. TIMES, Sept. 9, 1992, at 12. NAM currently has 108 members. *Id.* Brazil, Egypt, and India are some of the countries that belong to NAM. *Eyes Shift*, *supra* note 116.

118. *Eyes Shift*, *supra* note 116.

119. *Id.*

120. *Id.*

121. *Id.*

122. U.N. CHARTER art. 108. Art 108 states:

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Id.

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instance, has already stated that it would resist attempts to alter the present structure.¹²³

A. Proponents of Expansion

Many feel that the current permanent members do not adequately represent the present new world order and assert that new permanent members could be added to reflect the changes that have occurred in the international community.¹²⁴ For instance, former Soviet President Mikhail Gorbachev has stated that the time has come for the Security Council to readjust itself to the realities of the post-Cold War era.¹²⁵ Although he did not specifically recommend adding more permanent members, he did assert that "several more countries" needed to be added to the Security Council in general.¹²⁶

Recently, the Clinton Administration announced that it also supported the expansion of the Security Council.¹²⁷ Specifically, President Clinton indicated that he supports both Japan and Germany in their bids for permanent seats.¹²⁸ France's new Foreign Minister, Alain Juppe, similarly seems to be open to the idea of allowing Germany and Japan permanent seat status.¹²⁹

Finally, Indian Prime Minister P.V. Narasimha Rao has also called for the expansion of the Security Council.¹³⁰ India is one of the countries that formally voiced an interest in a permanent seat.¹³¹ Rao stated that "as the composition of the [G]eneral [A]ssembly has trebled since its inception, the size of the [S]ecurity [C]ouncil cannot remain constant any longer. Wider representation in the [S]ecurity [C]ouncil is a must, if it is to ensure its moral sanction and political effectiveness."¹³²

123. Robin Oakley, *Major Resists Call to Alter Security Council's Line-Up*, THE TIMES (London), Feb. 1, 1992, available in LEXIS, Nexis Library, OMNI File. John Major, England's Prime Minister, stated when interviewed on American television that he would resist altering the present five permanent member structure of the Security Council. *Id.*

124. *Eyes Shift*, *supra* note 116.

125. *Gorbachev Calls for Expansion of the U.N. Security Council*, UPS, May 11, 1992, available in LEXIS, Nexis Library, OMNI File.

126. *Id.*

127. *Changes at the UN's Top Table*, INDEPENDENT, June 11, 1993, at 25.

128. *Id.*

129. *Franco-German Relations Priority for Pragmatist Juppe*, Agence France Presse, Apr. 1, 1993, available in LEXIS, Nexis Library, CURRNT File. Juppe is at least more open to the idea than was his Socialist predecessor, Roland Dumas. *Id.*

130. *United Nations: Security Council Expansion in 1995?*, IPS, Feb. 4, 1992, available in LEXIS, Nexis Library, OMNI File [hereinafter *Expansion in 1995*].

131. *Major News Items in Leading Indian Newspapers*, Xinhua General News Service, Sept. 27, 1992, available in LEXIS, Nexis Library, OMNI File.

132. *Expansion in 1995*, *supra* note 130. Rao made these statements at a "Group of 15" summit

There are several countries that could be given permanent membership. For example, Japan and Germany, two economic super powers, are among the countries interested in a permanent seat.¹³³ Indonesia desires a seat in order to represent developing nations.¹³⁴ Many also consider Argentina, Brazil, India, and Nigeria regional powers worthy of permanent seats.¹³⁵ Still others propose adding the European Community (EC) to the Security Council.¹³⁶ This would give Germany and Italy a seat, without giving European countries additional seats. However, doing so would require England and France to give up their individual seats and share a joint seat with the EC. Although France stated it would consider the idea, England has stated that it would not.¹³⁷

Although the call for better representation is a noble one, a more practical reason exists for expansion. The UN is having trouble paying for the increased number of peace-keeping missions that the Security Council mandates and, therefore, needs money.¹³⁸ As more international conflicts arise, such as those in Yugoslavia, Somalia, and Haiti, the UN must increase its spending. Peace-keeping costs have caused the UN budget to increase from \$500 million in 1991 to \$1 billion in 1992.¹³⁹ To make matters worse, Security Council members are not making their payments to the UN on time. Even the United States is behind on its peace-keeping payments and owes \$800 million.¹⁴⁰

Questions arise concerning whether a wealthy country that is refused a permanent seat will continue to fund UN expenditures. Japan already pays a large amount of the UN's expenses. If Japan's attempts to win

meeting in Venezuela in 1991. *Id.*

133. *U.N. Charter Reform*, *supra* note 4.

134. *Soeharta Calls for Reform of U.N. Security Council*, Xinhua General News Service, Sept. 30, 1992, available in LEXIS, Nexis Library, OMNI File [hereinafter *Soeharta Calls for Reform*].

135. *U.N. Charter Reform*, *supra* note 4.

136. *Eyes Shift*, *supra* note 116.

137. *Open the Club*, *ECONOMIST*, Aug. 29, 1992, at 14.

138. Josh Friedman, *More Nations Hungry for Seat at UN Table*, *NEWSDAY*, Jan. 30, 1992, at 15.

139. *Id.*

140. *All Things Considered: U.S. to Pay Back Debts to United Nations* (NPR radio broadcast, Sept. 27, 1993), available in LEXIS, Nexis Library, CURRNT File. However, President Clinton recently announced that the United States would pay back its debts to the UN. *Id.* According to President Clinton, the United States will make a lump-sum payment of over \$500 million and will then pay the remaining amount gradually. *Id.* Japan also announced that it will pay the \$196 million it owes for UN peace-keeping operations. *Japan to Pour 196 Million Dollars into U.N. Peace Efforts*, *Agence France Presse*, Sept. 21, 1993, available in LEXIS, Nexis Library, OMNI File.

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a seat are repeatedly rebuffed, Japan might retaliate by stopping or reducing payments to the UN.¹⁴¹ Given this possibility, some feel that admitting Japan onto the Security Council is worthwhile if only to keep the funds coming.¹⁴² However, once membership is given to one country, other countries like Germany will probably also demand a seat.¹⁴³ Accordingly, before hastily giving one country a seat, the permanent members must carefully consider the effects of increased membership on the future structure and composition of the Security Council.

B. Opponents of Expansion

Individuals give various reasons for not expanding the Security Council. First, the permanent members themselves have said that a larger Security Council would be "cumbersome and inefficient."¹⁴⁴ They have also stated that increasing the number of permanent members invites significant problems and complications because a "reconstitution of the [C]ouncil is inherently linked to rewriting the Charter."¹⁴⁵

Second, some simply argue that "if the system ain't broke, don't fix it."¹⁴⁶ The Security Council has functioned well since the end of the Cold War and has recently taken on new legitimacy with its peace-keeping efforts.¹⁴⁷ The Security Council has made significant accomplishments, such as assisting in Cambodia's reconstruction and reforming El Salvador's legal system.¹⁴⁸ Even some countries without permanent seats seem to be content with the way the Security Council presently functions. For instance, Pakistan has stated that it is against enlargement.¹⁴⁹ A foreign ministry spokesman for the country stated "that the end of the Cold War has enhanced the cooperation among the Five permanent members of the Council and at this stage there is no justification for expansion."¹⁵⁰ Accordingly, altering the Security Council's structure now might destroy its present efficiency and cohesiveness.

141. Friedman, *supra* note 138, at 15.

142. *See id.*

143. *Open the Club*, *supra* note 137, at 14.

144. *Expansion in 1995*, *supra* note 130.

145. *Id.*

146. *Open the Club*, *supra* note 137, at 14.

147. *Id.*

148. *Id.*

149. *Pakistan Against Enlarged U.N. Security Council*, Kyodo News Service, Jan. 29, 1992, available in LEXIS, Nexis Library, OMNI File.

150. *Id.*

C. *Russia as a Permanent Member*

The Soviet Union was previously a permanent member of the Security Council. When the old government fell, many countries believed that its permanent seat would be up for grabs. Instead, the newly formed Russian Government took over the old seat. On December 24, 1991, Russian President Boris Yeltsin wrote a letter to the UN declaring that Russia would occupy the Soviet Union's seat.¹⁵¹ The permanent members accepted this action, although China did so reluctantly.¹⁵² The move was seen as a purely political act because Yeltsin had no legal standing to demand the seat.¹⁵³ Russia also inherited the Soviet Union's debts and obligations to the UN.¹⁵⁴

Ultimately, Russia's action proved to be a simple solution to a potentially complicated problem. Instead of opening a "Pandora's box" by attempting to decide what country was worthy of the seat, the permanent members simply let the new government take over. Regardless, although resolving the immediate dispute over the Soviet Union's former seat, the Russian move renewed talk of adding permanent seats to the Security Council.

D. *Germany as a Permanent Member*

Germany is one of the prime candidates for permanent seat status. Germany, long considered an enemy to "peace-keeping" nations, would now like to be forgiven for past wrongs and given a permanent seat.¹⁵⁵

However, before moving to obtain a seat, Germany needs to alter its constitution in order to gain the support necessary to procure permanent membership. Specifically, the German Constitution only allows sending German troops to defend NATO territory.¹⁵⁶ As a permanent member of the Security Council, Germany would be expected

151. Gertrude Samuels, *Russia Slips into the Soviet Seat: Mixed Reaction at the UN*, NEW LEADER, Feb. 10, 1992, at 5.

152. *Id.*

153. *Id.*

154. *Soviet Union Seat in U.N. Changed to Russia*, Reuter Libr. Rep., Dec. 24, 1991, available in LEXIS, Nexis Library, OMNI File. Professor Richard Gardner of Columbia University explains that "Russia would be characterized as a continuation, rather than a successor state of the old Soviet Union since all republics technically were successors." *Id.* Because of this characterization, he asserts that Russia inherits the Soviet Union's rights, debts, and treaty obligations. *Id.*

155. *Germany: Seeking a Permanent Seat on the U.N. Security Council*, IPS, Aug. 7, 1992, available in LEXIS, Nexis Library, OMNI File. The UN Charter still alludes to Germany, Japan, and Italy as "enemies." See *Japan Calls for Permanent U.N. Panel Seat*, Kyodo News Service, Jan. 31, 1992, available in LEXIS, Nexis Library, OMNI File.

156. *Germany Interested in Permanent U.N. Council Seat*, Reuter Libr. Rep., Aug. 22, 1992, available in LEXIS, Nexis Library, OMNI File.

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to play a major role in international crises around the globe. This role would most likely require Germany to deploy troops for purposes other than defending just NATO territory. Presently, Germany has been criticized for its refusal to volunteer troops in certain international ventures. For example, Germany refused to send troops to aid the UN in the Gulf War, and many criticized Germany for refusing to do so.¹⁵⁷ Perhaps in response to this criticism and in hopes of improving its chances of obtaining a seat, Germany announced on September 23, 1992, that it would alter its constitution so that it could contribute troops to UN peace-keeping forces.¹⁵⁸

France and Britain have not warmly received Germany's interest in a permanent seat.¹⁵⁹ Such resistance poses a serious problem for Germany since a veto from either country would prevent Germany from obtaining a seat if matters ever reached the voting stage.

Germany, however, does not seem willing to push the issue. In 1992, a government spokesperson stated that "[o]n our own, we will not pressure anyone, [b]ut we will not sit back detached if other states or regional groupings press for reform of the UN [C]harter."¹⁶⁰ Chancellor Helmut Kohl is actually said to favor an EC seat, rather than a German one.¹⁶¹ He has also stated that Japan's claim for a permanent seat is more urgent than that of Germany's and that Germany is in "no hurry" to get a permanent seat.¹⁶² Foreign Minister Klaus Kinkel, on the other hand, believes that an EC seat is unrealistic and continues to push for Germany's place on the Security Council.¹⁶³

157. *Id.*

158. *Germany Seeks a Permanent Council Seat*, L.A. TIMES, Sept. 24, 1992, at A9; *The Glumness Behind Germany's Power*, ECONOMIST, Oct. 3, 1992, at 49.

159. James Bone, *German UN Claim Unsettles Britain*, THE TIMES (London), Sept. 26, 1992, available in LEXIS, Nexis Library, OMNI File. Chinese President Yang Shankun, in contrast, supports Germany's bid for a seat. *Chinese President Yang Supports German Bid for Key U.N. Seat*, Japan Econ. Newswire, Nov. 21, 1992, available in LEXIS, Nexis Library, CURRNT File. France's Foreign Minister, Alain Juppe, also supports Germany's bid, but French President Mitterand is against it. Howard LaFranchi, *French President, Facing Political Trouble at Home, Visits U.S. and Russia*, CHRISTIAN SCI. MONITOR, May 8, 1993, at 3.

160. *Germany Interested in Permanent U.N. Council Seat*, *supra* note 156. Thus, if Japan takes formal action for a seat, it is likely that Germany will follow.

161. Annika Saull, *Wanted: Retired Elderly Statesman to Take on Cyprus Mediation*, INDEPENDENT, Mar. 25, 1993 at 12.

162. *Japan Should Become Security Council Member First: Kohl*, Agence France Presse, Feb. 19, 1993, available in LEXIS, Nexis Library, CURRNT File.

163. *Kinkel Thinks EC Seat on UN Security Council Unrealistic*, Reuter Eup. Community Rep., Mar. 1, 1993, available in LEXIS, Nexis Library, CURRNT File.

E. Japan as a Permanent Member

Perhaps the leading candidate for a permanent seat is Japan.¹⁶⁴ Now a world super power, Japan has the influence and financial resources to seriously pressure the Security Council to give it a seat.¹⁶⁵ Japan is the second largest fiscal contributor to the UN and is becoming frustrated with its role as an "automatic teller machine."¹⁶⁶ Japan pays for 12.5% of the UN budget, an amount equaling half of the United States' contribution and more than France and Germany's combined contribution.¹⁶⁷

The Japanese are tired of giving large sums of money to the UN while receiving little in return and argue that the UN is subjecting them to taxation without representation.¹⁶⁸ For instance, while Japan paid more than \$13 billion to fund the UN's effort in the Gulf War, it had relatively little say in what actions the UN would take.¹⁶⁹ In fact, the UN did not even inform Japan about the start of the war, and Japan found out about the initiation of hostilities only through press reports.¹⁷⁰ Moreover, the United States and others criticized Japan for the trouble it had in paying its \$13 billion bill for the war.¹⁷¹ Because of the declining value of the yen, Japan wrote a check for only \$8.5 billion instead of the \$9 billion balance owed.¹⁷² Instead of expressing gratitude, the Bush Administration complained that Japan had failed to pay the full amount owed.¹⁷³ Eventually, Japan did pay the total amount, but by that time Japanese resentment towards the United States had grown.¹⁷⁴ Many Japanese were against the war to begin with and

164. Although Japan seeks a permanent seat, it is not asking for veto power. *Japan Said to Seek Seat on UN Security Council*, J. COM., Oct. 13, 1992, at A12.

165. Although Japan has not put forth a definite time frame for obtaining a seat, it is presently pressuring the UN for some type of commitment. See *Japan Deserves Permanent Seat on UN Council*, Reuter Libr. Rep., Jan. 31, 1992, available in LEXIS, Nexis Library, OMNI File. Japan has suggested that 1995, which is the 50th anniversary of the UN, is an appropriate time to begin restructuring the Security Council. *Id.*

166. Helena Cobban, *Let's Rethink the Security Council*, CHRISTIAN SCI. MONITOR, July 9, 1991, at 18.

167. *Japan Deserves Permanent Seat on UN Council*, *supra* note 165.

168. *Id.*

169. Ayako Doi, *Room at the Top: Japan's Quest for Superpower Parity*, WASH. POST, Mar. 1, 1992, at C5. Kuwait did not even include Japan in a "thank-you" list it published after the war. *Id.*

170. Cobban, *supra* note 166.

171. Doi, *supra* note 169.

172. *Id.*

173. *Id.*

174. *Id.*

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were angered that their government paid a substantial part of the cost.¹⁷⁵

Some see the Japanese public's resentment towards its country's increasing financial responsibility as a potential obstacle in Japan's quest for permanent membership.¹⁷⁶ Although the Japanese government clearly wants a permanent Security Council seat, the Japanese public does not seem willing to accept the financial responsibility that accompanies permanent membership.¹⁷⁷

The Japanese Constitution may also constitute an impediment to permanent membership. Japan's Constitution, written by U.S. occupation forces after World War II, renounces war and the "threat or use of force as a means of settling international disputes."¹⁷⁸ In the past, Japan has refused to contribute troops to UN forces, arguing that its constitution forbids it from doing so. As a Security Council member, however, Japan would be expected to play a more active role in UN operations, which would likely include providing forces when necessary.

Japan has taken steps to remedy this problem. Only last year, the Japanese Parliament re-interpreted part of the Constitution to allow Japanese troops to join UN troops under certain conditions.¹⁷⁹ Japan has even enacted a bill for Japanese participation in UN peace-keeping operations.¹⁸⁰ Currently, Japan has troops involved in peace-keeping missions in Cambodia and Mozambique,¹⁸¹ and the Japanese are presently considering more revisions to the Constitution to allow further participation in UN operations.¹⁸²

A significant difficulty to constitutional change, however, is the Japanese public's support of the current Constitution.¹⁸³ Japan's pacifism, although forced upon it at the war's end, now suits many in the Japanese public. In spite of this view, Japan's leaders seem willing to make constitutional changes if they lead to a coveted permanent seat.

175. *Id.*

176. *See Experts Weigh Bill's Implication for Japan's U.N. Role*, Kyodo News Service, June 15, 1992, available in LEXIS, Nexis Library, OMNI File [hereinafter *Experts Weigh Bill*].

177. *Id.*

178. *Kenpo* [Constitution] art. IX (Japan).

179. T.R. Reid, *Reformers Eye Japan's Beloved Constitution*, WASH. POST, Feb. 6, 1993, at A20.

180. *Id.*

181. *North Korean Nuclear Potential of Concern to Japan* (CNN television broadcast, Transcript #354-3, Mar. 29, 1993).

182. *Id.*

183. *Japan Told to Delay on Security Council Seat*, Reuters Libr. Rep., Mar. 4, 1993, available in LEXIS, Nexis Library, OMNI File.

Many countries support Japan's bid for a seat. Despite the financial conflicts between the United States and Japan over the Persian Gulf War, former President Bush backed Japan's quest for a seat,¹⁸⁴ as does President Clinton.¹⁸⁵ Other world leaders, such as Indonesian President Suharto,¹⁸⁶ German Chancellor Kohl,¹⁸⁷ and UN Secretary General Boutros Boutros-Ghali,¹⁸⁸ also support giving Japan a seat. Some countries, however, do not support Japan's bid. The most outspoken critic is North Korea.¹⁸⁹ North Korea claims that Japan is "unqualified" for a seat and argues that Japan must repent for its "past criminal acts"¹⁹⁰ before the UN considers it for a seat.¹⁹¹

Notwithstanding these legitimate concerns, one must ask how long Japan should have to pay for its past sins. Japan would like to be accepted as a world power and reintegrated into the international community.¹⁹² It has made efforts to increase its participation in UN operations requiring armed forces. While Japan is approaching the Security Council with arms extended in friendship and checkbook in hand, the members should consider extending an offer.

F. A Semipermanent Seat

The UN General Assembly adopted a resolution in December of 1992 to examine possibilities for enlarging the Security Council.¹⁹³

184. *U.S. Supports Japan's Bid for Security Council Seat*, Yomiuri News Service, July 3, 1992, available in LEXIS, Nexis Library, OMNI File. President Bush informed Japanese Prime Minister Kiichi Miyazawa of his support for a Japanese Security Council seat at talks conducted at Camp David and the White House. *Id.*

185. *Changes at UN's Top Table*, *supra* note 127.

186. *Indonesia President Backs Japan Bid for Security Council Seat*, UPI, Sept. 28, 1991, available in Lexis, Nexis Library, OMNI File.

187. *Kohl Supports Japan's Bid for Permanent UN Seat*, Reuters Libr. Rep., Feb. 2, 1993, available in LEXIS, Nexis Library, CURRNT File.

188. *UN Chief Urges Permanent Japan UN Council Seat*, Reuters Libr. Rep., Feb. 8, 1993, available in LEXIS, Nexis Library, CURRNT File.

189. *N. Korea Says Japan Unqualified for Permanent UNSC Seat*, Kyodo News Service, Sept. 10, 1992, available in LEXIS, Nexis Library, OMNI File.

190. Specifically, North Korea is referring to the actions Japan took against North Korea and other Asian countries during World War II, such as the forced prostitution of Asian women. *Id.*

191. *Id.* (quoting a North Korean Foreign Ministry spokesman).

192. Jim Hoagland, *Our Strange View of Asia*, WASH. POST, Dec. 11, 1990, at A23. Japan's new Prime Minister, Morihiro Hosokawa, announced that, although he believes Japan should have a permanent seat, he does not think that "Japan should go out of its way to make a campaign to become a permanent member." *PM Apologizes at U.N. for Japan's Wartime Behavior*, Reuters, Ltd, Sept. 27, 1993, available in LEXIS, NEXIS Library, OMNI File.

193. Michael Littlejohn, *Bid to Reshape Security Council*, FIN. TIMES, Dec. 12, 1992, at 5. The resolution, introduced by India, which also seeks a permanent seat, called for UN Members to submit their views and comments on a "possible review" of Security Council membership. *Id.* The comments were to be submitted by June 30, 1993. *UN Study Ways to Enlarge Security Council*

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Also, UN General Assembly Chairman Samuel Insanally has set up a working group of UN Member states to speed the proposed reform of the Security Council.¹⁹⁴ Among other things, this group will consider whether Japan and Germany should receive a permanent seat and, if they do, whether the countries should receive veto power.¹⁹⁵ Along these lines, the UN Secretariat is considering revising the Charter to create a "semipermanent" seat that would allow a country to be on the Security Council for more than two years, but would not give the country veto power.¹⁹⁶

Again, however, in order for new members to be added, two-thirds of the General Assembly and all the current permanent members of the Security Council must agree.¹⁹⁷ At this stage, whether expanding the Security Council would receive the needed votes is questionable.

IV. Conclusion

The question of whether the Security Council should increase the number of permanent members cannot be answered easily. Many countries are pleased with the way the Security Council is functioning. Now that the Cold War is over, the permanent members seem to be working well together. Nevertheless, one cannot ignore the changes that have occurred in the world order and the UN since the end of World War II. New countries have attained world power status, and membership in the UN has greatly increased through the years. These new countries deserve to be represented. If the Security Council is to continue to maintain peace and security and to adequately represent the diverse interests of the international community, the composition of the Security Council cannot stay the same while the rest of the world continues to change.

Michelle Smith

Membership, UPS, Dec. 12, 1992, available in LEXIS, Nexis Library, CURRNT File.

194. *U.N. to Establish Working Group to Speed Up U.N. Reform*, Japan Econ: Newswire, Oct. 15, 1993, available in LEXIS, Nexis Library, CURRNT File.

195. *Id.*

196. *U.N. Considering New Semipermanent UNSC Category*, Japan Econ. Newswire, Oct. 3, 1993, available in LEXIS, Nexis Library, CURRNT File.

197. See U.N. CHARTER art. 108.

