

INTRODUCTORY NOTE TO G.A. RES. 76/262 ON A STANDING MANDATE FOR A GENERAL  
ASSEMBLY DEBATE WHEN A VETO IS CAST IN THE SECURITY COUNCIL (U.N.)  
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[April 26, 2022]

## Introduction

On April 26, 2022, the United Nations General Assembly (UNGA), without a vote, adopted resolution 76/262 entitled “Standing mandate for a General Assembly debate when a veto is cast in the Security Council.”<sup>1</sup> Less than two months later, on June 8, 2022, for the first time in history, the UNGA held a debate specifically to address a veto cast by China and Russia in the Security Council (UNSC). This meeting, convened in accordance with resolution 76/262, represents a great step forward for accountability within the UN system and opens a new chapter regarding the balance of power among the principal organs of the organization. The power dynamics within the UNSC, the demands for a more efficient United Nations, the fact that a meaningful UNSC reform is not in sight, and the current polarization resulting from Russia’s war of aggression against Ukraine set the context in which the resolution was adopted.

## Background

The word “veto” is nowhere to be found in the UN Charter. The so-called veto refers to the voting procedure set out in Article 27(3) of the Charter, which establishes that substantive decisions are adopted by nine votes of UNSC members, “including the concurring votes of the permanent members.”<sup>2</sup> Votes of procedural matters are excluded from this requirement. In practice, abstentions by the permanent five (P5) are not considered vetoes. This means a veto is cast when a UNSC draft decision obtains the majority required for its adoption (at least nine affirmative votes) but fails to be adopted because of the negative vote by one or more of the members of the P5. This is different from those cases in which a draft does not achieve the required nine affirmative votes and therefore fails to pass.

Moreover, Article 24(1) indicates that “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*”<sup>3</sup> (emphasis added). This is a crucial premise in terms of understanding resolution 76/262. Because of this delegation of powers, when a veto is cast it is not only the action of the UNSC that is halted; it is the whole UN membership that is prevented from acting because of the vote of one or more of the P5. It is worth noting that on June 7, 1945, France conveyed a joint statement on behalf of the P5 in which they affirmed that “it is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their ‘veto’ power willfully to obstruct the operation of the Council.”<sup>4</sup> In effect, this means the veto is not a privilege but instead a responsibility.

## Other Veto Initiatives

The paralysis of the UNSC—as has been the case regarding the lack of effective action on the conflict in Syria, for example—together with the increase in the number of vetoed decisions in recent years, led to a group of likeminded states, under the leadership of Liechtenstein, to work on a UNGA draft resolution, which was later known as the “veto initiative.” The main objective of this initiative was to establish a mechanism that could improve the accountability of the UNSC *vis-à-vis* the UNGA. It would also strengthen the UNGA’s functions and powers relating to the maintenance of international peace and security, in accordance with Articles 10 and 11(2) of the UN Charter.<sup>5</sup>

The veto initiative is also complementary to previous efforts such as the ‘Code of Conduct’ of the Accountability, Coherence and Transparency Group,<sup>6</sup> aimed at improving UNSC working methods. Another example is the

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“Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocities,” also known as the French Mexican veto initiative. Launched in 2015 by France and Mexico, this initiative aimed at securing voluntary restraint on the use of the veto by the P5 when faced with mass atrocities.<sup>7</sup>

### **Adoption of Resolution 76/262**

Resolution 76/262, as its name very explicitly indicates, gives the UNGA a standing mandate to convene a debate when a veto is cast in the UNSC. In this scenario, the President of the General Assembly (PGA) must convene a formal meeting within ten working days of the casting of a veto by a member of the P5 to address the situation on which the veto was cast, provided that the UNGA does not meet in an emergency special session on the same situation. The later refers to sessions convened in accordance with resolution 377(V), adopted in 1950, known as the Uniting for Peace Resolution.<sup>8</sup> Additionally, the UNSC is invited to submit a special report on the veto cast at least seventy-two hours before the UNGA debate.

The drafting process of what became resolution 76/262 began over three years ago. This process was also impacted by the COVID-19 pandemic, and after a year-long pause, discussions within the core group of likeminded states resumed in early 2022. By February, the core group comprised Costa Rica, El Salvador, Estonia, Ireland, Liechtenstein, Mexico, New Zealand, Qatar, Sweden, and Turkey.

One important trigger was Russia’s veto on December 13, 2021, regarding draft resolution S/2021/990 on security and climate change, presented by Ireland and Niger to the UNSC with the co-sponsorship of 113 UN member states. This was followed by the veto cast in the context of the war against Ukraine, regarding draft resolution S/2022/155, presented by the United States and Albania, with the co-sponsorship of 81 delegations. These precedents sped up the need to take action on the draft resolution in the UNGA, which was adopted on April 26, 2022, without a vote and with the co-sponsorship of eighty-three member states, including three P5: France, the United States, and the United Kingdom.

### **Resolution 76/262 is Activated**

On May 26, 2022, exactly one month after the adoption of resolution 76/262, a double veto was cast by China and Russia regarding a draft resolution on the situation in the Democratic People’s Republic of Korea (DPRK). For the first time, the mechanism established in resolution 76/262 was activated. A succinct special report<sup>9</sup> was submitted by the UNSC to the UNGA and the debate took place on June 8, 2022. Seventy-nine delegations participated in the debate, most of them at ambassadorial level. China and Russia also participated in the debate, heading the list of speakers, as provided for in operative paragraph 2 of resolution 76/262. The delegation of the DPRK also engaged in this debate and, for the first time, the whole UN membership had the opportunity to address both the veto cast and the substantive issue upon which the veto was exercised.

On July 8, Russia again vetoed a draft resolution presented by Ireland and Norway regarding the renewal for twelve months of the border crossing in Bab Al-Hawa, in the Syrian Arab Republic, which is key for the delivery of humanitarian assistance. This triggered for the second time resolution 76/262, the UNSC produced again a special report,<sup>10</sup> and another UNGA debate took place on July 21, 2022.

### **Conclusion**

Undoubtedly, much still needs to be done to improve the transparency, accountability, and efficiency of the UNSC, the UNGA, and the United Nations as a whole. Negotiations in the UNGA should lead to a meaningful and truly representative UNSC reform to bring this body in line with the demands and reality of the twenty-first century. Repeatedly, it has been clear that a fifteen-member organ simply cannot properly represent and adequately take into consideration the interests of 193 member states. In this context, serious discussions about how to regulate the veto (be it to set limits or to abolish it) must also take place—even more so given its potential abuses and its arbitrary invocation. In any case, the involvement of the UNGA, through the mandate set out in resolution 76/262, in those cases in which a veto is cast definitively constitutes an improvement of the UN system to the overall distribution of power, the political consequences of which are still to be fully assessed.

## ENDNOTES

- 1 G.A. Res. 76/262 (Apr. 28, 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/330/37/PDF/N2233037.pdf?OpenElement>.
- 2 For the full text of that article, see <https://www.un.org/en/about-us/un-charter/chapter-5>.
- 3 *Id.*
- 4 *Joint Statement of 7 June 1945, conveyed by France on behalf of the UK, the United States, the USSR and China*, in *ENCYCLOPEDIA OF THE UNITED NATIONS AND INTERNATIONAL AGREEMENTS* Vol. 4: T–Z and Index, p. 2587 (Anthony Mango, et al. eds., 3rd ed. 2004) (Anthony Mango, Ed.).
- 5 For the full text of those articles, see <https://www.un.org/en/about-us/un-charter/chapter-4>.
- 6 Available at <https://www.globalr2p.org/resources/list-of-signatories-to-the-act-code-of-conduct>. As of September 2, 2022, the Code of Conduct has been signed by 121 member states and two observers.
- 7 Available at <https://www.globalr2p.org/resources/political-declaration-on-suspension-of-veto-powers-in-cases-of-mass-atrocities>. As of September 2, 2022, 104 member states and two UN observers have signed the declaration.
- 8 Available at <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/059/75/PDF/NR005975.pdf?OpenElement>.
- 9 Letter dated June 2, 2022, from the President of the Security Council addressed to the President of the General Assembly, U.N. Doc. A/76/853, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/370/55/pdf/N2237055.pdf?OpenElement>.
- 10 Letter dated July 15, 2022, from the President of the Security Council addressed to the President of the General Assembly, U.N. Doc. A/76/905, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/429/74/pdf/N2242974.pdf?OpenElement>.

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[April 26, 2022]

United Nations

A/RES/76/262



General Assembly

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**Seventy-sixth session**

Agenda item 124

**Strengthening of the United Nations system**

**Resolution adopted by the General Assembly on 26 April 2022**

*[without reference to a Main Committee (A/76/L.52 and A/76/L.52/Add.1)]*

**76/262. Standing mandate for a General Assembly debate when a veto is cast in the Security Council**

*The General Assembly,*

*Guided by the purposes and principles of the Charter of the United Nations,*

*Recalling its authority under Article 10 of the Charter,*

*Recalling also Article 12 of the Charter,*

*Recalling further Article 24 (1) of the Charter, which provides that, in order to ensure prompt and effective action by the United Nations, its Members have conferred on the Security Council primary responsibility for the maintenance of international peace and security, and agreed that in carrying out its duties under this responsibility the Security Council acts on their behalf,*

*Recalling Article 27 of the Charter on voting in the Security Council,*

*Recalling also the provisions of the Charter relating to the powers and functions of the General Assembly in matters pertaining to the maintenance of international peace and security,*

*Recalling further that the International Court of Justice has observed the competence of the General Assembly on questions relating to the maintenance of international peace and security,*

*Bearing in mind its decision 62/557 of 15 September 2008, and noting that the present resolution and its provisions are without prejudice to the intergovernmental negotiations on Security Council reform,*

\*This text was reproduced and reformatted from the text available at the United Nations website (visited September 6, 2022), <https://digital-library.un.org/record/3971417?ln=en>.

1. *Decides* that the President of the General Assembly shall convene a formal meeting of the General Assembly within 10 working days of the casting of a veto by one or more permanent members of the Security Council, to hold a debate on the situation as to which the veto was cast, provided that the Assembly does not meet in an emergency special session on the same situation;
2. *Also decides*, on an exceptional basis, to accord precedence in the list of speakers to the permanent member or permanent members of the Security Council having cast a veto;
3. *Invites* the Security Council, in accordance with Article 24(3) of the Charter of the United Nations, to submit a special report on the use of the veto in question to the General Assembly at least 72 hours before the relevant discussion in the Assembly;
4. *Decides* to include in the provisional agenda of its seventy-seventh session an item entitled “Use of the veto”, and that the item should remain on the agenda of the Assembly for consideration in accordance with paragraph 1 of the present resolution;
5. *Also decides* that, should a veto be cast by one or more permanent members of the Security Council during the remainder of the seventy-sixth session of the General Assembly, the President of the General Assembly shall convene a formal meeting of the Assembly, in accordance with paragraph 1 of the present resolution, under the agenda item entitled “Strengthening of the United Nations system”.

*69th plenary meeting*

*26 April 2022*

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