

## Binding UNGA Decisions Without Charter Amendment by Joseph E. Schwartzberg

For well over half a century, proponents of a strong United Nations have called for reform that would enable the General Assembly to make binding and enforceable decisions on “important questions.”

According to Article 18, paragraph 2 of the United Nations Charter, such matters “shall be decided by a two-thirds majority . . . of the members present and voting.” While I am not in favor of this clause, I recognize that it does give a significant voice to the many small to minuscule states (a couple with populations of only around 10,000) that constitute a great majority of the UN’s total membership.

Presently, it would be possible for only 65 states – the least populous, with just over a third of the total membership, but a combined population of only 1% of the world’s total – to block the wishes of the other 99%. Alternatively, the 129 least populous states – with just over two-thirds the total membership and not much over 8% of the world’s population – theoretically have enough collective votes to push through a resolution. Is it any wonder that GA resolutions are regarded as non-binding and are frequently ignored?

Charter reform to do away with the special privilege of the otherwise weak majority of UN member states would be exceedingly difficult. The same may be said in regard to reform of the increasingly ineffectual Security Council, especially so in respect to the permanent membership and veto privilege accorded solely to the P5 powers (China, France, Russia, U.S. and UK). Thus, despite the need for reform of both those bodies, let us, for purposes of this note, assume that the Charter will remain as is for the foreseeable future. Is there any way out of the present impasse in dealing with important questions with respect to which the SC is hopelessly divided, or in preventing the passage of ineffectual GA decisions by coalitions of states with small populations? Further, is there a way to make GA decisions binding and enforceable? In what follows, I hope to make the case that there is.

Consider the following proposal (shorn of all the introductory “Whereas” clauses):

*Now, therefore, be it resolved* [numbers/words in square brackets would be negotiable]:

*In situations in which the Security Council either cannot or will not act effectively, certain resolutions of the General Assembly may be declared to be “binding and enforceable.” For a resolution to be so declared, it must be approved by two-thirds of the members present and voting, as specified in Article*

*18 of the Charter; must be approved by a cohort of member states collectively accounting for at least [50%] of the world's population, as per a stipulated date of record, which shall be updated every [ten] years; and must also be approved by a cohort of member states collectively accounting for at least [two-thirds] of the total votes allocated in a weighted voting formula agreed to by the General Assembly.*

*The weighted voting formula shall be an easily understandable mathematical equation, which may include both demographic and economic terms as well as a term relating to the sovereign equality of states. This formula shall be applied equally to all members. The empirical values used for the terms of the allocating equation will be updated at [ten-year intervals] in light of demographic and economic changes worldwide. The equation itself may be adjusted from time to time based on experience [but not more frequently than every ten years].*

*Failure of any state to live up to the letter of a binding and enforceable resolution shall, on the recommendation of the General Assembly, subject that state to punitive sanctions. Such sanctions may be progressively increased by either the Security Council or, should the Council fail to act, by the General Assembly, based on the severity and duration of that state's non-compliance. [These sanctions may entail, inter alia, forfeiture of voting privileges in specified UN agencies, and may, in extreme circumstances, culminate in indicted individuals' being subject to apprehension by armed police intervention.]*

The proposed changes do not require any revision of Article 18 or any other clauses of the existing Charter. The weighted voting proposal is flexible and responsive to demographic, economic and political changes. And they could be rescinded by a vote of the General Assembly after a trial period of a specified number of years.

The UN's small-state majority would continue to be able to block resolutions inimical to their interests. And the resolution's specification that an economic term be included in the weighted voting formula should allay the fears of wealthy states that they could be regularly outvoted by populous states of the global South.

The possible forms of the weighted voting formula are virtually endless and it goes without saying that there will be much bickering before any agreement is reached. Nevertheless, I believe that the simple compromise solution discussed in Chapter 3 of my book would have a reasonably good chance of being adopted. The formula follows:

$$\mathbf{W} = (\mathbf{P} + \mathbf{C} + \mathbf{M}) / 3$$

Here, **W** indicates the weight of a member state's vote expressed in the form of a percentage of the total votes for all states;

**P** indicates a member state's population expressed in the form of a percentage of the total population for all member nations;

**C** indicates a member state's paid contributions to the regular UN budget over the past five years expressed in the form of a percentage of the total contributions for all states; and

**M** is a constant indicating a state's membership expressed in the form of a percentage of the total membership for all states (presently 1/193 or 0.518%).

The **P** term of the equation should gain favor among relatively poor, but populous states; the **C** term would be favored by relatively powerful states with large economies; and the **M** term would appeal to most of the numerous small states, be they wealthy or poor. All states would have to accept the necessity of a trade-off to reach an accord that maximizes the good of the whole.

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