AIIA Policy Commentary

Australia and the UN Security Council

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Professor Ramesh Thakur.

The Contemporary Role of the UN Security Council
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Preface

The Australian Institute of International Affairs (AIIA) was established in 1924 as an independent, non-profit organisation seeking to promote interest in, and understanding of, international affairs in Australia.

The AIIA provides a wide range of opportunities for the dissemination of information and free expression of views on these matters through discussion and publication. Precluded by its constitution from expressing any opinion of its own on international affairs, the AIIA provides a forum for the presentation, discussion and dissemination of a wide range of views.

The AIIA’s series of Policy Commentaries aims to provide informed opinion and useful source documents on issues of topical concern to encourage debate among AIIA members, the media and the general public.

The Commentaries are edited by Melissa Conley Tyler, National Executive Director in the AIIA National Office, Canberra. I hope that you will find the current commentary timely and informative.

Associate Professor Shirley Scott
Research Chair
Australian Institute of International Affairs
Series Editor 2012-2013
Editorial

Australia’s bid for a non-permanent seat on the United Nations Security Council in 2013-2014 has attracted much debate with strong views expressed by proponents and detractors alike. Less attention has been paid to the important question of Australia’s role and contribution to the Security Council if it is elected.

This AIIA policy commentary seeks to fill this gap.

In this commentary, former UN Assistant Secretary-General and Australian National University Professor Ramesh Thakur outlines the importance of the United Nations and the potential for Australia to contribute creatively and effectively through the UN.

UNSW legal academic Christopher Michaeelsen gives an overview of the responsibilities and powers of the Security Council with a focus on its operations and current agenda.

Thom Woodroffe examines what Australia should seek to achieve during a term on the Security Council if elected and looks at the other countries likely to be on the Council during 2013-14.

Finally, the Deputy Head of Mission of the Embassy of Mexico Guillermo Puente Ordorica looks back at Mexico’s experiences on the Security Council during its term in 2009-10 to provide lessons for other countries to draw on.

Together they provide valuable insights for Australians interested in the United Nations and its key organ, the Security Council.

Melissa H. Conley Tyler
National Executive Director
Australian Institute of International Affairs

Press Conference by Prime Minister Kevin Rudd
United Nations, New York
30 March 2008 *

I informed the Secretary-General of the United Nations today that Australia will be seeking election to the United Nations Security Council for 2013-2014. That will be a ballot which will be held in 2012. The reason for indicating our interest in proceeding with a candidature for the UN Security Council is that the pre-balloting processes begin very early and that’s why it’s important to declare Australia’s intention at this stage.

If Australia is elected to the UN Security Council at that time, it will nearly be 30 years since Australia was last on the Security Council. We were last there in 1986. Australia was a member of the Security Council in the 1940s, in the 1950s and then again in 1973, and then again in 1986.

It’s been a long time between drinks, and therefore the time has come to put our best foot forward and we believe that to be a fully effective member of the United Nations you need, on a regular basis, also to be an effective member of the Security Council as well. This will be a difficult candidature because there are also two states which have put their name forward and I imagine there will also be others.

There is no guarantee whatsoever of success of this particular bid, but I believe, very simply, if you are serious about wanting to become a non-permanent member of the Security Council you have to declare your intention and run like fury, and that’s what we intend to do.

The second reason for putting our name for the UN Security Council was that the Australian Government is a strong supporter of the United Nations system. Many people criticise the United Nations for its

* Available online (accessed 16 October 2012)
failings. I believe it’s important to see the cup as being half full, rather
than half empty, and for people of good will to support the activities of
the United Nations around the world.

We need to enhance the United Nations activities in terms of
multilateral security, multilateral economic engagement, and also in the
area of social policy and human rights as well. And on top of that,
climate change and the environment. To be fully effective in that, we
have to be fully engaged with the United Nations, and that is what we
intend to do. [...]
Biographies of Contributors

Professor Ramesh Thakur

Professor Ramesh Thakur is Director of the Centre for Nuclear Non-proliferation and Disarmament in the Crawford School, Australian National University and Adjunct Professor in the Institute of Ethics, Governance and Law at Griffith University. He was Vice Rector and Senior Vice Rector of the United Nations University and Assistant Secretary-General of the United Nations from 1998–2007.

Educated in India and Canada, he was a Professor of International Relations at the University of Otago in New Zealand and Professor and Head of the Peace Research Centre at the Australian National University, during which time he was also a consultant/adviser to the Australian and New Zealand governments on arms control, disarmament and international security issues. He was a Professor of Political Science at the University of Waterloo (2007–11), Distinguished Fellow of the Centre for International Governance Innovation (2007–10) and Foundation Director of the Balsillie School of International affairs in Waterloo, Ontario.

He was a Commissioner and one of the principal authors of The Responsibility to Protect (2001) and Senior Adviser on Reforms and Principal Writer of the United Nations Secretary-General’s second reform report (2002). The author or editor of over thirty books and 300 articles and book chapters, he also writes regularly for quality national and international newspapers around the world.

Dr Christopher Michaeelsen

Dr Christopher Michaeelsen is a Senior Lecturer at the Faculty of Law, University of New South Wales, and a member of the Australian Human Rights Centre. He teaches and specialises in public international law, human rights and international security.
Prior to joining UNSW, he served at the OSCE Office for Democratic Institutions and Human Rights in Warsaw, and at the Department for Disarmament Affairs at the UN Secretariat in New York. He graduated in law from Hamburg University and holds an LLM from the University of Queensland as well as PhD from the Australian National University.

**Thom Woodrofe**

Thom Woodrofe is an Associate Fellow of The Asia Society and the author of a thesis and numerous articles on Australia’s bid for a non-permanent seat on the UN Security Council.

The 2009 Young Victorian of the Year, he is the founder of both Left Right Think-Tank and Global Voices. He has worked for both sides of politics in the United States and holds a Bachelor of Arts (Global) from Monash University which involved study across four continents as well as First Class Honours and a Masters of International Relations from the University of Melbourne.

**Guillermo Puente Ordorica**

Guillermo Puente Ordorica is a member of the Mexican Foreign Service and is currently Head of Chancery at the Embassy of Mexico in Australia. From 2009-2010 Mr Puente Ordorica served as Mexico's Deputy Permanent Representative and Political Coordinator on the UN Security Council.

He holds an MA in Communication Studies from the University of Leeds, which he attended as a Chevening Scholar sponsored by the British Council, as well as a Degree in International Studies from the National Autonomous University of Mexico (UNAM). He is a regular contributor on international politics to the Mexican newspaper *La Cronica.*
Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

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 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.

Australia and the United Nations

Professor Ramesh Thakur*

In the last couple of years, one of the most prominent Australian newsmakers in the world has been Julian Assange. Earlier this year, his London-based Australian lawyer, Jennifer Robinson, on her way back to Sydney to attend a Commonwealth Lawyers Association (CLA) conference, faced some difficulty because she was on an ‘inhibited travel list’, though how she got on the list remains a mystery. The CLA pointed out that article 13 of the United Nations Principles on the Role of Lawyers says that ‘lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions’.

This is a small yet telling example of how the UN system works in myriad mysterious ways to shape our daily lives, mainly for the good, without most of us realising its ubiquitous and pervasive influence. On balance, albeit not without serious qualifications, the world is a better place because the United Nations exists, because of what it does and how. The UN system is the biggest incubator bar none of global rules to govern the world, from trade, refugees and the law of the sea to the use of force and the regulation of armaments. With far-flung civilisational, commercial, strategic and environmental interests and links, Australia has a large and direct stake in the rules-based global order governed by this system. Why would Australia not want, and why should Australia not be given, a periodic voice and vote in the deliberations and decisions that have such a profound effect on Australia’s security and prosperity?

Australia has served on the UN Security Council four times so far: in 1946-47, 1956-57, 1973-74 and 1985-86. More than a quarter century has gone by since Australia was last on the Council. It is competing this year with Finland and Luxembourg for two vacancies in the West European and Others Group (WEOG). Win or lose, after the vote on 18 October,

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Australia must mount a serious and sustained campaign to realign the UN's geographical groupings to contemporary realities.

In this paper I will first discuss the United Nations itself: what it does, why that matters, its faults and failings, but also its strengths and accomplishments. Second, I'll discuss what Australia can contribute to the UN in the context of Australia as a UN member state.

The United Nations

The United Nations is two things: an idea, and an actual organisation with structures, procedures and personnel. As a symbol, which is the most powerful element that explains its enduring attraction, the UN is the world's only body that houses the divided fragments of humanity. Transcending national borders and based on global solidarity, it symbolises a world in which those condemned to die in fear are given the chance to live with hope again, want gives way to dignity, and apprehensions are turned into aspirations. This symbolism finds expression in the three overarching normative mandates of security, development and human rights. The power of the symbolism of the UN was very much in evidence with the poignant and emotional scenes when Kofi Annan and his wife visited East Timor in February 2000. As BBC correspondent Matt Frei observed from Dili, 'Annan's visit could provide emotional support to a people still coming to terms with the events of last year'.

As an organisation, the UN's performance shows both problems and achievements. Few if any Australians know more about UN problems and shortcomings than me. It is an international bureaucracy with many flaws and a forum often used for finger-pointing rather than problem-solving. Too often it fails to tackle urgent problems owing to timidity and political divisions. As a house divided against itself, it struggles sometimes to stand for anything.

Yet the UN remains indispensable. The world is interdependent in areas as diverse as financial markets, infectious diseases, climate change, terrorism, nuclear peace and safety, product safety, food supply and water tables, fish stocks and ecosystem resources. Any of these can provoke military conflict and are also drivers of human insecurity. All require joint action to enhance national, international and human security, improve welfare, reduce costs and bring order and regularity to international affairs.

At the centre of this interdependent, globalised and networked multilateral order is the UN. Through it, a growing number of public policy decisions and practices have been transferred from the state to the international level. In the theatre of world politics, the United Nations has often had lead star billing in:

- Preventing and managing conflicts;
- Regulating armaments;
- Championing human rights, international humanitarian law and international criminal justice with the accompanying end to sovereign impunity;
- Liberating the colonised;
- Providing economic and technical aid in the newly liberated countries;
- Organising elections;
- Empowering women;
- Educating children;
- Feeding the hungry;
- Sheltering the dispossessed and displaced;
- Housing refugees;
- Tending to the sick;
- Promulgating global health norms and regulations;
- Coordinating disaster relief and assistance.

This is not always done well, efficiently, cost-effectively or in time. However no other body can tackle the world's accumulating pathologies more effectively, with greater legitimacy, lower transaction and compliance costs and higher comfort levels for most countries.

Consider the use of force, within the broader context of changing systemic factors like the nature, location and victims of war and armed conflict, the nature of security and threats to international security, and the global norms that regulate the international behaviour of state and nonstate actors alike. Until the First World War, going to war was an accepted right of sovereign states. The only deterrent was the military might of the opponent, based on
national strength and alliances with others, which increased both the risk of defeat and the cost of victory. Since 1945, the UN has spawned a robust norm against going to war except in self-defence against armed attack or when authorised by the organisation itself. The UNSC is the core of the international law enforcement system, the world’s sole duly sworn sheriff, with the legal competence to make the great decisions on war and peace that are binding on all countries, even non-members and those who voted against the decisions. As we know, Australians have an instinctive wish to play deputy sheriff. It is better to be the world’s duly-elected than the region’s self-appointed deputy sheriff.

**Australia and the UN Security Council**

It is more than a quarter century since Australia was last on the UNSC. Periodic presence at the world’s top table of serious decision-making is important to preserve institutional memory in Australia’s foreign service so that Australia can contribute creatively and effectively to solutions to some of the world’s most intractable problems. By any objective assessment, Australia should be an elected member of the UNSC once every 10-15 years. This is true with respect to the metrics of state attributes (GDP, military capacity, etc.), and also with respect to Australia’s manifold contributions to the UN system, which include peacekeeping contributions, development assistance and humanitarian and disaster relief.

Australia has a unique set of knowledge, experience and skills to offer the international community through the UN. Australia has successfully leveraged European heritage and political values and the gravitational pull of an Asia-Pacific geographical setting to create a vibrant, multicultural, orderly and peaceful society that is the envy of much of the world. Australia and Canada were the two advanced countries to withstand the shock of the global financial crisis without too much damage. Australia’s membership of the G20, and its contributions to the first successful baby steps taken by the G20 in 2008-09, registered its global profile and role. Australia is also a significant regional power in the Asia-Pacific, as seen in the leadership role it has played in the South Pacific, and especially in the East Timor crisis in 1999 and the international efforts at stabilisation and development after that date. The energising mix of Asia-Pacific dynamism and rich European heritage ensures that Australia normally offers high-quality yet practical and relevant ideas for improving world governance.

By way of illustration, one can look at Australia’s contribution to international law on the use of force. Since 1945, the United Nations has functioned as a *funnel* for processing ideas on how best to limit the use of violence for settling disputes; a *forum* for debating the norms and rules to govern the use of force both within and across borders; and a *fount* for authorising the use of force in the name of the international community.

In response to the challenge of preventing mass atrocities, a particularly innovative and influential answer has been the principle-cum-norm of the responsibility to protect, or R2P, which requires every state to bear the responsibility to protect its population and to take collective action where national authorities are failing to protect their populations. Several commentators have described R2P as one of the most important norm shifts since 1945, with eminent British historian, Sir Martin Gilbert, going so far as to call it ‘the most significant adjustment to national sovereignty in 360 years’, that is, since the Treaty of Westphalia in 1648.

The UN played a central role in the formation and advocacy of R2P and Australians have been deeply involved in its formulation and advocacy. Secretary-General Kofi Annan famously issued a challenge to the international community in 1999, saying that the existing paradigm had snapped and a new consensus on ‘humanitarian intervention’ was needed. In response, Canada set up an independent international commission which submitted its report recommending R2P to Annan in December 2001. This was unanimously endorsed by world leaders at the UN summit in 2005 and Secretary-General Ban Ki-moon has since presented three special reports to sustain and deepen this consensus while clarifying the principle. International consensus on R2P as a principle and norm will be developed and reshaped in the UN General Assembly and its military application determined by the UNSC.

Where does Australia come into this story? It so happens that one of the two co-chairs of the international commission that promulgated the principle, two of the three principal authors of its ground-breaking report and the two main promoters who have helped transform the 2001 principle
The Contemporary Role of the UN Security Council

Dr Christopher Michaelsen

As the principal organ of the United Nations charged with the maintenance of international peace and security, the Security Council enjoys greater powers than any other international body in history. Its powers are far-reaching and allow for the adoption of a wide range of enforcement measures including authorisation of the use of force. Security Council measures are binding on all UN Member States if the Council so decides. Because of its prominent and powerful role, the Council has often been described as an ‘executive of the international community’ or as an ‘international government’.1 Writing in 1950, the American statesman John Foster Dulles even claimed that ‘the Security Council is not a body that merely enforces agreed law; it is a law unto itself’.2

While the powers of the Security Council are extensive, its legal authority stems from the UN Charter. The principle of legality requires that Security Council measures have a clear legal basis in the Charter. This means that any discretionary power of the Security Council must be derived from specific authorisations under the Charter and cannot be presumed. The Charter provides for the peaceful settlement of disputes in Chapter VI under which the Council can make non-binding recommendations. Legally binding enforcement powers are contained in Chapter VII which bestows responsibility upon the Council for taking measures to maintain or restore international peace and security.

Threats to International Peace and Security

The Security Council can only take enforcement measures under Chapter VII if it invokes Article 39 of the Charter. This article provides that the ‘Security Council shall determine the existence of any threat to the peace,