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## **Switzerland's candidature for a non-permanent seat on the United Nations Security Council for the 2023-2024 term**

Report of the Federal Council in response to Parliamentary postulate 13.3005, submitted by the Foreign Affairs Committee of the National Council on 15 January 2013

5 June 2015

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# 1. Summary: promoting peace through neutrality, solidarity and responsibility

By the present report, the Federal Council informs the Federal Assembly in the matter of Switzerland's candidature for a non-permanent seat on the United Nations Security Council for the 2023-2024 term, officially announced in 2011. In response to Parliamentary postulate 13.3005,<sup>1</sup> as submitted by the Foreign Affairs Committee of the National Council, this report will also address the issue of the compatibility of holding a seat on the Security Council with Switzerland's neutrality.

The preservation of Switzerland's independence, security and prosperity today demands a foreign policy that allows it to play an active role in shaping international relations and promoting international security and stability. During its chairmanship of the OSCE, Switzerland provided an exemplary demonstration of its ability, in abiding by the principles of its own sovereign foreign policy, to make concrete contributions to international security. These contributions are of service to the international community, while simultaneously allowing Switzerland to advance the cause of its own interests and values. As the Federal Council notes in its foreign policy strategy, it is not only Swiss neutrality, but also the principles of solidarity and responsibility that must be upheld if Switzerland is to preserve sufficient room for manoeuvre in its foreign policy. It is the combination of these three principles that defines the specific role played by Switzerland today in promoting peace and security and confronting global challenges.

On the world stage, the United Nations Organisation (UN) is Switzerland's primary multilateral platform. This institution was created in the wake of the Second World War with the aim of preventing conflicts and guaranteeing peace. It is in that same objective that the Swiss government, in keeping with its constitutional mandate, has committed itself to the promotion of peaceful coexistence between nations.<sup>2</sup> To that end, it avails itself of the same means as those deployed by the UN, including good offices, mediation, the strengthening of democratic institutions, the rule of law, and the reparation of past injustices.

Switzerland has gained a reputation at the UN as a partner that is impartial and ready at all times to help find solutions. Its active commitment to respect for the rule of law, for international humanitarian law, and for human rights, and its work in the field of humanitarian aid, have earned it the recognition of the international community. These issues also rank highly amongst the country's own domestic priorities. Switzerland drafts and supports initiatives for the protection of civilians in conflict and plays an active role in the fight against impunity for serious crimes.

A seat on the Security Council would provide Switzerland with exceptional new opportunities to pursue the principles of its own sovereign foreign policy, contributing to peace, security, and the establishment of a just world order, advancing the cause of its own interests and values, building bridges and meeting its responsibilities by its own unique means. Switzerland's experience as chair of the OSCE has shown that a commitment of that kind can serve to further enhance the credibility of its own foreign policy and to demonstrate the competence and reliability of its diplomacy.

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<sup>1</sup> As stated in the text of postulate no. 13.3005, the Federal Council was instructed in connection with its intention to seek a non-permanent seat on the UN Security Council, to prepare a report, taking into consideration, in particular, the issue of neutrality, and to submit said report to the Parliament for debate.

<sup>2</sup> Federal Constitution of the Swiss Confederation, 18 April 1999, Art. 54, para. 2 (SR 101).

The Security Council is the UN's principal organ for the maintenance of peace and security. This is still the case today, despite the considerable changes that have taken place in the nature of threats and in the concept of security since the founding of the UN. For many years now the Security Council has ceased to concern itself solely with the prevention of conflicts between states and has expanded its focus to include internal conflicts and transnational threats. Organised crime, terrorism, systematic and widespread violations of human rights, and an increasing disregard for humanitarian principles count today among the principal threats to peace and security in the world. The conflict potential inherent in poverty, in the large-scale degradation of the environment, and in differences over rights to the use of land and water, is widely recognized today. Hence, in addition to its use of traditional peacekeeping tools, the Security Council today also addresses a growing range of cross-cutting thematic issues of relevance for the prevention and transformation of conflicts.

The specific areas in which the Security Council is active largely coincide with the main priorities of Switzerland's foreign affairs and security policy. The general mandate of the Security Council corresponds to the constitutional mandate of the Swiss government to contribute to a just and peaceful international order (Swiss Federal Constitution, Art. 4, para. 2). By holding a seat on the Security Council, Switzerland would be in a position to introduce its foreign policy and security concerns into the UN agenda in a more direct manner.

A Security Council that is capable of taking efficient and effective action is in the interest of all states in a world where security challenges can be overcome only through cooperation. Switzerland also stands to gain from a Security Council that works in an efficient, transparent and accountable manner. It is for this reason that Switzerland has been working for some years now, together with numerous other Member States, for a reform of the Security Council's working methods. Only shortly after joining the UN, Switzerland, along with four other countries,<sup>3</sup> launched an appeal to the Security Council, calling on the permanent members to voluntarily refrain from using their veto rights in cases involving genocide, serious violations of human rights, or crimes against humanity. Were it to become a member of the Security Council, Switzerland would have further means at its disposal for the fight against impunity and for working towards a reform of the Council's working methods.

Financial considerations also played a role in the decision to seek a seat on the Security Council. As a Member State, Switzerland has an obligation to make a financial contribution that currently amounts to 1.047% of the UN budget. The country thus ranks 17th among the contributors to the UN's regular budget and holds 14th place among the contributors to UN peacekeeping operations. In view of this considerable financial commitment, it is only reasonable that Switzerland should also make full use of the possibilities available for helping to shape UN policies.

As a member of the Security Council, Switzerland would preserve the same freedom of action as before and would remain fully sovereign and independent in determining its foreign policy positions. Membership on the Security Council would not entail any extension of Switzerland's current obligations. This also applies with regard to the issue of neutrality. Switzerland would remain entirely faithful to its neutrality as currently practiced. Neutrality is considered by Switzerland not as an end unto itself, but as an instrument of its foreign policy and of its security policy, employed in the service of higher goals: the independence and security of the country, and the advancement of a just and peaceful international order. These precise objectives, however, are identical

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<sup>3</sup> Costa Rica, Jordan, Liechtenstein and Singapore.

with those pursued by the UN and its system of collective security, the foundation of which is the prohibition of the use of force.

The experience of other neutral UN Member States has demonstrated that neutrality is compatible with the holding of a seat on the Security Council. The Federal Council is convinced that membership on the Security Council would offer Switzerland an additional platform for demonstrating and putting to good use its traditional and proven skills as an impartial mediator and bridge builder.

The Federal Council is able to report that the initial phase of the candidature procedure has thus far proceeded as planned, and that the chances of obtaining a seat on the Security Council for the 2023-2024 term remain intact. To date, only Switzerland and Malta have registered their candidatures for one of the two seats available to the Western European and Other States Group (WEOG). It is to be expected, however, that other members of this group will submit their candidatures before the voting is held in 2022.

## 2. Background

In the autumn of 2022, Switzerland will mark the 20th anniversary of its accession to the UN. In conjunction with that occasion, Switzerland will be seeking a seat as a non-permanent member of the UN Security Council for the 2023-2024 term.

Switzerland is thus far the only country to have taken the decision to join the UN by means of a direct democratic vote. A referendum held in response to a popular initiative for the accession of Switzerland to the UN was approved by a majority of the voters and of the cantons on 3 March 2002. Six months later, on 10 September 2002, Switzerland officially became the 190th Member State of the United Nations.

In the view of the Federal Council, joining the UN has had positive consequences for Switzerland. By assuming an active and constructive role as a Member State, Switzerland has been able to directly influence numerous important developments and a wide range of programmes and initiatives at the UN. It has succeeded in asserting and effectively defending its own interests and values at the UN. As both a full Member State and as host country to the UN's European headquarters in Geneva, Switzerland enjoys a reputation within the organisation as an innovative, self-assured, and reliable partner. Our contribution in such areas as humanitarian aid, international humanitarian law and human rights, conflict prevention, promoting the rule of law, the fight against poverty, and global environmental issues, is also widely appreciated.

The decision taken by the Federal Council on 12 January 2011 to register Switzerland as a candidate for a non-permanent seat on the UN Security Council for the 2023-2024 term was the outcome of an extensive process of deliberations and consultations between the Federal Council, the Federal Department of Foreign Affairs (FDFA), Parliament, the Foreign Affairs Committees of the National Council and the Council of States, and the Federal Assembly's Finance Delegation. Conducted between 2007 and 2010, that process included a series of reports, hearings and consultations, in which numerous Parliamentary procedural requests and motions were discussed and responded to.

Postulate 13.3005 was submitted by the Foreign Affairs Committee of the National Council on 15 January 2015. The Federal Council, in a proposition dated 27 February 2013, recommended acceptance of the postulate, and it was adopted by the National Council on 3 June 2013. The Federal Council was thereby instructed in connection with its intention to seek a non-permanent seat on the UN Security Council, to prepare a report, taking into consideration, in particular, the issue of neutrality, and to submit said report to the Parliament for debate. The request made in the postulate thus accords with the Federal Council's desire for a continued and more extensive exchange of views with Parliament on the question of Switzerland's candidature for membership on the Security Council. The Federal Council reaffirms its intention, as it has on numerous occasions in the past, to ensure that Parliament remains closely involved in the ongoing process of promoting Switzerland's candidature for a non-permanent seat on the UN Security Council.

### 3. Initial phase of the candidature procedure

In its dispatch to Parliament dated 4 December 2000 on the popular initiative for the accession of Switzerland to the UN,<sup>4</sup> the Federal Council stated that by becoming a full Member State of the United Nations, Switzerland would also have the possibility of seeking a seat on the Security Council. It pointed out at that time that doing so was not merely a hypothetical possibility, but a very real opportunity to further Switzerland's interests: Being a member of the UN also makes it possible for Switzerland to be represented in the principal organs of the UN and thus to advocate more effectively on behalf of its foreign policy interests. To participate in an organisation at all levels other than at that of its principal organs is poor policy. The formal disadvantages of observer status directly affect Switzerland, in particular, because it does not hold full rights in the General Assembly and cannot become a member of ECOSOC or of the Security Council. It is, however, precisely the small and medium-sized states that have an interest in maintaining a full presence at the UN in order to make themselves heard on the world stage.

On the basis of two reports prepared by the FDFA to the attention of the Parliamentary Foreign Affairs Committees, and following a series of consultation procedures and expert hearings,<sup>5</sup> both committees approved Switzerland's candidature for a non-permanent seat on the Security Council for a term limited to two years – the Foreign Affairs Committee of the Council of States by a vote of 10 to 1 (2 September 2010), and the Foreign Affairs Committee of the National Council by a vote of 16 to 6 (25 October 2010). At the conclusion of their deliberations, the two Parliamentary committees issued separate press releases presenting their conclusions with regard to the possibility of Switzerland's becoming a candidate for a seat on the Security Council. The Foreign Affairs Committee of the Council of States noted in its statement to the press on 3 September 2010 that a majority of the committee felt that Switzerland's membership in the UN entails full identification with, and an active involvement in, the work of that organisation. The logical consequence is that it should also assume a seat on the Security Council. The committee noted further that it had studied all aspects of the issue of Switzerland's assumption of a seat and that it had received satisfactory responses to all of its questions. For its part, the Foreign Affairs Committee of the National Council, in its press communiqué of 26 October 2010, summarised the results of its deliberations concerning the medium-term possibility of Switzerland's candidature for a seat on the Security Council as follows: The majority of the Committee agreed that both membership in the UN, and membership on the Security Council, offered Switzerland an excellent platform for expanding its international network. This platform also makes it possible for Switzerland to draw attention to and to promote its values at a high level. The majority of the Committee further felt that joining the Security Council would not impinge on Switzerland's good offices or its policy of neutrality.

In January 2011, the Federal Council, in conformity with Art. 184, para. 1, of the Federal Constitution, and in consultation with the Parliamentary Foreign Affairs Committees in accordance with Art. 152, para. 3, of the Parliament Act, resolved to officially submit to the Western European and Other States Group (WEOG)

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<sup>4</sup> BBl 2001, pp. 1183 – 1274.

<sup>5</sup> Four experts were heard in the course of the deliberations of the Parliamentary Foreign Affairs Committees: 7 April 2009: Nicolas Michel, professor of international law at the University of Geneva, former legal adviser to the Secretary-General of the UN; 19 May 2009: Peter Maurer, then ambassador and head of Switzerland's Permanent Mission to the United Nations in New York; 21 June 2010: Peter Huber, director of the Department of International Organisations of the Austrian Ministry of European and International Affairs; 21 June 2010: Colin Keating, former ambassador of New Zealand to the UN, founder and director of the think tank "Security Council Report".



Switzerland's candidature for a non-permanent seat on the United Nations Security Council for the 2023-2024 term.

Only a few days later, on 20 January 2011, the government of Malta announced its intention to seek one of the two Security Council seats allocated to the WEOG for that term. Since then, no further candidatures have been announced. Thus, for the time being, Switzerland and Malta are the only candidates for the two WEOG seats in the 2023-2024 term. It is nevertheless to be anticipated that the current advantageous situation (referred to at the UN as a "clean slate") will change between now and the time of the voting, scheduled for 2022, and that other members of the WEOG will announce their interest in obtaining one of the two available seats.

Parliament continued to show interest in Switzerland's candidature in the period following its official announcement in January 2011. It was the subject, in particular, of a number of Parliamentary procedural requests<sup>6</sup> and motions.<sup>7</sup> At the close of the deliberations on those motions, the National Council, on 3 June 2013, voted its confirmation of the decision and of the stance taken by the Parliamentary Foreign Affairs Committees and by the Federal Council in favour of the candidature. It did not take up Parliamentary initiative 14.479 ("Parliament's voice in the decision to seek a seat on the UN Security Council"), and adopted instead – as recommended by the Foreign Affairs Committees and by the Federal Council – postulate 13.3005 of the National Council's Foreign Affairs Committee, which charged the Federal Council with preparation of the present report.

## **4. Motives and objectives of Switzerland's candidature for a non-permanent seat on the Security Council**

The preservation of Switzerland's independence, security and prosperity today demands a foreign policy that allows it to play an active role in shaping international relations and in pursuing its commitment to international security and stability. During its chairmanship of the OSCE, Switzerland provided an exemplary demonstration of its ability, in abiding by the principles of its own sovereign foreign policy, to make concrete contributions to international security. These contributions are of service to the international community, while simultaneously allowing Switzerland to advance the cause of its own interests and values. As the Federal Council notes in its foreign policy strategy, it is not only Swiss neutrality, but also the principles of solidarity and responsibility that must be upheld if Switzerland is to preserve sufficient room for manoeuvre in its foreign policy. It is the combination of these three principles that defines the specific role played by Switzerland today in promoting peace and security and confronting global challenges.

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<sup>6</sup> Question 13.5065 (Hans Fehr) "*Switzerland a member of the UN Security Council ?*", Question Hour, 11 March 2013.

<sup>7</sup> A number of parliamentary procedural requests were submitted between 2010 and 2013: 10.3961 – "*No to Swiss membership on the UN Security Council*" (motion by the Swiss People's Party parliamentary group): submitted 14 December 2010; recommendation of the Federal Council, 19 January 2011 (contra); shelved on 14 December 2012 after remaining pending for over two years; 12.479 – "*Involvement of Parliament in the decision to seek a seat on the UN Security Council*" (Parliamentary initiative by MP Stamm): submitted 28 September 2012; rejected by the Foreign Affairs Committee of the National Council on 14 January 2013 by a vote 11 to 8, with two abstentions, and by the National Council on 13 June 2013, by a vote of 107 to 69 (0 abstentions) 13.3005 – "*Report by the Federal Council on membership on the UN Security Council*" (postulate by the Foreign Affairs Committee of the National Council): adopted by the Foreign Affairs Committee of the National Council on 15 January 2013 by a vote of 17 in favour and 5 abstentions; adopted by the National Council on 3 June 2013.

In the globalised world of today, effective multilateralism is more important than ever. The majority of the security policy challenges we now face are transnational in nature. The numerous crises currently occupying the international community can only be resolved through dialogue and concerted action. In a global context marked by a changing balance of power and a growing number of major players, the attempt to reach a consensus for the resolution of problems can often be a challenging undertaking. Countries like Switzerland, whose credibility enables them to build bridges between the various sides, can in many cases play a major role. They contribute to rendering possible multilateral solutions even in a multipolar world.

On the world stage, the UN is Switzerland's primary multilateral platform. A seat on the Security Council would provide Switzerland with exceptional new opportunities to pursue the principles of its own sovereign foreign policy, contributing to peace, security, and the establishment of a just international order, advancing the cause of its own interests and values, building bridges and meeting its responsibilities by its own unique means. Switzerland's experience as chair of the OSCE has shown that a commitment of that kind can serve to further enhance the credibility of its own foreign policy and to demonstrate the competence and reliability of its diplomacy.

Switzerland's foreign policy objectives, as established in the Federal Constitution, correspond fully with those set forth in the UN Charter. In terms of Switzerland's own foreign affairs and security policy, therefore, a Security Council capable of acting efficiently and effectively is in our country's interest. Since joining the UN, Switzerland has been actively working for a reform of the working methods of the Security Council. However, these efforts to enhance transparency and accountability can only have an indirect, and thus limited, impact in terms of Switzerland's own security policy interests. With a seat on the Security Council, Switzerland would be in a position to put forward its foreign policy and security policy concerns in a more direct manner.

The UN is the sole universal forum where countries can exchange views on all major international issues. At the same time, the international community has formally acknowledged, in a 2005 General Assembly resolution, that the maintenance of peace, the rule of law, human rights, and social and economic development are interdependent and mutually reinforcing. Accordingly, modern approaches to conflict resolution must make the protection and security of the individual their primary focus.

Over the years, the UN has developed a wide range of instruments designed to improve the protection of human security and for guaranteeing humanitarian aid to persons in distress, even in conflict situations. Central to discussions on these issues is the question of how conflicts can be actively prevented. The Security Council not only takes part in these discussions, but has largely contributed to the further elaboration of the complex and integrated mandates regularly in use today for the promotion of international peace.

Switzerland has traditionally adopted a broad approach to conflict management. In keeping therewith, it is currently active in various political forums on behalf of issues such as rapid and unhindered access to conflict zones for humanitarian organisations, the protection of civilians, and respect for human rights and international humanitarian law. These efforts could be reinforced if Switzerland had a seat on the Security Council.

Financial considerations also played a role in the decision to seek a seat on the Security Council. As a Member State, Switzerland has an obligation to make a financial contribution that currently amounts to 1.047% of the UN budget. The country thus ranks 17th among the contributors to the UN's regular budget and holds 14th place among the contributors to UN peacekeeping operations. In view of this considerable financial

commitment, it is only reasonable that Switzerland should also make full use of the possibilities available for helping to shape UN policies.

Twenty years after joining the UN, assuming a seat on the Security Council would send a strong signal of Switzerland's readiness to share responsibility for peace and security in the world. Working on the Security Council would make it possible for Switzerland to defend its national interests and to promote our country's values. With its vast network of foreign representations and the know-how it has acquired, Switzerland has at its disposal the requisite resources. Switzerland's good offices and its policy of neutrality are compatible in all respects with non-permanent membership on the Security Council (see below, section 6). Switzerland's neutrality would indeed lend further credibility to its efforts as a member of that body.

## **5. The United Nations Security Council**

In order to permit a systematic assessment of the practical consequences of assuming a seat on the Security Council, and of the compatibility of such a step with Swiss neutrality, the present section provides a more detailed description of the role, mandate, and working methods of the Security Council.

### **5.1. Role of the Security Council within the UN system**

The UN Charter, which was ratified on 24 October 1945 in San Francisco, provides for the establishment of six principal organs within the UN system: the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat. According to the terms of Art. 24, para. 1, the Member States delegate to the Security Council primary responsibility for the *maintenance of international peace and security*. In performing its duties, the Security Council acts in the name of all Member States, which, by their accession recognise the principles and norms of the UN Charter and hence also the powers of the Security Council. In accordance with Art. 4, para. 1, and Art. 25 of the Charter, the Member States of the UN agree to accept and implement the decisions of the Security Council.

The role and the importance of the Security Council within the UN system have repeatedly undergone profound changes since the first meeting of the Council in January 1946. During the Cold War, from the early 1950s on, there was a long interval when its ability to take action was limited. Symptomatic was the number of vetoes cast during that period, sometimes preventing the adoption of Security Council resolutions (see below, section 5.4.3).

With the end of the Cold War, the ability of the Council to reach a consensus and to take action improved. The total number of resolutions adopted, which stood at 646 in 1990, has since risen to 2200. The increasingly important role played by the Security Council, and its new ability to build a broad consensus, are reflected in the steady rise in the number of UN peacekeeping operations to this day. The current impasse at the Security Council with regard to the situations in Ukraine and Syria sometimes obscures the fact that the Council takes care of the majority of its day-to-day business without notable incident. Moreover, notwithstanding the current geopolitical tensions between Russia and the West, it has succeeded in maintaining its ability to take action when confronted with urgent crises such as the Ebola epidemic or the threat of foreign terrorist fighters.

The progress made in recent years is reflected not only in the rise in the number of resolutions and peace operations, but also in the thematic breadth of the Council's work and of the missions it mandates. While, in its early days, the Security Council focused its activities on the traditional aspects of security policy, it now increasingly takes into account the complex interrelationships that exist between the issues of security, the rule of law, and development – as illustrated, for example, by the inclusion of human rights protection in the mandates for peace operations.

## **5.2. Duties and powers**

In order to discharge its principal responsibility of maintaining international peace and security, the Security Council has at its disposal, under the terms of Art. 24, para. 2, of the UN Charter, various powers and instruments. These are defined in detail in Chapters VI, VII and VIII of the Charter, and will be described briefly in the following.

### **5.2.1. Security Council recommendations under the terms of Chapter VI – Prevention and pacific settlement of disputes**

Under the terms of Chapter VI of the Charter, in cases of disputes or differences between states that may potentially pose a threat to the maintenance of international peace and security, the Security Council is authorised to make *recommendations* and to call upon the parties to settle their differences by *peaceful means* (UN Charter, Art. 33). Security Council recommendations made under the terms of Chapter VI require the accord of the states concerned and are not binding *per se*. They may, however, be supplemented by binding measures imposed by the Security Council in the event of further escalation and an acute threat to international peace. Typical measures imposed under the terms of Chapter VI are mandates for the conduct of independent investigations or of non-military mediation.

### **5.2.2. Security Council measures under the terms of Chapter VII – Action with respect to threats to the peace, breaches of the peace, and acts of aggression**

In the event of a threat to the peace, a breach of the peace, or of an act of aggression, the Security Council may resolve, under the terms of Chapter VII, that *coercive measures* are to be taken to maintain or restore international peace and security. Such measures may include, in particular, economic measures and sanctions, or the ordering of military measures deemed necessary for maintaining or restoring international peace.

The economic measures and sanctions contemplated in Art. 41 of the UN Charter may target specific individuals, companies or organisations, or restrict trade in certain key goods or categories of products. Various forms of sanctions may thus be imposed, including arms embargoes, financial sanctions, trade restrictions, diplomatic constraints, cultural and sports restrictions, civil aviation restrictions, and so forth. Depending on the situation, individual measures may be designed for application on a national, regional or international scale.

Sanctions in place are reviewed on a regular basis and, where necessary, adjusted in accordance with the current realities and demands of the situation. Here, the Security Council is obliged to adhere to certain fundamental principles. Considerable efforts have thus been made since the early 1990s to increase the effectiveness of the international sanctions regime and, at the same time, to minimise the negative impact of such measures on the civilian populations concerned. Switzerland has played a decisive role in these efforts from the beginning. For instance, in the case of "targeted sanctions", which are aimed at specific persons, a conflict may arise in terms of the targeted individual's human rights. It is for this reason that Switzerland has for many years now

been working to bring about an improvement in the procedures for adding or removing the names of persons included on UN sanctions lists.

Where mediation or sanctions prove unsuccessful, the Security Council may, in the event of a further deterioration of the security situation, threaten or authorise *military measures* under the terms of Chapter VII. Such measures can be divided into two main categories. The first is that of peace operations deployed and directed by the UN itself (see below, section 5.2.3); the second, less frequently used, comprises military operations authorised by the Security Council and carried out by third parties.

The military measures contemplated in Chapter VII may be undertaken for the purpose of keeping or of enforcing the peace. The majority of the military missions authorised under Chapter VII are peacekeeping operations. Such interventions normally take place with the consent of the states concerned, and the use of armed force is permitted only for purposes of self-defence, or where necessary in order to defend the mandate, the infrastructure, or to protect civilians.

Only a few such missions have thus far been given a mandate to enforce peace. In those cases, the use of armed force is authorised also for the purpose of enforcing the mandate, and the consent of the parties involved is not required.

### **5.2.3. Deployment of peace operations by the Security Council**

One of the principal means available to the Security Council for maintaining international peace is the deployment of peace operations. Although not expressly mentioned in the UN Charter, over the years peace operations have come to be recognised as an instrument that is well-suited for maintaining and restoring international peace and security.

Under the terms of Chapter VI of the UN Charter, and with the consent of the host state, the Security Council may decide to deploy non-military peace missions, also known as "special political missions". These missions assume political tasks, among other things by furnishing good offices and election support. An example is the United Nations Office in Burundi (BNUB), which, until the end of 2014, provided the government of Burundi with assistance in such areas as the strengthening of national institutions, the promotion and facilitation of dialogue, promoting justice and reconciliation, and the protection of human rights. These political peace operations may be established at the initiative either of the General Assembly or of the Secretary-General. In practice, however, the majority of such mandates originate in the Security Council. The UN currently has 13 non-military political missions in the field worldwide.

Contrary to special political missions, the deployment of peacekeeping operations lies within the sole authority of the Security Council. Such operations may involve, in addition to civilian and police personnel, unarmed military observers and experts, as well as armed troops ('blue helmets') deployed for purposes of self-defence or for the protection of civilians. Such missions are sent, in principle, with the express consent, or at the request, of the states concerned.

According to the UN, more than 120,000 persons were deployed in 16 peacekeeping operations around the world as of early December 2014; these included 90,000 soldiers, 1,750 military observers, some 12,500 police officers, and over 17,000 civilian and volunteer personnel from more than 120 countries. The UN peacekeeping operations perform important military, police, and civilian tasks providing assistance in complex conflict situations in such areas as the implementation of peace agreements, human rights, border patrolling, reform of armed forces, policing, demining, and the

preparation of elections and public institution-building. Complex mandates with both military and non-military components are today the rule. As a result, UN peacekeeping operations today normally include a sizeable contingent of civilian personnel. Overall, greater cooperation between the different actors within the UN system, and with regional organisations, is becoming an increasingly important factor.

#### **5.2.4. Regional arrangements and co-operation with regional organisations under the terms of Chapter VIII**

The provisions of Chapter VIII of the UN Charter authorise the Security Council to coordinate activities for the maintenance and enforcement of the peace with so-called regional arrangements. This option is successfully employed by the Council in numerous conflict situations around the world. Included among such regional arrangements are, for example, the African Union (AU) and the Organisation for Security and Co-Operation in Europe (OSCE). By working with such regional arrangements, the Security Council seeks to involve in international mediation efforts and the quest for solutions the countries and organisations that may be directly affected by a conflict. Regional arrangements have strong comparative advantages in peacekeeping efforts due in particular to their familiarity with the local conditions and languages and the lower costs engendered by their interventions.

Chapter VIII introduces the principle of subsidiarity into the UN system as it applies to issues of security. The intent is to allow the UN and the Security Council the possibility of benefitting from the support of regional mechanisms in international conflict resolution and peacekeeping efforts.

#### **5.2.5. Powers of the Security Council in the field of international criminal justice**

While the Security Council is not a court, it is nevertheless vested with certain special powers in the field of international criminal justice. These powers are not expressly mentioned in the Charter, but have become entrenched, over time, as a means of carrying out the Security Council's mandate. They comprise, among other things, the authority to establish special tribunals for the prosecution of war crimes, as was done in the cases of the former Yugoslavia and Rwanda in the 1990s. The Security Council also has the power to appoint independent international commissions of inquiry.

Under the terms of Art. 13 (b) of the Rome Statute, the Security Council is also authorised, acting under Chapter VII of the UN Charter, to refer certain conflict situations to the International Criminal Court (ICC). Such is the case, in particular, where the competent national courts are unwilling or unable to investigate serious violations of human rights or of international humanitarian law and, if necessary, to punish them. This was the legal basis for the Security Council decisions to refer the situations in Darfur and Libya to the ICC, in 2005 and 2011, respectively. The Security Council is further authorised, under Art. 16 of the Rome Statute, to request the suspension, for a period of 12 months, of proceedings that have already been opened before the ICC. Relations between the UN and the ICC are governed by a special agreement between them, which was signed in 2004.

#### **5.2.6. Other Security Council powers**

The Charter also confers upon the Security Council certain procedural powers within the UN system. Thus, for example, Art. 97 of the Charter provides that the appointment of the UN Secretary-General is to be made by the General Assembly upon the recommendation of the Security Council. In addition, the Security Council shares responsibility with the General Assembly for the election of judges to the International Court of Justice (ICJ) in The Hague, and for the handling of applications for the admission of new members to the UN. It is on the recommendation of the Security

Council that applications are submitted to the General Assembly for a vote, with a two-thirds majority required for the admission of a new UN Member State.

### **5.3. Composition and membership**

Since 1965, the Security Council has been made up of 15 members: five permanent members with a special voting power known as the "right to veto" (China, the United States, France, United Kingdom, and Russia), and ten non-permanent members, each elected for a term of two years.

While the question of enlarging the Security Council has for years been a subject of renewed debate at the General Assembly, the negotiation is presently at an impasse. Switzerland supports the demand for making the Security Council an effective and representative platform. It has chosen, however, not to take an active role in the enlargement debate, but has focused its efforts instead on the issue of the Council's working methods. In 2005, Switzerland, together with the other four members of the so-called Small Five, launched what has become known as the "S5 initiative" for a reform of the Security Council's working methods. It continues to pursue those efforts today as coordinator of the Accountability Coherence Transparency Group (ACT Group), which was founded in 2013 and currently has 23 members.

In order to ensure that all regions of the world are fairly represented on the Security Council at all times, the Member States of the UN have allocated the non-permanent seats among the UN's five regional groups as follows: five seats for the Africa Group and Asia Pacific Group together; two seats for the Latin America and Caribbean Group, two seats for the Western European and Other States Group (WEOG); and one seat for the Eastern European Group.

For a state to be elected as a member of the Security Council, it must receive a two-thirds majority of the votes at the UN General Assembly. Security Council elections are held annually, so that each year five of the ten non-permanent seats change hands.

Nearly two thirds of the current members of the UN, a total of 125 states, have held seats on the Security Council since 1946. Of the 29 states included in the WEOG, only Switzerland, Andorra, Iceland, Israel, Liechtenstein, Monaco and San Marino have never served on the Security Council, whereby Israel and San Marino are now candidates for seats for the 2019-2020 and 2021-2022 terms, respectively. Among the states that have served as members of the Security Council are also neutral countries. The frequency with which neutral countries have held membership on the council differs only slightly from that of non-neutral countries otherwise comparable to Switzerland in terms of their size or profile at the UN. Belgium, Denmark, Norway and New Zealand, for instance, have each held a seat on the Security Council four times thus far; Costa Rica, Ireland, Austria and Sweden have each held seats three times, and Finland one time (see also below, section 6.3).

Interest in becoming a member of the Security Council has grown among all countries in recent years, and particularly among the members of the WEOG. Over the years, countries comparable to Switzerland in size and in their political stances have tended to seek a non-permanent seat on the Security Council every 20 years, on average.

Under Art. 98 of the UN Charter, the parties in attendance at meetings of the Security Council include, in addition to the Council members, also the UN Secretary-General and representatives designated by him. UN officials, however, have no voting rights on the Security Council. Their duty is to accompany and assist the Council in its work by

furnishing neutral assessments and situation analyses. The UN Secretariat is further responsible for the documenting, cataloguing and archiving of the minutes of Security Council meetings and of Security Council resolutions.

## **5.4. Procedures and working methods**

Because of the special responsibility it bears, the Security Council must, under the terms of Art. 24 and Art. 28 of the UN Charter, be so organised as to be able to meet at any time in the event of a crisis. Under current practice, several formal and informal meetings are held each week at the UN headquarters in New York. The members of the Security Council are required to have a permanent representative present at the New York headquarters at all times, so as to be able to attend urgent meetings on short notice. The Member States of the Security Council remain in close contact also outside the Council chamber, whether in New York, in their capitals, or through their respective diplomatic networks.

In 2014, the Security Council held 430 formal meetings, 241 of which were open also to non-members. In addition to the formal debates, the Council may also hold informal consultations in a smaller chamber, set aside especially for that purpose, adjacent to the main chamber. While those meetings are, in principle, confidential, the members and, in particular, the president of the Council are nevertheless free to inform non-members of the substance of the discussions in an appropriate manner. Today, a growing number of Security Council members makes use of the various channels at their disposal to inform the UN Member States on the current status of pending issues. Switzerland welcomes this development, which is consistent with its long-standing appeal for greater transparency in the Security Council's working methods.

Under the Council's rules of procedure, it is compulsory that votes and the adoption of unanimous decisions take place at formal meetings open to the public. All minutes, records, and voting results from Security Council meetings are public documents, the great majority of which are available online. All formal meetings of the Council are recorded and archived in both text and video form in the six official languages of the UN (English, Arabic, Chinese, Spanish, French, and Russian).<sup>8</sup> Informal meetings are not recorded.

### **5.4.1. Agenda**

Under Art. 34 of the UN Charter, the Security Council is authorised and explicitly instructed to investigate any dispute or situation which could lead to international tensions, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. Issues that are addressed on a regular basis are listed as items on the Security Council's standing agenda. Other events or developments may also be brought to discussion at any time at the request of any member of the Council or, in accordance with Art. 99 of the UN Charter, at the request of the UN Secretary-General.

As at 1 January 2015, there were 49 items listed on the Security Council's standing agenda, 26 of which concerned national situations. Since the 1990s, however, the Security Council has also devoted increasing attention to thematic issues that pose a systematic threat to world peace and to global phenomena whose effects are not restricted to a single country or region. Thus, 23 of the 49 items on the agenda related to thematic issues, some of the more widely known of which include the protection of civilians in armed conflict, the protection of humanitarian workers, women, peace and

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<sup>8</sup> [www.un.org/sc](http://www.un.org/sc) ; [www.webtv.un.org](http://www.webtv.un.org).



security, children and armed conflicts, piracy, impunity of perpetrators of international crimes, threats to global public health (HIV, Ebola), security sector reform, prevention of armed conflict, terrorism, reform of the Security Council's working methods, and co-operation with regional organizations. The increasing thematic breadth of the agenda reflects the growing complexity of modern conflicts and conflict resolution methods, of which the Security Council has taken cognizance.

#### **5.4.2. Decisions and pronouncements**

There are three forms in which the Security Council may issue its pronouncements: press statements, presidential statements, and resolutions. Press statements serve to inform the media as to the Council's position on a given matter or on progress in ongoing deliberations. Although press statements are issued only by consensus, they do not hold the status of formal decisions.

Presidential statements are also pronouncements by the Security Council that are issued by consensus. They allow the Council to express itself on the situation in a country or on a specific subject. Presidential statements may be used to reaffirm particular aspects of prior resolutions or to pave the way for upcoming decisions by the Security Council.

Resolutions are the strongest form of pronouncement issued by the Security Council, by which it may render decisions of binding effect. Although the Charter does not prescribe any set form for Council pronouncements, in practice its compulsory decisions are always issued in the form of resolutions. A resolution may contain legally binding elements, but there is no obligation that this be the case. Security Council precedent shows, moreover, that when compulsory measures such as sanctions or the deployment of armed missions are imposed, this is done, as a matter of principle, under the terms of Chapter VII.

#### **5.4.3. Decision-making process and right of veto**

Each member of the Security Council holds one vote. Adoption of a resolution requires the affirmative vote of nine members. Under the terms of Art. 27, para. 3, of the Charter, the permanent members have been granted, in addition, a right of veto, which allows each of them to prevent the adoption of a resolution. This applies also to resolutions concerning recommendations on the appointment of the UN Secretary-General and the admission of new Member States. Abstention is not considered as the exercise of a veto.<sup>9</sup>

Because of this veto power, draft proposals normally tend to be submitted for a vote only if they are well-balanced and take into account the interests of all of the major parties concerned. Nevertheless, the Federal Council is of the opinion that certain of the external and geo-political premises on which the right of veto was based at the time of its creation, just after the Second World War, no longer apply today. Since 2005, as a part of its efforts to bring about a reform in the working methods of the Security Council, Switzerland has officially called upon the Council, in clear terms, to reconsider its current veto practice. Within the framework of diplomatic initiatives, Switzerland has for many years now called on the permanent members of the Security Council to voluntarily waive their right of veto in cases involving genocide, war crimes, and crimes against humanity. Switzerland will continue to firmly advocate in favour of this step if it is elected to a seat on the Security Council.

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<sup>9</sup> The right of veto may not be exercised in votes on procedural questions; these require for adoption only the affirmative vote of nine members, without regard for the number of negative votes cast by the permanent members (UN Charter, Art. 27, para. 2).

#### **5.4.4. Rotating presidency**

The presidency of the Security Council is held on a rotating basis, for a term of one month, by each of the members, following the English alphabetical order of the Member States' names. The non-permanent members assume this function from one to two times during their two-year terms. The duties and powers of the president are primarily of a procedural, administrative, and representative nature. They include the convening and presiding over meetings, reporting and coordination of Council correspondence, communication with the Secretary-General and the UN Secretariat, and informing Member States and the world community with regard to Council decisions. The Council president is also responsible for preparing the agenda of the various meetings and for the monthly working programme. The presiding state otherwise has the same status as the other Member States on the Council, and does not hold a casting vote.

#### **5.4.5. Subsidiary organs of the Security Council**

Art. 29 of the Charter authorises the Security Council to establish subsidiary organs to assist it in the performance of its functions. These may take the form of committees or working groups charged with the preparations for deliberations and decisions on both substantive and procedural matters, or with overseeing their implementation. Hence, preliminary deliberations on the imposition of sanctions, on applications for admission to the UN by new Member States (such as that of Switzerland in 2002), and on measures to be taken in the fight against international terrorism, for example, are first conducted in various subsidiary organs before coming before the Security Council for debate and a formal decision. As at 1 January 2015, the Security Council had 31 subsidiary organs. The 15 members of the Council are represented in all of the bodies attached to it. Permanent committees are chaired by the rotating monthly president of the Security Council, while non-permanent committees are presided over by one or more members of the Council, who are appointed for terms of one year, respectively.

Although they are fully independent in the performance of their judicial functions, special international tribunals,<sup>10</sup> insofar as they were established or authorised by the Security Council, are also counted as belonging formally to that body's subsidiary organs. The Peacebuilding Commission (PBC) holds a special place among the subsidiary organs of the Security Council. This is an intergovernmental advisory body established jointly by the General Assembly and the UN Security Council. The commission's mandate is to support the political process in countries emerging from conflict, to assist them in the marshalling of resources, to focus the attention of the international community on the countries concerned and to help coordinate activities on their behalf. The PBC thus serves as an important link between immediate post-conflict recovery measures by the Security Council and long-term development assistance efforts within the UN system. Country-specific Configurations of the PBC are currently working on Burundi, Guinea, Guinea-Bissau, Liberia, Central African Republic, and Sierra Leone. The Burundi Configuration is chaired by Switzerland, which is thus directly involved in the peacebuilding process in Burundi. Among other things, Switzerland served as co-organiser of a conference on Burundi, which was held in Geneva, in October 2012, and which provided Burundi with an opportunity to publicly present its development plans and to conduct fundraising efforts.

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<sup>10</sup> Unlike the International Court of Justice (ICJ), which is designated as a principal organ of the UN under the UN Charter. The ICJ's mandate is to adjudicate disputes over points of international law and disputes between states (e.g., resolution of territorial disputes), provided that they are not matters falling within the jurisdiction of the international criminal justice system.

## **6. Compatibility of non-permanent membership on the Security Council with Swiss neutrality**

The following chapter sets forth the reasons for which Switzerland's assumption of a seat on the Security Council is fully compatible with neutrality law and Swiss neutrality policy.<sup>11</sup>

### **6.1. The obligations of a neutral state**

Neutrality law defines the rights and obligations that exist between belligerent states and neutral states in situations of international armed conflict. It is governed by the Hague Conventions of 1907 relative to the rights and duties of neutral powers and persons in case of war on land or of maritime warfare, and by customary international law. Initially, the principal restriction to which neutral states were subject was that of a fundamental renunciation of any involvement in an armed conflict between states as a means of achieving political objectives. Since that time, however, the prohibition on the use of force has become binding on all states that are members of the UN.

In addition to the prohibition on the use of force, neutral countries are not permitted to assist or to disadvantage militarily any of the parties to an armed conflict, in particular, by placing their own troops or arms at the disposal of either party. They are further prohibited from placing their territory at the disposal of warring parties for military purposes, such as for the movement of troops or even for the simple use of their air space. In times of peace, the sole legal obligation of a permanently neutral state is not to enter into irrevocable commitments that would prevent it from fulfilling its neutrality obligations in the event of an armed conflict. From this derives the prohibition on allowing the installation of foreign military support bases on neutral territory and on becoming a member of military alliances such as NATO.

The law of neutrality, as summarised in the foregoing, is combined with a policy of neutrality. Such a policy comprises all measures taken by a neutral state of its own accord in order to guarantee the effectiveness and credibility of its neutral status as defined by neutrality law. Shaping that policy lies within the discretion of the state in question, which takes into account foreign policy developments and security policy considerations. Switzerland's policy of neutrality goes hand in hand with its humanitarian tradition, which has made it a reliable and responsible partner in efforts to combat the causes of violence, to protect the victims of conflicts, and to restore the peace. The principle of neutrality is also tied to the principles of universality and the rule of law, in accordance with which Switzerland maintains, to the extent possible, good relations with all countries of the world based on a shared respect for the law.

The UN, including the Security Council, accepts a policy of neutrality or of non-alignment on the part of Member States. It is not a military alliance. A study of the resolutions passed by the Security Council over the past decade shows, first, that only a very small portion of the Security Council's work involves coercive measures.<sup>12</sup> Second,

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<sup>11</sup> The remarks that follow are based on the conceptual foundations of the Federal Council's dispatch to Parliament concerning the referendum on the popular initiative for the accession of Switzerland to the UN of 4 December 2000. The initiative was approved by a majority of the people and of the cantons on 3 March 2002.

<sup>12</sup> First, the Security Council does not meet only to adopt resolutions. It also devotes a substantial proportion of its meetings to exchanges of views and consultations (elections, high-level meetings, meetings with non-members of the Security Council, briefings by the presidents of international courts, senior UN representatives, or other relevant

it also reveals that when the Security Council does order coercive measures, these concern only rarely an armed conflict between states (a necessary condition for the principle of neutrality to apply), since the majority of conflicts today are internal in nature. Last, even when the Security Council does order coercive measures in connection with an international armed conflict, it does so acting on the mandate of the entirety of the Member States in its capacity as guardian of the world order charged with preserving and restoring peace. Hence, it does not act as a party to the conflict. The coercive measures it adopts vis-a-vis a state that threatens or has broken peace do not constitute acts of war within the meaning of the law of neutrality. Their intent is to induce the state in question to respect the obligations it voluntarily undertook in acceding to the UN Charter. For this reason, the principle of neutrality is not applicable to coercive measures adopted by the Security Council.

Switzerland's policy is to consistently invoke its neutrality in the event of an international armed conflict, for as long as the Security Council has not adopted measures pertaining to the conflict. This policy would not change with the assumption of a seat on the Security Council. Switzerland has already adopted this position in the past, as in the cases of the Kosovo conflict in 1999 and the conflict in Iraq in 2003. Because the UN had not authorised the use of force, Switzerland permitted the use of its air space for flights to the conflict zones only for humanitarian purposes, but refused such authorisation for military flights.

## **6.2. Swiss neutrality and the collective security system**

Neutrality is an important principle underlying Switzerland's foreign policy and security policy. Neither historically, nor from a constitutional point of view, has neutrality ever been an end unto itself. Rather it is one of the policy instruments that allow Switzerland to pursue its objectives, in particular, those of maintaining its independence and its security while promoting a just and peaceful international order (Swiss Federal Constitution, Art. 2, para. 4). It is for this reason that the founders of the modern Swiss Confederation refrained from mentioning neutrality in the article of the Federal Constitution that states the aims of the Confederation. A seat on the Security Council would provide Switzerland with greater leverage for pursuing the constitutional objectives of protecting the country's independence and security while promoting a just and peaceful international order.

The shared commitment of the UN Member States to refrain from the use of force as a means of advancing their interests accords well with the principle of neutrality. As a member of the UN Security Council, Switzerland would be in a position to extend its efforts to promote peace in dealing with the numerous existing or impending conflicts that come before that body. Ultimately, it is in Switzerland's own interest to see a peaceful order, based on the rule of law, prevail in the world, so that all states are duty bound to respect international law and, in particular, the prohibition on the use of force. This being the case, Switzerland recognises that between a state that breaches peace or seriously threatens the international order and the remaining members of the international community striving to call that state to order, a neutral stance is not possible.

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actors, field visits, etc.). Second, the resolutions adopted by the Security Council are often of a thematic nature (concerning such subjects, for example, as the rule of law or the prevention of conflicts). The purpose of such resolutions is to make a pronouncement, or to issue recommendations, not with regard to specific countries or regions, but on matters relating to peace and security in general. Third, even in cases where the Security Council adopts a resolution concerning a specific country or region, it often does so not in reliance on Chapter VII. Fourth, even those resolutions adopted by the Security Council under the terms of Chapter VII with regard to a specific country or region do not necessarily involve the imposition of coercive measures (sanctions, authorisation to use force).

In view of the global and multidimensional nature of today's security challenges, Switzerland has a heightened interest in being part of an efficient and functional collective security system.<sup>13</sup> It pursues this foreign policy objective while remaining faithful to its neutrality and making use of the room for manoeuvre at its disposal. The Federal Council has regularly pointed out, since the 1990s, that Switzerland's neutrality does not prevent it from taking part in an international system for maintaining peace and security and in concerted measures for dealing with common threats. The body to which the global system of collective security has been delegated is none other than the Security Council. The community of nations has vested it with the "primary responsibility for the maintenance of international peace and security" (UN Charter, Art. 24, para. 1). As a member of the Security Council, Switzerland would thus be acting to further its own security as well as that of the international community.

### **6.3. Experience of neutral states on the Security Council**

As noted above, in section 5.3, neutral states have repeatedly held seats on the Security Council in the past. Examples include Austria (last membership 2009/2010), Costa Rica (last membership 2008/2009), Ireland (last membership 2001/2002) and Finland (last membership 1989/1990, candidate 2011/2012 and 2029/2030). On no occasion were these states constrained by their neutrality to vote against a resolution of the Security Council or to abstain from voting. The fact that there have been recurrent instances of neutral states holding membership allows the conclusion that neither the credibility of their neutrality nor their ability to actively participate in the work of the Security Council has been placed in doubt. This conclusion finds confirmation in the experience of Austria as a Security Council member, which has been studied in detail by the FDFA and both of the Parliamentary Foreign Affairs Committees since 2008. In Austria's case, neutrality even proved to be an advantage, because it facilitated the pursuit of an independent, and thus credible, policy as a member of the Security Council. From this perspective, neutrality would also be an advantage for Switzerland in its efforts to contribute constructively to the work of the Security Council.

States whose independence and impartiality with regard to a conflict are certain, and which have neither a direct national interest nor a corresponding hidden agenda linked to the resolution thereof, are ideally suited for the role of honest broker. Switzerland's foreign policy and long-standing tradition of providing good offices place it in a privileged position for assuming such a role. Increasingly, however, this function is entrusted to international organisations, foremost among them the UN. It is important, therefore, that Switzerland join its efforts with those of the UN.

The experience of neutral states on the Security Council is testimony to the fact that neutrality and the UN system of collective security mutually reinforce each other in efforts to maintain peaceful coexistence in the international community, prevent conflicts, and preserve the integrity and independence of states. Whereas the effectiveness of the collective security system depends on the existence of a broad consensus among the members of the international community, neutrality shows its effectiveness most fully in situations where there is no such unanimity. A state that is both neutral and, at the same time, a part of the collective security system thus holds a double commitment to peace.

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<sup>13</sup> 99.056 Sicherheit durch Kooperation. Bericht des Bundesrates an die Bundesversammlung über die Sicherheitspolitik der Schweiz (SIPOL B 2000) vom 7. Juni 1999 [Security through Cooperation. Report of the Federal Council to the Federal Assembly concerning Switzerland's security policy, 7 June 1999] BBl p. 7690.

## **6.4. Cardinal points of Switzerland's commitment as a neutral state**

### **6.4.1. Respect for international law**

Switzerland has chosen neutrality as a means of preserving its independence and security and for working towards a just and peaceful international order. The fundamental objective of Swiss neutrality thus corresponds to that of the UN, in the sense that the UN has replaced the logic of "might makes right" and summary justice with a system grounded in law, in order to "save future generations from the scourge of war". With its candidature for a seat on the Security Council, Switzerland undertakes to remain faithful to the objectives common to both neutrality and the UN system. In so doing, it would take its orientation from Swiss law and international law. This means, in particular, that Switzerland would act in accordance with the requirements and limits of the binding norms to which the Security Council is subject, as set forth, above all, in the UN Charter.<sup>14</sup>

Under the Charter, it is the duty of the Security Council to act in accordance with the purposes and principles of the UN (UN Charter Art. 24, para. 2, taking reference to UN Charter Art. 1 and Art. 2). Switzerland would thus be so bound not only in its capacity as a member of the UN, but also in its capacity as a member of the Security Council. Among those purposes and principles are included, in particular, the respect for human rights and fundamental freedoms, the sovereign equality of all states, acting in good faith, and the peaceful settlement of disputes. In addition, Switzerland would continue to take its orientation from the international law by which it is bound, in particular, insofar as those norms are binding on all states, whether acting individually or in concert; these comprise, more specifically, the mandatory provisions of international law (*jus cogens*), customary international law, and the general principles of international law. Similarly, it would not act in breach of UN Charter Art. 103, which provides that obligations under the Charter prevail over obligations under other international conventions.

The Security Council adheres to the norms here cited. Were a draft resolution to be presented that failed to take them into account, Switzerland would actively advocate in favour of achieving compliance. Were it to fail in that endeavour, it would reserve the right not to vote for the resolution in question. This would be the case, in particular, if the resolution were to be prejudicial to the common objectives of Switzerland's neutrality and of the UN collective security system, that is, to world peace and international security. For Switzerland, this would serve as an additional guarantee against its taking any action contrary to its neutrality.

### **6.4.2. Cardinal points in respect of the use of force**

Under Art. 2, para. 4, of the UN Charter, Member States are expressly required to refrain from the threat or use of force against another state. Only two exceptions are permitted: the right of self-defence (UN Charter, Art. 51) and military measures taken by the Security Council (UN Charter, Art. 42). The question of neutrality arises only in connection with an armed conflict between states or groups of states, as the principle of neutrality applies only in the context of international armed conflict.

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<sup>14</sup> The Charter does not invest the Security Council with any absolute authority, but grants it only special powers, as reaffirmed in para. 28 of the decision issued by the International Criminal Tribunal for the former Yugoslavia (ICTY) of 2 October 1995, with regard to the defence's objection of lack of jurisdiction on the part of the ICTY (<http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>).

As Swiss practice shows, participation in military interventions resolved upon by the Security Council under the terms of UN Charter Art. 42 is compatible with our neutrality. It follows logically that this is also the case for participation in the decision-making process that leads to the issuance of a mandate for such operations.

Switzerland's decision on whether approval of military action is appropriate in any given case would be made taking into consideration, above all, the protection of its own interests and values, along with the need to respect its duty of solidarity. Compatibility with neutrality does not signify that Switzerland would automatically vote in favour of military intervention. Rather, it would conduct a thorough assessment of the circumstances in accordance with the terms of international law and other criteria applicable to military intervention, such as, for example, the legitimacy of the purpose and the proportionality of the means.

#### **6.4.3. Cardinal points in respect of peacekeeping operations**

Under the provisions of Chapter VI and Chapter VII of the UN Charter, the Security Council may establish peacekeeping operations with or without the authorisation to use force. Armed participation by Switzerland in a UN peacekeeping operation is compatible with Swiss neutrality even in the context of an international armed conflict.<sup>15</sup> The requisite statutory basis was furnished by Parliament with the revision of the Federal Act on the Military (Art. 66a).<sup>16</sup> Under the terms thereof, troops sent from Switzerland to foreign countries, if acting within the framework of a peacekeeping operation mandated by the UN, may bear arms for their own security and for the performance of their assignment. Based on the Federal Act on the Military, the participation of Swiss soldiers in combat operations for peace enforcement is excluded.

If active participation in peacekeeping operations established by the Security Council is compatible with our policy of neutrality, this is then also the case for participation in the decisions concerning such mandates. Regardless of whether Switzerland votes for or against a resolution authorising the use of force by a peacekeeping operation under Chapter VII of the UN Charter, Switzerland – in the same manner as countries that are not members of the Security Council – would make its decision on participation in the operation at its own discretion (UN Charter, Art. 44). Swiss practice with regard to the deployment of its army for operations in foreign countries would thus not be placed in question by assuming membership on the Security Council.

Switzerland will continue to be active primarily in the field of civilian peace promotion, and any requests for a military commitment will continue to be reviewed on a case-by-case basis by the Federal Council. The Federal Council wishes to recall that resolutions threatening or authorising the use of force are the exception and are issued only rarely. The Security Council addresses crises using mainly political means. As the provisions of the UN Charter do not impose any duty on the Member States – including members of the Security Council who voted in favour of such a mission – to make personnel available for military operations, Switzerland would send armed troops only in accordance with the terms of the Federal Act on the Military, that is, only for its own defence and not for participation in combat operations. In addition, it would continue to contribute to the funding of such missions, just as it did before becoming a member of the Security Council.

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<sup>15</sup> Federal Council Dispatch to Parliament, 4 December 2000, on the popular initiative for the accession of Switzerland to the United Nations (UN), p. 1213.

<sup>16</sup> Entwurf zur Teilrevision des Bundesgesetzes über die Armee und Militärverwaltung (Militärgesetz, MG) [Draft for the partial revision of the Federal Act on the Army and Military Administration (Act on the Military)] (arming), BBl 2000 5144.

#### **6.4.4. Cardinal points in respect of sanctions**

Under the UN Charter, the Security Council is authorised to impose sanctions, which the Member States are required to apply. As a rule, these involve economic restrictions or travel, aviation, or arms embargoes (UN Charter, Art. 41). The sanctions are a crucial, if imperfect, instrument for averting threats to world peace and international security without the use of force. As targeted measures, they are tailored to the purpose in mind in each respective case, and are intended to exert pressure on political leaders and members of the elite whilst limiting the humanitarian consequences. Even moderate sanctions can have a high symbolic value. The mere threat of sanctions can already serve as an effective means of deterrence and prevention.

Switzerland has applied UN sanctions since the early 1990s – that is, 10 years before becoming a UN member – without this calling its neutrality into question. It does so in accordance with the provisions of the Federal Act on Embargoes. Insofar as arms embargoes are concerned, Switzerland's Federal Act on War Material imposes an independent prohibition on the export of war material to all countries involved in an international armed conflict, thereby giving due regard to considerations of neutrality.

Switzerland has been actively involved in efforts to make the imposition of sanctions subject to compliance with certain criteria recognised by the UN. With a seat on the Security Council, it would be in a position to pursue these efforts from the inside. Specifically, it is essential that sanctions be targeted, that they serve concrete objectives, that they be effective, that they be applied and monitored in accordance with a clearly defined set of criteria, and that they be subject to regular review. In the event that these criteria were not adhered to, Switzerland would reserve the right to adjust its conduct accordingly when voting on a sanctions resolution.



## **7. Practical aspects of Swiss membership on the Security Council**

The following section provides an overview of the practical consequences in the event that Switzerland is successful in its current candidature for a seat on the Security Council for the 2023-2024 term.

### **7.1. Security Council activities of particular relevance to Switzerland**

In the event that Switzerland were to become a member of the Security Council, this would entail Switzerland's participation in the activities of the Security Council in various domains. This new role would integrate seamlessly with Switzerland's current commitments in the other UN organs, where Switzerland has been actively involved in the ongoing processes and procedures since joining the UN in 2002. Given the highly varied and broad thematic scope of the Security Council's responsibilities, Switzerland would be able to pursue many of its long-standing substantive commitments directly from within the Security Council. The following areas would be of particular significance:

#### **7.1.1. Prevention of violence and peaceful settlement of conflicts**

Measures for the prevention of violence and the peaceful settlement of conflicts are an essential component of the Security Council's regular consultations and deliberations. This is often a matter of guiding political processes and making certain that mandates for future missions are assorted with the necessary components and capacities for taking preventive action. This is an area in which Switzerland possesses proven competence and experience. The Federal Council fully expects that Switzerland's credibility, impartiality, and neutrality will serve it well also in dealing with the new opportunities in this domain that membership on the Security Council will offer.

Switzerland has for many years been a regular participant in the open debates of the Security Council at which thematic aspects of peaceful conflict settlement are discussed. Also in 2014, Switzerland regularly took the floor to address the Council on such subjects as "Protection of civilians in armed conflicts", "Women, peace, and security", "Children and armed conflict", Conflict prevention and mediation, and the working methods of the Security Council.<sup>17</sup>

In addition, in 2014 Switzerland also played an active role in connection with country-specific issues on the Security Council's agenda. As chair of the Peacebuilding Commission's Burundi Configuration, Switzerland's UN representative in New York attended and addressed the Security Council's public meetings on the subject.

Since acceding to the UN, Switzerland has also made use on numerous occasions of the possibility of co-sponsoring Security Council resolutions. By this means, Switzerland is able to politically underscore its own commitment in a given area, or to demonstrate its solidarity with the world community in the face of an acute global crisis. It was, above all, for these reasons that this past year Switzerland added its name not only, as in previous years, to annual resolutions on the protection of civilians or of children in

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<sup>17</sup> Addresses held by Switzerland before the United Nations are available online at [https://www.eda.admin.ch/eda/en/home/aussenpolitik/internationale\\_organisationen/vereinte\\_nationen/schweizer\\_engagement/reden-erklarungen-der-schweiz.html](https://www.eda.admin.ch/eda/en/home/aussenpolitik/internationale_organisationen/vereinte_nationen/schweizer_engagement/reden-erklarungen-der-schweiz.html).

armed conflicts; Switzerland also co-sponsored resolutions on Ebola and on the problem of foreign terrorist fighters. Both of those resolutions, as a result of their topical relevance and global interest, had over 100 Member States as co-sponsors. Co-sponsoring is possible, however, only after the drafting of a resolution has been completed. As a member of the Security Council, Switzerland would be in a position to actively take part in the drafting process.

### **7.1.2. International criminal justice**

This area of the Security Council's work, as has already been elaborated on in the present report, belongs to a domain in which Switzerland has a direct interest and the concomitant expertise. Switzerland has been active for many years, at various levels, in efforts to strengthen the international criminal justice system. Specifically, Switzerland has regularly called on the Security Council to ensure that serious crimes are systematically investigated and prosecuted, and this without regard for the identity of the perpetrators. In reaction to the exceptionally serious situation in Syria, it was at Switzerland's initiative that, in 2013, a letter was delivered to the Security Council calling upon it, for the first time, to use the powers vested in it to refer the situation in Syria to the International Criminal Court. The letter was formally signed by some 60 Member States. In response, the Western members of the Security Council, along with Jordan, submitted on 14 May 2014 a draft resolution to that effect. Ultimately, however, the resolution was defeated by the vetoes of Russia and China. This incident has given new impetus to the demand of numerous states for the permanent members to voluntarily refrain from using their veto rights in cases of genocide, war crimes, and crimes against humanity. Switzerland's initiative also played a significant role in ensuring that the issue of accountability in the Syria conflict did not disappear from the UN's political agenda. In addition to these activities, Switzerland has for years provided political support for the International Criminal Court. It is a strong defender of the ICC's credibility and independence, responds vigorously to the oft-repeated criticism that the Court unjustly addresses only situations in countries from the global South, and works to promote constructive cooperation between the ICC and the Security Council.

### **7.1.3. UN peacekeeping operations**

In connection with resolutions for the deployment of UN peacekeeping operations, membership on the Security Council would not give rise to any special obligations on Switzerland's part, irrespective of whether the resolutions were authorised under Chapter VI or Chapter VII of the UN Charter. Switzerland would continue to be able to decide independently, and on a case-by-case basis, whether and to what extent it wished to place military, police, or civilian personnel at the UN's disposal. Similarly, no additional obligations with regard to the size of financial contributions would arise. As a member of the Security Council, Switzerland would have a voice in the decision on the deployment or extension of UN missions and would be able to adequately present its arguments at consultations and votes.

### **7.1.4. Priorities for Switzerland's term as a member of the Security Council**

In the event that Switzerland obtains a seat, it will need to be in a position to deal competently with all issues on the Security Council's agenda. At the present time, it is impossible to predict where the Security Council's priorities will lie, and what special demands will be placed on that body during the 2023-2024 term. It may nevertheless be assumed that the Security Council will have a heavy workload also during the 2023-2024 term, and that its agenda will include a large number of geographically and thematically diverse items.

Proceeding on this basic assumption, the Federal Council will, at the appropriate time, take up the question of potential thematic priorities for Switzerland as a member of the

Security Council and will consult with the Parliamentary Foreign Affairs Committees on the matter, following the same procedures as used for consultations with the Parliamentary committees on Switzerland's priorities at the UN General Assembly.

## **7.2. Operational matters**

### **7.2.1. Organisational questions and the decision-making process**

Under Switzerland's system of government, foreign policy issues fall, in part, to the responsibility of the Federal Council as a whole. This gives rise to special organisational and procedural requirements in terms of *information, coordination, and decision-making*. In order to satisfy these requirements, the Federal Council today routinely relies on inclusive procedures for dealing with multilateral affairs. Representation of Switzerland in the various bodies of the UN is the responsibility of the Permanent Representative of Switzerland at the UN in New York and the Swiss delegation under his authority. In order to perform their functions, they rely on instructions from Bern, which are transmitted by the FDFA's United Nations and International Organisations Division after consultation with all federal authorities competent in the matter and following confirmation of the instructions at the appropriate hierarchical level within the FDFA. This standard operating procedure would not change during the term of Switzerland's membership on the Security Council. Conversely, it must be assumed that, given the subject matter of certain issues dealt with by the Security Council, there would be a greater number of cases in which decisions would have to be made at the highest levels of government. For this reason, and because of the frequency of Security Council meetings, a greater workload must be anticipated. In order to adequately meet the demands that would arise during a term of membership on the Security Council, staff increases both at the mission in New York and at FDFA offices in Bern would be necessary.

As a member of the Security Council, Switzerland must, in principle, be prepared to take decisions rapidly with regard to its voting conduct and the stances it wishes to assume. Under the procedural rules of the Security Council, a sufficient amount of time is normally allowed before any official Council votes. In addition, the majority of the Council's business can be scheduled weeks, if not months, in advance. Normally, the Federal Council – like the other 14 governments represented on the Security Council – would, even in the most urgent cases, have a 24-hour period to reflect before pronouncing itself on any final draft resolution and deciding on Switzerland's voting conduct.

### **7.2.2. Resources**

Membership on the Security Council would not give rise to any increase in Switzerland's mandatory contribution to the UN. The annual assessed contribution that Switzerland is required to pay as its share in the regular budget of the UN, for the funding of peacekeeping operations, and for special tribunals would remain unchanged with the assumption of a seat on the Security Council.

Conversely, there would be an increase in Switzerland's own internal organisational costs. The Federal Council and the FDFA, in their discussions with the Parliamentary Foreign Affairs Committees and the Finance Delegation, have taken the experience of other countries as a reference. On that basis, it is clear that proper fulfilment of a Security Council mandate will not be possible without an adequate increase in staff resources. The need for additional staff is a consequence of the large number of Security Council meetings and of the matters to be dealt with, and of the additional workload connected with the activities of the subsidiary organs.

A Swiss seat on the Security Council would make it necessary to enlarge the FDFA staff by adding some 10-15 diplomatic and professional posts, to be divided between the FDFA headquarters in Bern and the Permanent Mission in New York (initial estimate). These positions would be needed in order to manage the additional workload entailed by the candidature, particularly for the maintenance of diplomatic contacts, preparation of subject-matter briefings, and internal coordination. In addition, the federal intelligence services estimate that they will need to add some 2-6 positions on their staffs. The additional staff requirements could be met either by an overall increase in staff resources or by temporarily reassigning personnel from other domains. Preparation of a more precise assessment of the expected requirements and of estimations as to the possibility of fulfilling them by an internal reassignment of staff will most likely begin in 2018. Based on the current schedule, a budgetary request for any additional needs would thus be submitted in 2018 for the period beginning in 2019.

The Federal Council anticipates that both the campaign for a seat and, if successful, the assumption of membership on the Security Council, will have many positive effects. Neither the campaign nor membership is an end unto itself. The investment required for efficient structures at the FDFA offices in Bern, for the cultivation of diplomatic relations at all levels, and for the targeted development of professional expertise, will in any case be put to good use over the middle and long terms for the advancement of our foreign affairs and UN policies – as we currently observe in the follow-up to the Swiss chairmanship of the OSCE.

Withdrawal of Switzerland's candidature is possible, in principle, at any time. The political and financial fallout from such a step is difficult to measure in general terms. It would depend upon the timing and the context, and on emerging indications as to Switzerland's chances for success in the voting.

# Appendix

## I. Security Council seats and candidatures of members of the Western Europe and Others Group, 2000-2030

Elections	Term of office	WEOG: SC Members / Candidatures
2000	2001 – 2002	Ireland Norway *Italy (not elected) *Turkey (withdrawn)
2002	2003 – 2004	Germany Spain
2004	2005 – 2006	Denmark Greece
2006	2007 – 2008	Italy Belgium
2008	2009 – 2010	Turkey Austria *Iceland (not elected)
2010	2011 – 2012	Portugal Germany *Canada (not elected)
2012	2013 – 2014	Luxembourg Australia *Finland (not elected)
2014	2015 – 2016	New Zealand Spain *Turkey (not elected)
2016	2017 – 2018	Sweden Netherlands Italy
2018	2019 – 2020	Israel Belgium Germany
2020	2021 – 2022	Ireland San Marino Norway
2022	2023 – 2024	<i>Switzerland</i> Malta
2024	2025 – 2026	Greece Denmark
2026	2027 – 2028	Austria Portugal
2028	2029 – 2030	Finland

*Status as at April 2015 – there are two non-permanent seats allocated to the WEOG*

## II. Countries that have not yet been members of the Security Council

Total: 68 of the 193 UN Member States<sup>18</sup>

Western Europe and others (WEOG)	Eastern Europe	Latin America and the Caribbean	Asia and the Pacific	Africa
Andorra Iceland Israel* Liechtenstein Monaco San Marino* <u>Switzerland</u>	Albania* Armenia* Estonia* Georgia Latvia* Macedonia Moldavia Montenegro* Serbia	Antigua/Barbuda Bahamas Barbados Belize Dominica Dominican Republic* El Salvador Granada Haiti St Lucia St Kitts and Nevis St Vincent and the Grenadines Suriname	Afghanistan Bhutan Brunei Darussalam Fiji Cambodia Kazakhstan* Kyrgyzstan Kiribati Laos Maldives* Marshall Islands Micronesia Mongolia* Myanmar Nauru North Korea Palau Papua-New Guinea Solomon Islands Samoa Saudi Arabia Tajikistan* Timor-Leste Tonga Turkmenistan* Tuvalu Uzbekistan Vanuatu Cyprus	Equatorial Guinea Eritrea Comoros Islands Lesotho Malawi Mozambique São Tomé and Príncipe Seychelles* South Sudan Swaziland Central African Republic

\*SC candidature announced

<sup>18</sup> The Vatican (Holy See) and Palestine are UN observer states and, as such, may not be elected to a seat on the Security Council.