

The Invasion of Ukraine: Polarities and Perspectives

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polaridades y perspectivas*

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Abstract

This article outlines the developments within the United Nations after the Russian invasion of Ukraine. It recounts the change in the working dynamic in the Security Council, as well as the most important initiatives undertaken since February 2022, in both the Council as well as the General Assembly. It takes stock of the role played by Mexico, as well as its priorities and offers a brief assessment of the main challenges to peace in the immediate future.



Resumen

El presente artículo resume los desarrollos en el seno de las Naciones Unidas tras la invasión rusa de Ucrania. Narra el cambio en la dinámica del Consejo de Seguridad, así como las iniciativas más importantes que se han llevado a cabo desde febrero de 2022, tanto en el Consejo como en la Asamblea General. Hace un recuento del papel que ha desempeñado México, así como de sus prioridades y ofrece una somera evaluación de los principales retos para la paz en el futuro inmediato.



Keywords

Security, invasion, dialogue, diplomacy, Ukraine, Russia



Palabras clave

Seguridad, invasión, diálogo, diplomacia, Ucrania, Rusia

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The Russian invasion of Ukraine defined the dynamics and agenda of the Security Council in 2022. This situation seemed unthinkable in January 2021, in the middle of a global pandemic and with Syria, Yemen or the Middle East on the agenda. When Mexico commenced its period as an elected member, the situation in Ukraine was limited to a footnote in the Council's work program. Despite Russia's annexation of Crimea in 2014 and the precarious situation in eastern Ukraine ever since, there was no broader impact at the U.N., other than periodic statements by the General Assembly in support of Ukraine, acknowledging Russia's violation of its sovereignty and territorial integrity. Russian incursions into both Ukraine and Georgia tended to be sporadic and temporary.

In February 2022, Russia assumed the presidency of the Security Council. Prior to the invasion, the only meeting scheduled that month (notably, it was requested by Russia) took place on the seventh anniversary of the signing of the Minsk II Agreements,¹ which for years guaranteed relative calm in the conflict zone in eastern Ukraine. The message

¹ The Minsk I Agreements signed in September 2014 between Ukraine and pro-Russian separatist groups consist of a ceasefire agreement based on 12 points. The agreement collapsed due to violations of the ceasefire by both sides. In February 2015, representatives of Russia, Ukraine, the Organization for Security and Cooperation in Europe (OSCE) and

from Russian Vice Foreign Minister Sergey Vershinin, who traveled to New York for the occasion, was an exhortation to some members of the Council to avoid unfounded accusations and speculation about an imminent invasion.

As reports of the massive mobilization of Russian troops along the border with Ukraine multiplied and satellite images reflecting this began to circulate on social networks and in the media, the atmosphere in the Council became tense. The Kremlin's recognition of the sovereignty and independence of the self-proclaimed people's republics of Donetsk and Luhansk on February 21 forced the Council to hold an emergency meeting that same night. Confusion predominated in the room, as the meeting was preceded by contradictory messages: the United States and the United Kingdom warned of an imminent offensive, while Russia denied any attempt at an invasion, calling it hysteria.

In the week in which the invasion began, the Council met five times. Of all these meetings, the one on February 23 stands out, due to the extraordinary character of the unfolding events: the Secretary-General, António Guterres, urged President Vladimir Putin to withdraw his troops from the border with Ukraine. Shortly after Guterres' speech, the media began to report the beginning of the deployment of Russian troops to Ukrainian territory, while the meeting was taking place. By the time Russia (which as president of the Council is usually last on the list of speakers) spoke, they had already begun their invasion of Ukraine. The impossibility of obtaining verified information about what was happening on the ground disappeared after February 24.

Security Council reaction

The first reaction to the events came in the form of a draft resolution presented by the United States and Albania. The text condemned in the strongest terms Russian aggression against Ukraine, in violation of Article 2.4 of the

the leaders of the two breakaway regions signed the Minsk II Agreements, an agreement on 13 political and military aspects.

United Nations Charter. Based on the content of the document, it may be assumed that the penholders did not expect the text to be adopted, but rather that it would be blocked, leaving Russia exposed and condemned by the international community, both for the invasion and for blocking the Council. The project obtained 11 votes in favor, 3 abstentions (United Arab Emirates, India and China) and naturally was vetoed by Russia.

This result once again opened the debate, put forward as a priority by Mexico, on the need to reform the Council, since, in its current configuration, it can easily be held hostage by any of its permanent members.

The week's upheaval also made clear the difficulty and pressure that States face in positioning themselves in the face of a crisis about which there was little verifiable information and which made it necessary to act with extreme caution. Distrust is the outcome of experience. The claims made about the existence of weapons of mass destruction in Iraq that justified its subsequent invasion in 2003 have not been forgotten.

The way that India and the United Arab Emirates positioned themselves is noteworthy. The former adopted a position of total abstention and, more than a year after the start of the war, continues to abstain in all votes on the Ukrainian question, regardless of the topic. The United Arab Emirates opted to take a pragmatic position. Its first abstention on the use of the mechanism of the "Uniting for Peace" resolution (to which we will refer later) was severely criticized, but it was a predictable vote swap in favor of Russia (Iran's traditional ally) in a resolution on Yemen, which designates the Houthis as a terrorist group. It has recently become known that the United Arab Emirates has also served as a behind-the-scenes go-between for Russia and Ukraine on issues such as the exchange of prisoners of war.

Mexico's position was based on the position held since the annexation of Crimea in 2014, of support for the sovereignty, territorial integrity and political independence of Ukraine, based on the normative principles of foreign policy provided for in Article 89 of the Mexican Constitution. In view of a flagrant violation of the Charter of the United Nations and taking into account our historical experience, Mexico upholds four clear messages: a) it condemns the invasion; b) it calls for the immediate cessation of hostilities; c) it recognizes the sovereignty and territorial integrity of Ukraine, and d) it supports the efforts of the Secretary-General to find a peaceful solution through dialogue and diplomacy.

General Assembly vs. Security Council

The blockade in the Security Council led it to resort to the mechanism covered by resolution 377 of 1950, known as “Uniting for Peace,” as the vehicle to condemn the invasion. For the first time in more than four decades, this mechanism was invoked by the Council, which provides that, if the Council fails to fulfill its responsibility to maintain international peace and security in the event of a threat, breach of the peace or act of aggression, the General Assembly must consider the matter with a view to taking collective measures. It is important to note that this resolution cannot be vetoed, because it is considered a procedural decision, which only requires 9 votes in favor for its adoption. Through resolution 2623 (2022), adopted with 11 votes in favor (including Mexico), 1 against (Russia) and 3 abstentions (China, India and the United Arab Emirates), on February 27, 2022, the Council referred the situation in Ukraine to the Assembly for an emergency special sessions (ESS).

The United States, France and the United Kingdom (known as the P3) and Ukraine took the lead in the process to negotiate the resolution in the General Assembly. For the P3 it was essential to obtain the highest possible number of supporting votes, while Ukraine demanded that the text be unequivocal in its condemnation of Russia.

The penholders first and most serious miscalculation was assuming that they had broad support from U.N. members, regardless of the content of the text. In the General Assembly every vote counts, so it is critical that the process be inclusive and transparent.

The somewhat opaque management of the process translated into clear annoyance on the part of a significant number of countries that resented that their substantive proposals were not taken into account, but that, given their position of principle in support of the Charter of the Nations United and respect for international law, they found themselves between a rock and a hard place.

The resolution “Aggression against Ukraine”² was adopted exactly one week after the start of the invasion with 141 votes in favor, 5 against

² A/RES/ES-11/1, March 18, 2022.

and 35 abstentions (12 countries did not cast a vote). As in the Council, India and China maintained their abstentions in the Assembly.

Mexico and France: humanitarian initiative

Given the deteriorating humanitarian situation, the United Nations and humanitarian organizations began one of the most urgent and complex deployments of humanitarian assistance in recent history. Four weeks after the start of the conflict, there were almost 4 million refugees and 6.5 million internally displaced people. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated (in March 2022) that more than 12 million people required help, while the impact on access to health services, food, water, basic sanitation and shelter multiplied.

As March progressed, the Russian military offensive gained ground. The siege spread in a matter of weeks along the almost 2000 kilometers of land border shared by Russia and Ukraine, and some incursions were recorded from Belarus, approaching Kyiv from the north.

The Ukrainian authorities' loss of control over a significant part of their territory resulted in an almost complete loss of access to these areas (mainly in the Donetsk and Luhansk oblasts) and a lack of basic security guarantees for humanitarian workers.

The pressing need to achieve a humanitarian pause and to create certain basic security guarantees led Mexico and France in the first half of March to begin a consultation process in the Security Council to prepare a draft humanitarian resolution that would demand the immediate cessation of hostilities and attacks against civilians, and to call for respect for international humanitarian law, international human rights law and international refugee law, among others.

Two rounds of consultations were organized with all members of the Security Council and multiple bilateral meetings. Most of the proposals presented sought to toughen the language of the text, which was unacceptable to Russia. For this reason, Russia decided to present its own draft humanitarian resolution co-sponsored by Belarus, the Democratic People's Republic of Korea and Syria, in competition with the Franco-Mexican one. The Russian project received 13 abstentions and 2 votes in favor (China

and Russia). But with this maneuver, it became clear that Russia would obstruct any initiative that would lead to a Council statement. Given this scenario and to avoid another veto, France and Mexico reported that they would transfer this initiative to the General Assembly, resuming the ESS. On the basis of the Franco-Mexican project, consultations were held with all regional groups. The resolution “Humanitarian consequences of the aggression against Ukraine”³ was approved with 140 votes in favor, 38 against and 5 abstentions, and received co-sponsorship from 96 States.

Period of extraordinary special sessions

Over the following 11 months (until February 2023), the General Assembly resumed the ESS on four more occasions to vote on four draft resolutions with diverse themes:

- In April, Mexico abstained from the vote suspending Russia’s right to form part of the Human Rights Council (HRC).⁴ In its explanation of the vote, it emphasized that the multilateral system is strengthened through inclusion, not exclusion, and that it is through dialogue and cooperation, not isolation, that States, without exception, can be held accountable under the same rules and criteria. On the other hand, and considering the importance of bringing to justice those responsible for violations of human rights and international humanitarian law, Mexico voted in favor of a resolution in the HRC to establish an independent international commission to investigate the events arising from the aggression against Ukraine.
- In October, Mexico supported a project condemning the staged referendums held in territory occupied by Russia within the borders of Ukraine,⁵ whose penholders were Ukraine and the European Union.

³ A/RES/ES-11/2, March 28, 2022.

⁴ “Suspension of the Rights of Membership of the Russian Federation in the Human Rights Council,” A/RES/ES-11/3, April 8, 2022.

⁵ “Territorial Integrity of Ukraine: Defending the Principles of the Charter of the United Nations,” A/RES/ES-11/4, October 13, 2022.

- In November, Canada, Guatemala and the Netherlands presented a text that seeks to promote means of recourse and reparations for damages due to the aggression against Ukraine,⁶ which Mexico also supported.
- The most recent resolution was issued on the occasion of the first anniversary of the invasion, and was also supported by Mexico. It lays down the principles on which peace must be built in Ukraine.⁷

Missteps in the consultation and lobbying processes on each of these resolutions led to a variable voting pattern. Since the last quarter of 2022, a certain fatigue began to be noticeable among the U.N. membership on this issue, fueled by the lack of openness in the negotiation of some of the texts. This has generated disquiet among a significant number of delegations who resent being forced to take a position on issues when these are reduced to a narrative of two sides, in which it often seems that the only option is to be with one or the other. That is to say, total polarization.

It is interesting to observe the voting patterns for resolutions in the General Assembly within the framework of the ESS:

Resolution	In favor	Against	Abstention	Did not vote
A/RES/ES-11/1	141	5	35	12
A/RES/ES-11/2	140	5	38	10
A/RES/ES-11/3	93	24	58	18
A/RES/ES-11/4	143	5	35	10
A/RES/ES-11/5	94	14	73	12
A/RES/ES-11/6	141	7	32	13

Source: United Nations, "Voting Data [ES-E11]," in United Nations Digital Library, at https://digitallibrary.un.org/search?ln=en&cc=Voting+Data&p=ES11&f=&action_search=Search&rm=&ln=en&sf=&so=d&rg=50&c=Voting+Data&c=&of=hb&fti=0&fti=0 (date of access: June 10, 2023).

⁶ "Furtherance of Remedy and Reparation for Aggression against Ukraine," A/RES/ES-11/5, November 15, 2022.

⁷ "Principles of the Charter of the United Nations Underlying a Comprehensive, Just and Lasting Peace in Ukraine," A/RES/ES-11/6, March 2, 2023.

Mexico and Norway: support for the efforts of the Secretary-General

The evolution of the invasion meant that, as new challenges arose, the Security Council debated specific topics such as nuclear security, food security, and the humanitarian situation. Possibly one of the most delicate situations due to its potential humanitarian and environmental consequences, was linked to the clashes around the Zaporizhzhia nuclear plant, which was under Russian control but operated by Ukrainian personnel. The Council supported the International Atomic Energy Agency so that it could work objectively on technical aspects and to ensure these were not hostage to the underlying political dispute.

The attempt to facilitate a political dialogue between Russia and Ukraine failed in New York. In the spring of 2022, the Secretary-General made visits to Kyiv and Moscow without either capital producing positive results. For the elected members, one of the points of convergence was that the Secretary-General was the ideal interlocutor to carry out diplomatic work. Mexico even proposed that the creation of an *ad hoc* group to support him be considered. In the midst of a crisis of legitimacy of the Council for not being able to speak out in the face of this catastrophe, and of questions about the efficiency of the system as a whole, it was essential to support the U.N., the principles and values that govern it, and the efforts to seek rapprochement between the parties. Mexico and Norway took on the task of proposing a text that would do precisely the above.

The proposed document⁸ was minimalist in terms of its length, but remains to date the only document that the Security Council has been able to agree on regarding Ukraine. It reiterates the guiding principle of the United Nations Charter on the peaceful settlement of disputes and expresses its support for the efforts of the Secretary-General. The importance of the Norwegian-Mexican initiative should not be underestimated, as it was achieved within the framework of uncomfortable tensions between President Putin and Secretary-General Guterres. The message that was conveyed in a complex situation was an important one: the Council can agree.

⁸ "Statement by the President of the Security Council," S/PRST/2022/3, May 6, 2022.

“Quiet diplomacy”: Black Sea Grain Initiative

After several months of conflict, the siege and blockade of the main Ukrainian ports and the inability to continue with grain exports began to wreak havoc around the world, and alarms were ringing about a looming food crisis.⁹ The Food and Agriculture Organization of the United Nations (FAO) warned of an exponential increase in international prices of basic products within months, and the distribution of fertilizers came to a halt, threatening the world’s harvest cycles and increasing the costs in supply chains, mainly affecting African and Middle Eastern countries.

After unsuccessful efforts to bring the parties closer, the Secretary-General began a campaign of “*quiet diplomacy*,” with the creation of the Global Crisis Response Group, which was tasked with coordinating a global response to the challenges of food, energy and financial security, partly carried over from the COVID-19 pandemic, exacerbated by the war in Ukraine.

The Secretary-General commenced efforts supported by two agencies: the United Nations Conference on Trade and Development (UNCTAD) (the main body of the General Assembly for trade and development) and OCHA, in order to resume Ukrainian exports. This remarkable effort led to two agreements signed in Istanbul in July 2022, known as the Black Sea Grain Initiative. The first establishes guarantees for the safe navigation of vessels transporting grain from three Ukrainian ports. Under this scheme, Türkiye serves as the host country of a verification mechanism that supervises the movement of ships and carries out inspections to ensure that the agreement is respected. The second is the Memorandum of Understanding between the Russian Federation and the United Nations Secretariat on facilitating unimpeded access of food and fertilizer products originating in the Russian Federation to global markets, which had been affected by sanctions against Russia, and is critical to stabilizing prices worldwide. This is a diplomatic juggling act of the first order, since Russia and Ukraine both took part against a backdrop of decimated trust and non-existent dialogue.

⁹ Ukraine and Russia are two of the world’s largest breadbaskets, supplying the world with 30% of its wheat and barley, and a fifth of its corn, as well as half of global sunflower oil.

Mexico and Norway proposed texts for consideration by the members of the Security Council in terms both of the signing and renewal of these agreements, seeking to support the Secretary-General. However, an agreement could not be reached due to the opposing positions of the P3 and Russia.

Lethargy among the Council

The work agenda of the Security Council has been deeply affected by the situation in Ukraine. A dynamic prevails in which the United States and Russia call meetings of the Security Council with the intention of recriminating each other in a logic of *tit-for-tat*. For example, the United States has called meetings to denounce the crimes committed in Bucha, the kidnapping of Ukrainian children, or the illegal sale of Iranian drones to Russia, while Russia has done so to denounce the supposed involvement of the United States in a biological weapons program in Ukraine, or the blowing-up of the Nord Stream 2 gas pipeline. The Council has become a mere sounding board, incapable of carrying out actions for peace. There are also legitimate claims made by African and Middle Eastern countries, since conflicts in other parts of the world have taken a backseat.

Even for China, Russia's undisputed ally in 2022, this war has generated great discomfort. The 10-point document setting out China's position to end the conflict and President Xi Jinping's own efforts are a gesture to build bridges.

The remote path to peace

There is no end to the war in sight in the foreseeable future. Russia continues massive recruitment and inexorable military deployment, and Ukraine's allies continue to supply it with weapons and ammunition.

The uncertainty that has dominated until now regarding the end of the war is likely to continue in the coming months. Ukraine's efforts at the U.N. are focused on the aspect of accountability, both through legal channels and through a mechanism for reparation of damages and losses. Regarding the former, the investigation opened by the prosecutor of the

International Criminal Court will continue. In March 2023 arrest warrants were issued against President Putin and Maria Lvova-Belova for the deportation and illegal transfer of people (children) from occupied areas in Ukraine. Regarding the reparations mechanism, the discussion continues on the form that will be given to this mechanism, since doubts and conceptual gaps persist.

Mistrust between the parties and mutual accusations have also hindered renewal of existing mechanisms such as the Black Sea Grain Initiative. The prospect of negotiations for an eventual peace agreement seems distant. However, diplomacy remains essential to end the war. It is difficult to think of a war that has not ended with a negotiation. The first question to consider is whether negotiations can take place without there having been a prior military defeat.

The second question is to define the objective of the negotiations and the topics to be discussed. Negotiations may come as the result of a military victory or defeat, but regardless, dialogue should continue to be encouraged to address more technical issues to ensure nuclear security, energy corridors, or the distribution of humanitarian aid.

None of the peace plans or dialogue proposals put forward to date respond to the persisting underlying issues: whether or not European solidarity towards Ukraine implies its membership in the European Union; whether a *sui generis* Euro-Atlantic security agreement could be negotiated; how the status of Crimea can be resolved; what reforms would have to be carried out in Ukraine regarding the situation in the eastern regions of the country, etc. The time will come to talk about peace and, as neighbors, Ukraine and Russia must find a way to respond to these and many other cultural and linguistic issues in order to coexist peacefully, even if today that sounds like a fantasy.

Within the microcosm of the U.N., the challenge remains to restore the functionality of the Security Council.