

María Carro Pitarch¹

Reform and review of the UN Charter

I. Formal procedures for amending the Charter

Reform and revision are the two formal procedures provided for in Chapter XVIII of the Charter, entitled "Amendments". In addition, there is the possibility of amending certain provisions of the Charter through informal procedures, which we will see below.

The reform of the Charter is regulated in Article 108. The reform procedure requires the fulfilment of three requirements:

- First, that UN Members express their consent in favour of the reformed text at two different points in time: when the adoption of the proposed reform is voted in the General Assembly, and subsequently when ratifying it in accordance with their respective constitutional procedures.

- Second, that there be a two-thirds majority in favour of the reform at both points in time.



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¹ PhD Candidate (ACIF 2021) and Professor of Legal Institutions of the European Union. University of Valencia (Spain). EU Jean Monnet Holder (Project ENVEU).

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- Third, that the states ratifying the reform include all five permanent members of the Security Council. This requirement gives any of them a right of veto over any reform proposal.

If all three requirements are met, the consequence is that the reform will enter into force for all UN Members, including those who abstained or voted against.

Historically, the Charter has been amended through this procedure on three occasions for minor reforms, such as increasing the membership of the Security Council and ECOSOC, as well as the number of votes required for the adoption of resolutions in these two bodies.

The General Review Conference is the second formal procedure for amending the Charter. It is regulated in Article 109 of the Charter.

It consists of the participation of all UN Members in such a Conference with one vote per State. The Conference must be convened by a two-thirds vote of the Members of the General Assembly and by a vote of any nine Members of the Security Council.

The Conference may recommend the adoption of amendments to the Charter by a two-thirds vote of the States participating in the Convocation.

Such amendments shall enter into force if ratified by two-thirds of the UN membership, including the entire Security Council, giving them the right of veto.

The third paragraph of Article 109 provides for the holding of the Conference before the tenth annual session of the General Assembly after the entry into force of the Charter. However, there has never been a consensus to convene the Conference.

II. Informal procedures for amending the Charter

Exceptionally, practice has shown that the Charter can be amended by informal procedures other than those discussed in the previous slide and provided for in the Charter.

On the one hand, the provisions referring in Articles fifty-three, seventy-seven and one hundred and seven to "enemy States", understood as "any State which during the Second World War has been an enemy of any of the signatories to the present Charter", should be considered obsolete. Since the admission by the General Assembly of Italy, Japan, the Federal Republic of Germany and the German Democratic Republic in 1955, 1956, 1956 and 1973, respectively, they have been considered "peace-loving States" under Article IV of the Charter.

On the other hand, the Advisory Opinion of the International Court of Justice of 21 June 1971 accepted that an international customary rule subsequent to the adoption of the Charter may modify, in particular Article 27(3) thereof. However, it considers this procedure to be

exceptional and requires three conditions to be met: (i) the custom must be the result of a "constant and uniform" practice; (ii) it must be "generally accepted" by the members of the UN; and (iii) it must constitute evidence of a general practice of that Organisation.

These jurisprudential requirements show the exceptional character of amendments through informal procedures. These requirements are considered to be met with regard to the possibility for the General Assembly and the Security Council to adopt resolutions by consensus, rather than by majority vote.

However, Resolution 377 (V) adopted by the General Assembly in 1950 cannot be considered to be an informal procedure that has amended the text of the Charter.

This Resolution was adopted in response to the systematic exercise of the Soviet Union's veto in the Security Council. The General Assembly adopted it by granting itself the power to recommend to the Members of the UN collective measures not involving the use of armed force in cases of threats to the peace and, if necessary, measures involving the use of armed force in cases of breaches of the peace or acts of aggression for those occasions when the lack of unanimity of the permanent Members of the Security Council prevented the Council from fulfilling its responsibilities.



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