The Penholder System - What it is and How it Works

The issue of who drafts Security Council outcomes (including resolutions, presidential statements and press statements) is little-discussed beyond Council members themselves. Within this group, however, there is animated debate around the so-called penholder system.

With few exceptions, Council outcomes on specific conflict-related situations are drafted by one of the P3 (France, the UK and the US) as the self-appointed penholders.

When Security Council activity increased dramatically after the end of the Cold War, the P3 were collectively responsible for producing most drafts. But there were no firm arrangements to allocate drafting or convening responsibilities for particular country situations. Different delegations, both permanent and non-permanent, would take the lead on a particular issue.

The system of continuous leadership by specific Council members on specific issues seems to have developed around 2008-2009 and taken root firmly by 2010. The P3, as the most
Annex for details).

November 2003, focused on the “Role of the
Heights, respectively. Elected members have
continued unchanged and largely unchallenged,
reflecting the permanent positions of these
nations on the Council.

Permanen members China and Russia
have in recent years occasionally served as co-penholders with the US on non-prolif-
eration issues in the Democratic People’s
Republic of Korea (DPRK) and the Golan
Heights, respectively. Elected members have
served as penholders on Afghanistan, Guin-
ea-Bissau and some thematic issues (see
Annex for details).

Reports from the annual “Hitting the
Ground Running” workshop, organised by
Finland since 2003 for current and incom-
ing Council members, provide a record of the
changing practices and dynamics in this con-
text. The first workshop’s opening session, in
November 2003, focused on the “Role of the
elected ten (E10)”. The report noted:
The E10 likewise had been able to influ-
ence the shaping of draft resolutions. Out-
going members sought to dispel a commonly
held perception that the role of elected
members was a very limited one, confined to
donating the positions of the P5. They
maintained that that did not reflect the
reality on the ground. On the contrary,
the E10 always had their say, particularly
if the matter concerned their geographi-
ca area or was of particular significance.
Their views were given due consideration
because they mattered. Equally, if any of
the P5 were considering casting a vote, it
would usually look first for a compromise
and seek as much support from the E10 as
possible. The P5 could not put draft resolu-
tions to a vote without first considering the
views of the elected members. In that way,
the E10 played an important role in shap-
ing not only how the Council voted but on
what texts it voted (S/2004/135).

A year later, during the 2004 workshop, a
permanent representative who had served on
the Council in 1993-1994 and was on the
Council again for the 2004-2005 term, not-
ed that chairing the negotiations had shifted
from the president of the Council to the draft-
er. In his comments during a session he moder-
ated, he said, as conveyed by the report:
In the early 1990s, the moderator recalled,
much of the negotiation of resolutions had
been conducted under the chairmanship of the
President in informal consultations.
The President, in turn, had encouraged
participation from all Council members,
including the E-10, in the negotiating pro-
cess. Note, however, the Member States
that put forward a draft text tended to lead
the negotiations that followed, diminishing
the President’s role in this area. States that
sponsored a resolution, moreover, tended
to confer primarily with States that could
vote their draft resolution, giving the E-10
less voice in the process. (S/2005/228)

The practice of the P5 discussing a draft
amongst themselves, sometimes for weeks,
before circulating it to the elected members,
had appeared occasionally since the early
1990s, usually with respect to issues of par-
ticular importance to one or several perma-
nent members.

Possibly the most prominent early example
of this drafting and negotiating trend, applied
to an issue in a recurring fashion, came in
2006 during the lengthy process leading to
the adoption of the Council’s first decisions
on nuclear non-proliferation in the DPRK
and Iran. The way it worked was that one of
the P3 would draft the text, agree it with the
other two, and the draft would then be nego-
tiated with China and Russia. Only after that
was the agreed text circulated to the elected
members, often close to the intended adop-
tion date. The elected members were discour-
aged from making amendments because this
might disturb the sometimes painstakingly
achieved consensus among the P5.

When this approach was used only for
non-proliferation issues, elected members
generally accepted it because of the spe-
cific P5 interests inherent in the nature of
the threat, though some pushed back. For
example, in 2008, the adoption of a resolu-
tion on Iran had to be delayed by several days
because South Africa requested time for its
capital to study the text.

In the following year or two, this drafting
and negotiating trend gradually extended to
more situation-specific issues on the Coun-
cil’s agenda, with one of the P3 assuming the
penholdership on nearly all conflict-specific
agenda items. Also around that time, the
name “penholder” entered the vernacular of
the Security Council.

The term “penholder” is misleading, as the
function goes beyond drafting an outcome
text and chairing the subsequent negotiations.
With rare exceptions, the penholder takes the
initiative on all Council activities concern-
ing that situation, such as holding emergency
meetings, organizing open debates, and lead-
ing visiting missions. The penholder speaks
first whenever the Council discusses the issue.
That Council member also tends to share its
draft with the full Council quite late, usually
close to the adoption date, leaving little time
for full Council negotiations. The chairper-
sons of the 14 Council sanctions committees
(all of whom are currently elected members)
are generally not brought in to the drafting
of resolutions on “their” country situations,
even when the draft deals with sanctions
issues, and are rarely shown early drafts by
the penholder.

Attempts at Modifying the Penholder
System
Council elected members have questioned
the penholder system, as has the UN mem-
bership at large, because of concerns about
the deepening gap between the permanent
and elected members. During an open debate
on the Council’s working methods on 30
November 2011, Ambassador Hardeep Singh
Puri (India) apparently used the term “pen-
holder” for the first time in a public Council
discussion, saying:

Insofar as the working methods of the Secu-
rit Council are concerned, the first and
foremost necessity is to make them trans-
parent. … We then have the issue of “pen
holders”. Quite apart from the fact that it
takes quite a while to understand what the
concept of a pen holder is and which mem-
ber is holding which pen for which issue, it
is difficult to understand why pen holding
should basically be a monopoly of perma-
nent members, with concentration in even
fewer fingers. (S/PV.6672).

Since then, more and more elected
members of the Council as well as other
UN members have raised concerns about
the penholder arrangements during the
annual open debate on working methods. Several elected Council members pointed to the negative impact of the penholder system on the Council’s ability to fulfill its Charter-mandated responsibility and on its dynamics.

During the three most recent open debates on working methods, in 2015, 2016 and 2018, the penholder system was one of the topics brought up most often. In 2015, the permanent representative of Angola, Ambassador Ismael Gaspar Martins, speaking on behalf of six elected member states—his own, Chile, Jordan, Malaysia, New Zealand and Spain—noted that the penholder system diminished the opportunity for wider Council engagement, especially by the elected members, and significantly increased the risk of Council products being crafted in a way that serves only the interests of the permanent members.

He also said:

*In those respects, the system cuts across the principle of collective responsibility that underpins the Charter. We should all feel a sense of ownership over the Council’s work, and we should not preclude others from offering their drafting ideas for texts (S/PV.7539).*

The permanent representative of New Zealand, Ambassador Gerard van Bohemen, speaking during the 2016 open debate on working methods, said:

> [p]enholders routinely take zero drafts straight to meetings of so-called experts. This precludes any real effort at building genuine consensus on the key policy questions to be considered. Non-penholders must choose between accepting a text largely as presented, or risk being accused of torpedoing important documents if they wish to make substantive policy proposals. Those practices are neither effective, sustainable nor respectful of the perspectives of other Council members (S/PV.7740).

The remaining two permanent members, China and Russia, have over the years signaled their misgivings regarding the penholder system. Russia in particular has been critical of the system in all open debates on working methods since 2012. Speaking at the 26 November 2012 debate, Russian permanent representative, Ambassador Vitaly Churkin said:

> We are convinced that the aim of improving both the transparency and the democratic nature of the Council would be furthered by a better division of responsibilities of the informal leadership of the so-called penholders (S/PV.6870).

During the 2016 open debate on working methods, his last before his death in 2017, Churkin stated:

> We note that, in recent years, the activities of non-permanent members have increased significantly—a development that we fully welcome. Many of our non-permanent colleagues are not only making contributions to resolving pressing issues on the Council’s agenda; in fact, they are also providing substantive initiatives and taking the lead in enhancing important areas of the Council’s work. We are convinced that the Security Council would benefit from the further democratization of its work. In line with that would be a more equitable distribution of duties in informal leadership on country-specific and thematic issues—the so-called penholdership. Certain Council members should not regard countries or even regions as their tutees and act as mentors on certain issues. This is a vestige of a bygone era, entirely out of place in the twenty-first century. (S/PV.7740)

In the 2018 open debate on working methods, Churkin’s successor as Russia’s permanent representative, Ambassador Vassily Nebenzia, also raised the issue of penholders, arguing, among other things:

> We should expand the circle of penholders and do so particularly by using non-permanent members (S/PV.8175).

China, while not referring to the penholder system explicitly, has in several open debates on working methods consistently raised concerns about insufficient time given to negotiations and the occasionally overt, forceful pushing of drafts toward adoption. Speaking during the 2012 open debate, China’s permanent representative at the time, Ambassador Li Baodong, said:

> …the Council should carry out, in a full and patient manner, negotiations and consultations so as to reach extensive and broad consensus. …It is important that all Council members be given adequate time to consider and study texts. The Council should avoid forcing through texts over which there remain serious differences, so as to safeguard the solidarity of the Council (S/PV.6870).

During the 2018 open debate on working methods, China’s permanent representative, Ambassador Ma Zhaoxu, used similar terms, cautioning against “steamrolling divisive draft resolutions” and urging that the Council’s “authority and unity” be safeguarded (S/PV.8175).

Within the Informal Working Group on Documentation and Other Procedural Questions (IWG), the subsidiary body of the Council set up in 1993 to focus on its working methods, initial efforts to agree on any document referring to the practice were unsuccessful. In mid-2012, Portugal, the IWG chair that year, circulated a draft presidential note outlining a system under which all members would have an opportunity to be penholders or co-penholders. After nearly six months of negotiations, no consensus was reached, the proposal was dropped, and Portugal completed its term on the Council.

Argentina assumed the chairmanship of the IWG for 2013-2014. After many months of work at the IWG level, members reached consensus on what would be the first Council-produced document mentioning the term “penholder”. In April 2014, the Council issued a note by the president (S/2014/268) saying that members of the Council agreed to support “where appropriate, the informal arrangement whereby one or more Council members (as ‘penholder(s)’) initiate and chair the informal drafting process” of documents, including resolutions, presidential statements and press statements of the Council. The note specified that any member of the Council could be a penholder. The document also emphasised Council members’ commitment to enhancing the participation of all members in the drafting process, including through early and timely exchanges and consultations, while continuing to consult informally with non-Council members. The note brought no changes to the practice. Three years later, when the IWG embarked on revising its comprehensive compendium of agreed working methods and practices (commonly referred to as “Note 507”) in early 2017, the penholder system remained unchanged.

Following several months of negotiations led by Japan, the 2016-2017 chair of the IWG, the Council issued document S/2017/507 on 30 August 2017. The penholder system had been the focus of particularly complex discussions. In addition to wanting to expand the
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pool of penholders, elected members pressed for changes in the negotiating practices leading up to the adoption of various types of outcomes. Providing some new guidelines in this respect, the updated Note 507:

* stressed the desirability of at least one round of discussions with all members of the Council on all drafts and of providing reasonably sufficient time for consideration;
* referred to “silence procedure”, a relatively new and now widely used practice that had never before been articulated in writing, whereby a draft is circulated by email with a deadline for raising objections, in the absence of which the draft becomes final, recognising “that any Council member may request extension of and/or break silence if further consideration is required”;

and

* acknowledged that for some open debates, the adoption of an outcome might take place at a later date to allow the outcome to reflect more fully matters raised during the debate.

Furthermore, it restated, as previously articulated in the April 2014 note, that “[a]ny member of the Security Council may be a penholder”, adding that “[m]ore than one Council member may act as co-penholders, when it is deemed to add value, taking into account as appropriate the expertise and/or contributions of Council members on the subjects”.

Yet more than one year later, penholder distribution remains unchanged, with the P3 holding the pen on nearly all situation-specific issues, while overall dissatisfaction with the system continues to grow. In June 2018, Russia circulated a draft note by the president proposing changes to the penholder system with the stated aim of enhancing Council effectiveness. The Russian draft said that all Council members should serve as penholders or co-penholders and proposed that the process of designating penholders should be similar to that of appointing chairs of Council subsidiary bodies and should ideally be completed by 1 October.

The process of appointing chairs of Council subsidiary bodies took considerably longer than expected in 2018 and generated a new dynamic among the ten elected members and the five member states joining the Council in January 2019. The permanent representatives of the 15 countries—Belgium, Bolivia, Côte d’Ivoire, Dominican Republic, Ethiopia, Equatorial Guinea, Germany, Indonesia, Kazakhstan, Kuwait, the Netherlands, Peru, Poland, Sweden and South Africa—co-signed a letter to the president of the Security Council in which they stated their shared position on the need for fair burden-sharing and an equal distribution of work among all Council members. Among other points, the letter said:

…”the Security Council should make better use of the expertise that the Chairs of sanctions committees develop on the situations discussed in their respective committees, and should consider promoting their role as penholders and the automaticity of their role as co-penholders on the related dossiers ([S/2018/1024]).

Recent Examples of Elected Members Assuming the Functions of Penholders

At various points over the last five years, elected members succeeded in becoming the drafters of important Council outcomes. In each case, this was done by taking the initiative rather than seeking prior consent, and the examples show considerable tactical thinking.

The most prominent and longest-standing example concerns the penholdership on humanitarian aspects of the conflict in Syria. In 2013, Australia and Luxembourg, both of which served on the Council in 2013-2014, began jointly drafting Council decisions on the topic, with a presidential statement on humanitarian access in Syria issued in October that year, a resolution adopted unanimously in February 2014, and then several other outcomes. Jordan served on the Council in 2014-2015 and at the outset of its term joined Australia and Luxembourg as the third penholder. When the initial two member states completed their terms, New Zealand and Spain took their places. Egypt took the place of Jordan in 2016, and in 2017, Japan and Sweden stepped in after New Zealand and Spain rotated out of the Council. In 2018, Kuwait succeeded Egypt and has served as a co-penholder with Sweden.

In February 2016, Venezuela took the initiative of organising a Council debate on the politically sensitive issue of the Council’s approach to the use of sanctions, which resulted in agreement on a note from the president on the topic ([S/2016/170]). The interesting aspect of the process was that Venezuela, with the help of New Zealand, began by circulating its draft to the ten elected members and negotiating it first within that group before bringing it to the full Council.

In May 2016, the Council adopted unanimously resolution 2286 on healthcare in armed conflict. It had been drafted jointly by five elected members—Egypt, Japan, New Zealand, Uruguay and Venezuela—that led all the negotiations on the draft and secured co-sponsorship by most Council members and by several member states not on the Council.

In addition to these examples of outcomes, elected members Bolivia and Kazakhstan organised and led visiting missions in 2017 and 2018 to countries in their regions (Haiti and Afghanistan, for which the pens were held by the US and the Netherlands respectively) despite the fact that since the emergence of the penholder system, the visiting missions have tended to be led or co-led by the penholders.

Possibly starting a new trend of the Council presidency co-leading visiting missions undertaken during its presidency, Bolivia co-led a visiting mission to the Democratic Republic of the Congo during its October 2018 presidency with the penholder, France.

The Impact of the Penholder System on the Council’s Effectiveness

Although the penholder system may seem efficient, there are side effects that detract from the Council’s effectiveness.

The system creates an unspoken default in which the other members defer to the penholder. If a crisis arises and the penholder is either unwilling or unable to take the initiative (for example, because it is already managing one or two other crises), the Council may seem paralysed or act with delay. This “default” situation has quite possibly affected Council effectiveness in addressing conflicts.

Elected members are left out of the drafting process altogether and are brought into negotiations only at the very end, at which stage they are often discouraged from making meaningful amendments because they might disturb the wording agreed to among the P5, sometimes after painstaking negotiations. Thus, the Council as a whole may be missing the new ideas and approaches that the elected members often bring, whereas the penholders, after years of mandate renewals and report reviews, occasionally seem to develop “penholder fatigue”. 
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The drafting of nearly all outcomes by just three delegations means that while the Council is busier than ever, there is less burden-sharing than in the past.

The Council and Burden-Sharing

Drafting resolutions has been among the principal tasks of the Council since, following the end of the Cold War, its level of activity grew dramatically; and the number of resolutions adopted annually swelled from 20 in 1988 and 1989 to 37 in 1990, 42 in 1991 and 74 in 1992. In the period since, activity has continued to grow: during the decade 2008-2017, the average number of resolutions adopted annually has been 60. At the same time, the numbers of peace operations and sanctions regimes requiring regular Council attention and “maintenance” have increased significantly compared to the early 1990s, meaning the Council is now busier than in the early post-Cold War period. During that period, resolutions would often be drafted by whichever member took the initiative to produce a text. Specific, recurring topics did not “belong” to a particular Council member. Sometimes, members with an interest in a given situation would join forces or would compete to produce a draft. Both permanent and elected members routinely undertook the drafting, and negotiations were usually chaired by the Council presidency. The practice that the drafter automatically chairs negotiations seems to have emerged only in the early 2000s.

With more crisis situations on the Council agenda, a more structured division of labour seemed necessary, and a system of Groups of Friends emerged within the Council. Starting in the early 1990s, the Secretary-General began to enlist a set of states interested in a given conflict—often for a range of reasons—to assist his good offices efforts as Groups of Friends. At the Council, members with a stake in, or a commitment to, an issue, would come together to draft resolutions with both elected and permanent members playing a leadership role (for example, Canada on Haiti or Norway on the Horn of Africa). These groups often included non-Council members that had expertise, specific commitments or a stake in the situations (such as Spain on Western Sahara, Germany on Georgia and Iran, or Australia and New Zealand on East Timor) or had maintained an involvement beyond their stay on the Council (for example, Canada with respect to Haiti).

Council outcomes would be discussed first within the group and circulated to the full Council considerably later. This provoked pushback within the Council, with complaints that member states not on the Council became part of the decision-making processes before members of the Council.

During the past decade, the emergence of the penholder system has been paralleled by the diminished use of Groups of Friends. The net effect appears to be that while the demand for Council action is higher than ever, burden-sharing within the 15-member body is probably at a historical low.

In their 13 November 2018 letter, referred to above, the elected and incoming Council members stressed their conviction that a more equal distribution of work among all members would positively affect the overall effectiveness of the Council. They also pointed out that the Council should make better use of the expertise that the chairs of sanctions committees develop on the situations discussed in their respective committees and urged that chairs of sanctions committees become co-penholders on those dossiers. The impact of and follow up to this letter are not yet clear.

Annex

PENHOLDER ARRANGEMENTS AS OF DECEMBER 2018

<table>
<thead>
<tr>
<th>COUNTRY OR SITUATION</th>
<th>CURRENT PENHOLDER IN THE COUNCIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>The Netherlands</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>Rotates monthly among members of the contact and drafting group (currently France, Germany, Italy, the Netherlands, Poland, Russia, the UK, and the US)</td>
</tr>
<tr>
<td>Burundi</td>
<td>France</td>
</tr>
<tr>
<td>Central Africa (UNOCA/LRA)</td>
<td>UK</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>France</td>
</tr>
<tr>
<td>Colombia</td>
<td>UK</td>
</tr>
<tr>
<td>Cyprus</td>
<td>UK</td>
</tr>
<tr>
<td>Democratic Republic of the Congo</td>
<td>France</td>
</tr>
<tr>
<td>DPRK (Non-proliferation)</td>
<td>US</td>
</tr>
</tbody>
</table>
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## Penholder Arrangements as of December 2018

<table>
<thead>
<tr>
<th>Country or Situation</th>
<th>Current Penholder in the Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Golan Heights (UNDOF)</td>
<td>Russia and the US</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>Côte d’Ivoire</td>
</tr>
<tr>
<td>Haiti</td>
<td>US in consultation with the Group of Friends of Haiti (Argentina, Brazil, Canada, Chile, Colombia, France, Guatemala, Peru, the US, Uruguay and Venezuela)</td>
</tr>
<tr>
<td>Iran (Non-Proliferation)</td>
<td>US</td>
</tr>
<tr>
<td>Iraq</td>
<td>US on Iraq, UK on Iraq/Kuwait</td>
</tr>
<tr>
<td>Lebanon</td>
<td>France</td>
</tr>
<tr>
<td>Liberia</td>
<td>US</td>
</tr>
<tr>
<td>Libya</td>
<td>UK</td>
</tr>
<tr>
<td>Mali</td>
<td>France</td>
</tr>
<tr>
<td>Middle East (Israel/Palestine)</td>
<td>The US is often seen as the lead, but recent proposals on this issue have been drafted by various other Council members</td>
</tr>
<tr>
<td>Somalia</td>
<td>UK; US on piracy</td>
</tr>
<tr>
<td>Sudan</td>
<td>UK</td>
</tr>
<tr>
<td>South Sudan</td>
<td>US</td>
</tr>
<tr>
<td>Syria</td>
<td>Kuwait and Sweden lead on humanitarian issues</td>
</tr>
<tr>
<td>Ukraine</td>
<td>There is no clear penholder for Ukraine. France, Russia and the US have drafted texts and other members have been active in calling for meetings on the issue</td>
</tr>
<tr>
<td>West Africa, including the Sahel</td>
<td>Côte d’Ivoire and Sweden</td>
</tr>
<tr>
<td>Western Sahara</td>
<td>US</td>
</tr>
<tr>
<td>Yemen</td>
<td>UK</td>
</tr>
</tbody>
</table>

## UN Documents on Penholders

**Notes by the President of the Security Council**

- S/2017/507 (30 August 2017) was the updated version of the Council’s working methods compendium which, among other things, restated and elaborated on the previous penholder-related Council understandings, contained in document S/2014/268.
- S/2014/268 (14 April 2014) was the first Council-agreed document mentioning the term “penholder”.

**Open debates on working methods**

- S/PV.875 (6 February 2018)
- S/PV.7740 (19 July 2016)
- S/PV.7539 and Resumption 1 (20 October 2015)
- S/PV.7285 and Resumption 1 (23 October 2014)

**Letters to the President of the Security Council**

- S/PV.7052 and Resumption 1 (29 October 2013)
- S/PV.6870 and Resumption 1 (26 November 2012)
- S/PV.6672 and Resumption 1 (30 November 2011)

**Reports from the “Hitting the ground running” workshops organised by Finland in which the penholder issue was discussed**

- S/2016/35 (15 January 2016) was a letter from the Permanent Representative of Spain to the Secretary-General requesting that the attached summary from the 20 October 2015 open debate on working methods be circulated as a document of the General Assembly and of the Security Council.
- S/2018/404 (3 May 2018) was the report from the 2–3 November 2017 workshop.
- S/2017/468 (1 June 2017) was the report from the 3–4 November 2016 workshop.
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S/2016/506 (2 June 2016) was the report from the 5-6 November 2015 workshop.
S/2015/292 (27 April 2015) was the report from the 13-14 November 2014 workshop.
S/2014/213 (24 March 2014) was the report from the 21-22 November 2013 workshop.
S/2013/280 (9 May 2013) was the report from the 15-15 November 2012 workshop.
S/2012/190 (4 April 2012) was the report from the 17-18 November 2011 workshop.

S/2011/484 (1 August 2011) was the report from the 18-19 November 2010 workshop.
S/2010/177 (8 April 2010) was the report from the 19-20 November 2009 workshop.
S/2009/193 (8 April 2009) was the report from the 20-21 November 2008 workshop.
S/2008/195 (20 March 2008) was the report from the 15-15 November 2007 workshop.

S/2007/137 (9 March 2007) was the report from the 29-30 November 2006 workshop.
S/2006/483 (26 June 2006) was the report from the 28-29 November 2005 workshop.
S/2005/228 (31 March 2005) was the report from the 9-10 December 2004 workshop.
S/2004/135 (19 February 2004) was the report from the 13-14 November 2003 workshop.