



Dialogue on
Globalization

BRIEFING PAPERS
FES NEW YORK

Reform of the Security Council - A New Approach?

ALISCHA KUGEL

1 Introduction

The UN Charter assigns the Security Council the responsibility for the maintenance of international peace and security. As the UN's most powerful organ, the Council passes resolutions that are binding for all UN Member States. The Council is composed of 15 members: 10 non-permanent members elected to the Council by the UN General Assembly on 2-year terms, and 5 permanent members (the P5), China, France, Russia, the United Kingdom and the United States, that wield power through their exercise of the veto. This power extends to other privileges such as having their nationals fill seats in key UN Secretariat positions, the International Court of Justice, and other decision-making bodies of the UN.

Discussions about reforming the Security Council have accompanied the Council since its beginning. But few reforms have actually taken a hold over the past few decades and the need to reform the United Nation's primary organ continues to be of utmost importance. The Security Council's current membership, particularly in the permanent category, clearly does not provide for equitable geographical representation and does not reflect today's shifting geopolitical realities. In addition, the Council has to make great strides in order for it to become more democratic in its functioning and more transparent and accountable to the public and UN Member States.

For over twenty years, Security Council reform efforts put the media spotlight on the divergent views held by UN Member States that have led to a failure to come to an agreement. More recent reform efforts that began in early 2009 come at a time of great global instability, during which critics are loudly questioning the relevance and ability of multilateral institutions to function. This will greatly impact the UN's credibility at a time during which many are looking at the world body to see if it can pull itself together and act as an effective global institution. Germany's Ambassador to the UN, Thomas Matussek, puts it this way: "If this [Security Council reform] drags on for more and more, the focus will shift to groups like G-8, G-20 ..., and that will really weaken the institution, and all of us."¹

While there is a renewed sense of urgency for Security Council reform amongst the UN membership, the question remains if the chances for agreement on reform are better now than they have been in the past. Opinions about the current round of reform negotiations that began in March this year and are to be completed before the conclusion of the 63rd UN General Assembly session at the end of September are split. Some Ambassadors called the beginning of negotiations "historic," while others voiced concerns that the discussion would simply unfold as a continuation of years of fruitless talks.

Given the history of reform efforts, chances for substantive developments indeed appear to be slim. This paper takes a close look at the current negotiations through report analysis and interviews with UN Member States² to determine if the discussions will in fact give Security Council reform the push it so badly needs.

2 Overview of the Security Council's long reform history

The Security Council held its first session in 1946 at which the P5 and six non-permanent members were present. Two decades later the first reform took place when the Security Council gave in to pressures from a growing UN membership and expanded the number of non-permanent members from six to ten.

During the years of the Cold War, the Council was deadlocked between the competing powers amongst the P5 and proved largely ineffective. It was only with the end of this era in the late 1980s, that the political space for a more effective Security Council was created. The 1990s saw a dramatic increase in UN peacekeeping operations with wider mandates that included more complex and comprehensive missions, such as in Mozambique and Cambodia, which gave the Council added relevance and thus renewed interest in UN Member States to join the Council and brought other reforms back into the debate.

Over the years, two main reform issues have crystallized: enlargement of the Council's membership regarding both the permanent and non-permanent categories, which also includes the question of a reform of the Council's voting structure; and the need for reforming the Coun

¹ Edith M. Lederer, "New Chapter in Attempt to Reform Security Council", *Chicago Defender*, 19 Feb 2009

² Personal interviews with delegates from UN Member States were conducted in August 2009.

cil's working methods, including its rules of procedure which have remained in provisional form for over 60 years. While the need of reform in these two categories is generally acknowledged, disagreement continues over details, extent and sequencing of reforms.

Security Council reform is a sensitive issue, deeply political in its nature. Especially in regards to enlargement, debates are colored by regional political rivalries with one regional rival opposing the admission to the Council of the other. Reform is further complicated by procedural issues: some reforms can be implemented on an ad-hoc basis, while others, such as changes in the Council's composition and voting structure, require UN Charter amendments. For this, a two-thirds quorum in the General Assembly (GA) - which includes the permanent members of the Security Council who can block the vote with their veto - is necessary.

Reform discussions have taken place informally within UN country groups for years. In 1992, however, the General Assembly put Security Council reform on its agenda, where it has remained ever since. One outcome was the establishment of the - even by UN standards lengthily named - "Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council" (the Working Group for short) - which created a proper space to discuss reform efforts. The GA commissioned the Working Group, which is open to all Member States, to consult with the UN membership on how to proceed with Security Council reform.

Between 1993 and 2005, working methods reform, carried forward mainly by small to medium sized countries with no interest or realistic chances for a Council seat, bore some fruits. The Council began publicizing its informal discussions, its tentative monthly schedule and its almost finalized draft resolutions. It also began meeting more regularly with Member States outside the Council, for example with troop contributing countries to UN peacekeeping missions and with outside experts that brief Council members on situations on the Council's agenda. Aside from these small steps toward a more inclusive and transparent Council, however, efforts failed to accomplish sweeping reform successes.

In 2003, under leadership of former UN Secretary-General Kofi Annan, Council reform re-

gained momentum as preparations for the 2005 UN World Summit went underway. A blue ribbon panel that Annan tasked to recommend changes to improve collective action on security issues, proposed two formulas for the expansion of the Council by increasing the number of members to 24 through varying allocation of permanent and non-permanent seats. The Secretary-General endorsed the panel's recommendations and urged Member States to adopt its proposals before the World Summit. However, amid serious negotiations amongst Member States the Summit concluded without agreement on Security Council reform.

Struck with reform fatigue, Member States slowed down their efforts and the Working Group became dormant until in early 2007, the President of the GA officially resumed its functioning. But the Working Group's inability to reach agreement soon led some frustrated Member States to call for direct intergovernmental negotiations in an informal plenary of the General Assembly. As direct intergovernmental negotiations in UN terms are understood as discussions on reform substance rather than on procedural issues, other Member States strongly opposed moving the reform discussions away from the Working Group. One of the main issues that emerged in these heated discussions was that of the rules of procedure. While the Working Group operated on the basis of consensus (where any disagreement means adjournment of the process), negotiations under the auspice of the General Assembly can be settled by a vote with a two third quorum. Reforms could thus potentially be implemented even if not the entire membership agrees to put reform proposals to a vote. However, the rules of procedure of a formal session of the General Assembly do not unequivocally apply to an informal session.

In September 2008, with a few hours left before the General Assembly session would draw to an end, Member States agreed to move the deadlocked reform discussions from the Working Group to intergovernmental negotiations in an informal plenary of the General Assembly. In doing so, Member States unanimously adopted resolution 62/557 as part of a common basis for negotiations in five key areas: categories of membership, the question of the veto, regional representation, size of an enlarged Security Council, working methods of the Council; and

the relationship between the Council and the General Assembly.

Resolution 62/557 further states that the negotiations are to be “based on proposals by Member States, in good faith with mutual respect and in an open, inclusive and transparent manner, ... , seeking a solution that can garner the widest possible political acceptance by Member States.” By not further defining what “the widest possible acceptance” means, the document leaves the contentious point on the rules of procedure open for interpretation. While the issue will undoubtedly be taken up again further down the road, the way for the intergovernmental negotiations was thus finally paved.

3 Intergovernmental negotiations on Security Council reform

The first two rounds of the intergovernmental negotiations took place between March and June 2009. The first round focused on getting the various Member States’ proposals and options on the five main topics under discussion on the table, while the second round aimed at discussing the reform topics in more depths. For the large part, meaningful deliberations eluded the negotiations, partly because some Member States simply repeated their reform positions or others brought forward too many different proposals, cloaking the system. There was, however some movement in the strongly contested area of Council enlargement.

Many delegates charged that the majority of Member States spent much of the negotiations repeating their already well-known reform positions, particularly in discussions on the enlargement of a reformed Council and its categories of membership. Indeed, while UN Member States widely agree that the Council has to expand in order to ensure better regional representation and to be more reflective of geopolitical realities, there is widespread disagreement on the details of such an expansion.

Of the five main country groups that have come together over time to advocate for reforms they see most pertinent, the following three groups take a particular strong stance on Council enlargement. Seeking permanent representation on the Council are the **Africa Group** representing the African Union at the UN and the **Group of Four (G4)** composed of Germany, Japan, India and Brazil. On the other hand, the group **Uniting for Consensus's (UFC)** most vocal members, namely Italy, Spain, Argentina, Mexico, South

Korea and Pakistan – regional counterweights or rivals to the G4 countries - have long supported expansion in only the non-permanent category, arguing that additional permanent seats would create new regional seats of power. The Council’s **five permanent members** generally support a modest expansion of the Council. Apart from France and the United Kingdom, who are outspoken supporters of the G4 and African Group to join as new permanent members, the P5, however, remain tight-lipped about details of an enlargement.

The country groups’ opposing positions on enlargement have for years created an impasse in negotiations. It is therefore surprising that it is in this area that the negotiations actually saw some movement as members of the G4 and the UFC faction moved closer to a possible agreement on Council enlargement by considering the so-called intermediate approach or transitional solution, which exists in various forms. The intermediate approach generally proposes that implemented reforms, such as new permanent members and their privileges, would be reviewed after an agreed time period and reassessed upon performance and feasibility. Some models of the intermediate approach in addition propose the option of a third membership category of extended seats. Extended seats would serve longer time on the Council than the current two-year term of non-permanent members (with proposals ranging from 3-15 years), and could be extended once the tenure runs out.

Toward the end of the first round, Colombia and Italy, both part of the UFC, issued a proposal presenting the extended seat with a 3-5 year validity as an option for an extension in Council membership.³ In turn, Germany, member of the G4, indicated their principle interest and support for an intermediate model in the membership category.⁴

The apparent success of the intermediate model prompted some delegates to describe it as a

³ See the statement by H.E. Ambassador Claudia Blum, Permanent Representative of Columbia, http://www.centerforunreform.org/system/files/Colombia_StatementSCR_20Apr09.pdf, 20 April 2009

⁴ See the statement by H.E. Ambassador Thomas Matussek, Permanent Representative of Germany, http://www.new-york-un.diplo.de/Vertretung/newyorkvn/en/01/Archive__1/Speeches__Archive/2009__Speeches_20Archive/120609_20Statement_20Matussek_20SR.html 12 June 2009

possible solution to break the stalemate in the reform negotiations. But the intermediate approach also has its limitations. Other Members of the G4, most strongly India who in 2008 called the transitional solution “not a solution but a problem,”⁵ reportedly do not show support for a possible intermediate model of extended seats. The African Group also opposes the intermediate approach in saying that it would create second-class permanent members with fewer privileges than the P5.⁶

Major progress of the intermediate model is further hindered by its many variations resulting in a lack of clarity for Member States when they are deliberating on the approach. Indeed, in the extended seat category alone, options range from a 3-year term that is re-negotiable to one that is not extendable at all to the long-term option of 15 years and everything in between.

In conclusion, what emerged from the negotiations was that there are a wide range of proposals and negotiables in all five reform areas. Proposal for reforming the Council’s voting structure, for example, vary from eliminating the veto altogether to extending its use to new permanent members to excluding certain issues such as crimes against humanity from the veto, to giving permanent members the ability to cast a negative vote without blocking a Council’s decision. Equally plentiful proposals emerged to reform the Council’s working methods. One delegate described the amount of options as “overflowing the system,” making it hard for delegations to keep track. The P5 meanwhile reportedly continue to oppose limitations or changes in the current voting structure and also spoke against possible changes in the Council’s working methods to be discussed in the General Assembly.⁷

One of the main challenges for Member States in the third round is thus to narrow down the

many reform options and to discuss issues in more depths. Three meetings are planned for September 2009, aiming to focus discussions on the options in Council expansion and the intermediate approach. Despite of the failure to examine issues in more detail in the first two rounds, Ambassador Tanin, permanent representative of Afghanistan to the UN and Chairman of the intergovernmental negotiations expressed confidence that “decisive progress is in reach.”⁸

4 A Light at the end of the tunnel?

Considering the divergent views of Member States on many aspects of reform, “decisive progress” in Security Council reform still seems far off. And yet, almost all delegates interviewed for this paper cautiously noted that there might be an unexpected breakthrough that would lead to an agreement, “because one never knows where UN negotiations may lead.”

What keeps the ever so slight flicker of hope alive for these seasoned diplomats? Several reasons set apart the current round of negotiations from previous efforts. Moving the discussions out of the deadlocked Working Group was a step forward as Member States for the first time agreed on a document (Resolution 62/557) as a basis for negotiations. This achievement contributed toward at least initial enthusiasm amongst the UN membership, and although delegates complained about the repetitive nature of the different discussions more than two third of the membership participated in the negotiations, signaling interest and engagement.

In some instances Member States even demonstrated flexibility in their opposing positions, creating room for negotiations. Many delegates see the intermediate approach as an option to move the process further. The African Union and the G4, excluding Germany, may remain a major stumbling block for the intermediate approach as these groups have not indicated interest in moving toward an intermediate solution. However, more clarification on what the model would entail, as well as a narrowing down options might entice the groups to actually consider the approach.

The newfound momentum in the negotiations is also partly due to a renewed sense of urgency to

⁵ See the statement by H.E. Ambassador Nirupam Sen, Permanent Representative of India, <http://www.un.int/india/2008/ind1417.pdf> 10 April 2008

⁶ See the statement by H.E. Ambassador Baso Sangqu, Permanent Representative of South Africa <http://www.southafrica-newyork.net/pmun/> 12 June 2009

⁷ Center for UN Reform Education, “Second Round of Security Council Reform Talks Ends”, <http://www.centerforunreform.org/node/401> 29 June 2009

⁸ See intervention by H.E. Ambassador Tanin, Permanent Representative of Afghanistan, <http://www.un.org/qa/president/63/issues/screform/220609.pdf> 23 June 2009

reform UN structures thrust into the arena by the economic and financial crisis but also by the shortcomings of UN peacekeeping missions, calling into question the Security Council's ability to effectively maintain peace and security. While the financial and economic crisis provides increased attention on global governance issues generally, the Security Council stands at the center of the debate around failing peacekeeping missions.

The Council's permanent members seem open to some reforms, such as enlargement and some working method reforms, partly to legitimize their own seats. The vast majority of decisions made by the Council affect African countries that have no permanent representation on the Council. In order to increase legitimacy for its decisions, the Council recognizes that it has to give African countries a stronger voice. Representation by African countries also becomes important as the UN peacekeeping system, including the Council, increasingly acknowledges the role and importance of regional organizations, such as the African Union, in peacekeeping missions.

In a recent Presidential Statement co-sponsored by the UK and France, the Council also acknowledged the importance of "ensuring coherence between peacemaking, peacekeeping, peacebuilding and development," striving for an integrated approach to these issues which implies among other things closer cooperation with non-Council members - an important aspect of working method reform.

Providing for better geographical representation and improved cooperation with other actors might also help the P5 to avert attention from their disputed use of the veto, which has actually increased over the last decade. Between 1990 and 2000 the veto was cast 8 times. Between 2000 and 2008, however, the veto has already been used 15 times, most frequently by the US with 10 such votes.⁹

The US plays a key role in Council reforms, and has already made an important step in de-linking Council reform from other reform processes, like

for example, management reform.¹⁰ Thus many delegates put hope into the Obama administration, which promises to be a cooperative partner with more interest in effective multilateral institutions than its predecessor.

At least rhetorically this seems to be the case – in action the US is so far holding back. In a speech at New York University in August 2009, US Ambassador to the UN Susan Rice spoke about the US's new approach to the UN but generally stayed rather vague and did not mention Security Council reform.

At the same time, the US makes significant gestures of commitment to the UN generally and the Council more specifically. On September 24, during the UN's high-level segment of the General Assembly, President Obama will be the first US president ever to chair a Security Council meeting. Obama's highly anticipated speech to the UN's membership in the same week might bring more clarity as to where the US's priorities lie.

Certainly, as there are opportunities and positive signs in the negotiations, serious challenges remain. As the end of the 63rd General Assembly draws near, Member States have not yet come close to some sort of an agreement or have truly managed to narrow down reform options. Disagreements continue over the various reform options particularly in regards to the intermediate approach, which lacks clarification. The amount of proposals may also lead Member States to hold on to their old positions, although they might be willing to change, just because they are unclear what to decide upon.

As for the momentum gained through the different crises, Member States will likely find other avenues to address necessary issues or might institute smaller changes that can take place outside extensive reform processes. In addition, Security Council reform remains primarily a national interest issue, with strategic regional interest and global power ambitions dictating the way forward. Casting reform in the light of enhancing global governance structures might take the issue too far out of context. As Security Council negotiations linger on, the possibility to

⁹ Global Policy Forum "Subjects of UN Security Council Vetoes," <http://www.globalpolicy.org/security-council/tables-and-charts-on-the-security-council-0-82/subjects-of-un-security-council-vetoes.html>

¹⁰ See statement by H.E. Ambassador Susan E. Rice, Permanent Representative of the US, <http://usun.state.gov/briefing/statements/2009/february/127091.htm> 19 February 2009

achieve reforms may once again fade and the momentum would be lost.

Some delegates thus spoke of a need to bring pressure to bear on the current negotiations by outlining a timeframe by which the deliberations will have to come to a conclusion and suggested the upcoming 2010 UN World Summit as a possible setting. Others however, were deeply concerned about pressuring Member States into any kind of timetable, warning of a repetition of the frantic discussions that closed the last session of the General Assembly. Recent rumors of the President of the General Assembly H.E. Miguel d'Escoto Brockmann wanting to include a timetable in the last round of negotiations aggravate these concerns. Mistrust runs deep among the different country groups, and pushing for a timetable might be seen by some as trying to get a quick fix to Council reform, fortifying the mistrust.

Successful continuation of negotiations will also depend on the ability and commitment of the new GA President Ali Abdessalam Treki of Lybia. Some see his African background as a possible advantage, as he may be able to move the African Group toward a more flexible position on reform. The role of the Chairman will also be decisive as it is not yet confirmed if Ambassador Tanin will continue in this position. Having led the process for the past seven months, Tanin has gained experience and overall has enjoyed approval by the UN membership.

5 Conclusion

Opportunities and obstacles seem plentiful in the reform process. At the end, a successful outcome of the negotiations always depends on the political will of reaching an agreement, no matter the circumstances.

But Member States have achieved something that has been lacking in the previous years: by moving the negotiations under the auspice of the General Assembly and passing a document as a basis for deliberations, the membership for the first time came to an agreement and moved toward more direct discussions. While this is of course not a guarantee for success in the other deliberations, Member States should nevertheless acknowledge this jointly achieved accomplishment.

To move the process forward, Member States have to build on this newly forged but still somewhat shaky common ground. In order to do so, Member States will have to allow for more flexibility in the negotiations. Simply holding on to positions that in many cases have not been modified for years will not advance the talk to the next level. The intermediate approach, which opens up the possibility for countries to find an area of agreement, is a compelling option in achieving this endeavor. At the end, all Member States must show their complete political commitment and will to make the Security Council a more equally representative and democratic institution.

The timing to come to an agreement could not be better. The UN has a crucial role to play to confront the various and complex social, economic, environmental and political crisis that constitute the major challenges facing the world today. Reforming the Security Council that lies at the heart of the world body is a crucial step toward a more effective UN system that is equipped to take on the challenges that lie ahead.

About the Author: Alischa Kugel is Policy Analyst at the Friedrich Ebert Stiftung's New York office.

More information is available at
www.fes-globalization.org

The views expressed in this publication are not necessarily the ones of the Friedrich-Ebert-Stiftung or of the organization for which the author works.

Friedrich-Ebert-Stiftung
Hiroshimastrasse 17
10785 Berlin
Germany
Tel.: ++49-30-26-935-914
Fax: ++49-30-26-935-959
Roswitha.Kiewitt@fes.de
www.fes.de/globalization

Friedrich-Ebert-Stiftung
New York Office
747 Third Avenue, Suite 22B
New York, N.Y. 10017
Tel.: ++1-212-687-0208
Fax.: ++1-212-687-0261
http://www.fes-globalization.org/new_york/