

Reforming the Working Methods of the UN Security Council

COLIN KEATING
December 2011

- While much criticism about the performance of the UN Security Council is geared towards its composition and representativeness, the Council's performance would also profit from innovative practical working methods.
- The need for improvement of working methods is not only widely accepted among UN Member States, it also requires no amendment to the Charter. Overhauling the working methods could therefore proceed independently from the politically highly charged negotiations about the Council's expansion.
- Although not exhaustive, a list of options for a better performing Security Council should include practical changes to improve Council capacity to prevent conflict, to focus on substantive peacebuilding work, and to involve more substantially in its work states with interests on the agenda of the Council, regional organisations and contributors to UN peacekeeping operations.



1. Introduction

It is now 20 years since the reform of the United Nations Security Council started to gain momentum. From the outset there have been many advocates of reform who have argued that changes in the work culture of the Security Council were at least as important as expansion of its membership. This paper briefly outlines the working methods issue. It analyses some of the working methods problems and suggests – from a former practitioner’s perspective – some possible options. I acknowledge and thank my friends and former colleagues at Security Council Report who worked with me on these issues and, during my time there, contributed to some of the ideas below.

2. Context

In late 2011 it is clear that the process of negotiation on working methods and the parallel negotiations on expansion are stalled. In order to understand this, and before considering options to improve working methods, it may be helpful to identify some of the context to the issue.

Firstly, reform of the working methods could proceed independently. It is not so politically charged as the expansion negotiations and no amendment to the Charter is required. Moreover, the case for improvement is widely accepted. An initiative was taken in 2006¹ by a cross regional group of five members of the General Assembly (Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland – the so called “S 5”) to accelerate working methods reform. At the time it seemed possible that a breakthrough on working methods might help to stimulate overall reform. However, some of the proponents of expansion of Permanent Members of the Council were opposed to independent progress on this track. Perhaps they were concerned that they would lose leverage. They insisted on retaining linkage between the two sets of negotiations. In 2011 the S5 began consultations on a new initiative. At time of writing it was unclear whether they would formally table this as a draft resolution.

Secondly, the five Permanent members of the Council seem to have broadly consistent positions on the issue. They seem sceptical as to whether reform is necessary and oppose what they see as the General Assembly purporting to “reform” the Council’s procedures and processes. They see the Council as having the exclusive prerogative to actually make changes. But there is a sense that they are open to reasonable ideas for reform.

Thirdly, the Security Council has been addressing and adapting some of its working methods. Its approach initially was to update and clarify some of its historical accretion of processes. This exercise was led by Japan in 2006 and was in large part a response to the pressure generated by the S5 initiative described above. Japan renewed the exercise in 2010. The fruits can be found in two documents commonly known as “Note 507”². Most other reforms by the Council have largely been driven by the needs of specific cases, for example the evolution of the Informal Interactive Dialogue in the case of Sri Lanka. Overall, the efforts by the Council have fallen well short of the expectations of the majority of the General Assembly and the issue remains contentious.

Fourthly, according to Article 27(2) of the UN Charter almost every practical working method reform would be a matter of procedure not substance and therefore not subject to the veto.

Fifthly, elected members of the Council have rarely been willing or able to initiate any meaningful change. The efforts of Japan - in 2006 in particular - and Costa Rica – in 2008-09 - stand out as some of the very few recent examples. This inability of elected members to secure change during their limited two-year terms on the Council has led many in the General Assembly to believe that change will only come through pressure from outside the Council.

Sixthly, there are some members of the General Assembly who are happy for the Security Council’s working methods to be sub-optimal. States that see absolute state sovereignty as all-important and those that resist UN involvement in issues of importance to them eagerly criticise the Council’s procedure. But

¹ A/60/L.49 (17 March 2006)

² S/2006/507 (19 July 2006) and S/2010/507 (26 July 2010)

some of these critics would steadfastly oppose meaningful reforms that would help the Council to deliver better outcomes in more conflict situations.

Finally, from a practitioner's point of view, there are problems with reform proposals that are abstract or generic as opposed to practical. An example is the proposal for more transparency. It is easy, in the abstract, to see why transparency is promoted as a universal value. And, in a different sense, it is obvious that most UN members would like to be present at all the really interesting negotiations.

One thing that immediately strikes most newly elected members of the Council is that, while there is scope for some improvement in transparency, this can only be achieved at a cost. The UN budget situation does not allow for additional resources so the Secretariat can facilitate more transparency. The cost therefore falls to national delegations and to external analytical capacities such as Security Council Report (www.securitycouncilreport.org), which has significantly removed the former transparency problem. Some Council delegations have the capacity and resources and use new social media tools such as Twitter to provide consistent and useful briefings and public information. Most do not. Simply coping with the day-to-day demands of Council membership is already a large cost burden for most members.

There is a wider political cost to transparency that new Council members quickly discover. Much of the Council's business is highly sensitive. When really hard issues emerge – and there have been many of these in 2011 – capitals want positions held very closely. Consultations with Council colleagues about options, process and voting intentions are therefore only possible if they can be done discreetly. States involved in an actual or potential conflict, either with another state or a non-state entity, are also very sensitive about UN Security Council involvement. It could tilt the balance of the conflict or direct the resolution of the conflict in directions that one or other party is not yet ready to go. Inevitably one or both of the parties will be concerned that if it engages with the Council constructively, its positions will be prematurely sacrificed on the altar of UN transparency. Council members with interests or bilateral relationships at stake will be equally concerned that effective dispute resolution not be compromised by unnecessary publicity.

It is therefore more important that we have a Security Council that successfully prevents resolves and manages conflicts – even if the price is a loss of some transparency – than a Council that is impeccably transparent. The challenge is to get the right balance and the current balance could be improved.

Often what lies behind complaints about transparency is a concern about participation i.e. that crucial stakeholders are not being engaged in an appropriate way. Many of the options for a better performing Security Council discussed in the next section of this paper would help redress not only the specific points but also ensure a better balance in terms of appropriate transparency for those who have genuine interests at stake.

3. Better Techniques for Council Action to Prevent Conflict

The Council's potential for prevention of conflict and better use of the whole set of tools for preventive diplomacy that come under Chapter VI of the Charter has been the subject of much discussion in thematic debates. But few practical working methods changes have emerged to implement changes.

For much of the last 20 years the Council has been essentially reactive, responding to crisis after crisis but lacking the tools and culture that would enable it to engage in strategic discussion and exploration of options that could be employed at an early stage. Action is usually delayed until it is too late and the only options left are plaintive and ineffective statements of concern and eventually coercive action under Chapter VII or expensive peacekeeping operations.

In practice, the current Council working methods make it very difficult to get a new or emerging issue onto the monthly document called the "Programme of Work". Thereafter it is very difficult to get an issue discussed in a preventive context. Sometimes the only option is if one of the Council members takes a national initiative under "Other Business". But the very fact that this is a national initiative often politicises the exercise.

In 2010 the UK proposed that the Council should have a monthly "horizon scanning" briefing from the Secretariat. This seems to have taken root. It is a first step in addressing this working methods problem. But it still falls far short of the more effective working method

that the Council used in the early 1990s. In those years the Council received a daily briefing in Informal Consultations from the Secretariat on emerging or ongoing conflict situations. This opened the possibility for the Council to discuss emerging issues in a less politicised way and sometimes for strategic discussion of practical options for early action utilising conflict prevention tools.

But simply enabling an earlier discussion of issues is unlikely to result in improved outcomes unless there are also practical working methods tools to underpin the initial discussion. It is worth recalling Secretary-General Kofi Annan's challenge to the Council in his 2001 report on the Prevention of Armed Conflict (S/2001/574) where he urged the Council to stop just talking about conflict prevention in the abstract as a thematic issue and instead to task a Council subsidiary body with responsibility to focus on conflict prevention in specific conflict situations.

The Council ignored this recommendation for almost a decade. But perhaps it is time to revisit it. Interestingly in a debate in the Council on 12 February 2010 the US argued that it is critical to "breathe new life into faltering peace processes" and suggested the Council work through informal mechanisms.

If there were a desire to be innovative, the Council could learn from the Peacebuilding Commission (PBC). The working method employed by the PBC of establishing informal "Country Specific Configurations" to deal with the situations on its agenda has been a positive experiment. The council could itself establish a similar informal mechanism to engage in a preventive mode with an emerging situation. Such a format could allow Council members to utilise their Chapter VI tools in a sustained, focused and proactive way and to be more inclusive than is the current practice.

It would of course require effective non-partisan leadership and significant effort in terms of delegation time. But reprioritising some of the current less effective Council machinery could offset costs. The Security Council has many Sanctions Committees under Chapter VII. They are very costly in terms of time and delegation staff resources. Most achieve negligible results. They usually only address the symptoms of the issue. Why not consolidate the sanctions committees into one or two at the most and invest the resources instead in a series of new formats under Chapter VI.

4. Better Focus on Peacebuilding

Many of the issues that come to the Council need both peacebuilding and peacekeeping. The needs are not sequential but overlapping. However, it was only in 2009 that the Council began to acknowledge that success in peacekeeping and an exit strategy for costly military contingents necessarily requires a real effort to address the root causes of the conflict. In 2010/11 the thematic focus on this intensified, but practical working methods to implement change are more difficult.

The Council has taken some initial steps to implement the working methods reforms recommended in the 2010 review of the PBC (A/64/868). Regular engagement with the PBC Country Specific Configuration chairpersons in Informal Interactive Dialogues is a first step towards improving practical cooperation between the Council and the PBC. But the Council continues to shy away from new working methods that would better enable the UN collectively to respond in an integrated way to the overlapping demands in the peacebuilding – peacemaking – peacekeeping continuum.

The Council initially responded to this issue by developing the concept of "multidimensional" peacekeeping missions with tasks including good governance, human rights, security sector reform and some humanitarian and economic aspects. Such missions include those in Haiti, Timor Leste and Liberia. It also established "Integrated Peacebuilding Offices" such as in Sierra Leone, Burundi, Guinea Bissau and the Central African Republic. However all these offices follow the sequential model i.e. that peacebuilding only comes after peacekeeping.

Much concern remains that a truly integrated multidimensional effort dealing with root causes is not being seen, especially in places like DRC, which is not on the PBC agenda and where a better peacebuilding dimension is most needed if an exit strategy for peacekeepers is to be put in place.

The problem is wider than just the Security Council. Member states working bilaterally, other UN Agencies and the International Financial Institutions all struggle to effectively integrate their responses with each other.

Unlike the PBC, the Security Council gives only minimal time – if any – to the peacebuilding needs of its missions and it is uncomfortable about recognising

“root causes.” There are no good mechanisms for integrating the oversight by member states of the various silos of activity. The problem is further compounded by the fact that the Council is resistant to permitting meaningful participation by key stakeholders outside the Council (including the host country of a peacekeeping operation). The critical dimensions of ongoing effective oversight by member states and input by key stakeholders are missing.

One rare and interesting case of much more highly integrated strategy was the document adopted at the 28 January 2010 London conference on Afghanistan. It is an example where the political, security, development and governance elements are all very well integrated – bringing together peacemaking and peacebuilding in a way that has escaped the UN Security Council. So it can be done. But why not within the UN system?

A key factor is the concern in the G77 and the Non-Aligned Movement (NAM) that the Council not “encroach” on matters outside the strict scope of international security. In part the pushback from the NAM and G77 flows from the exclusionary approach that the Council has traditionally employed.

Perhaps, as an initial experiment, a working methods change can be initiated for the small number of cases where the Council is actively engaged and the country in question is not on the PBC agenda. The Council could shift from the current silo approach to a more integrated approach based on a partnership format between the Council, UNDP and the wider UN membership.

If the Council were to establish some country specific configurations as suggested above, and to adapt this working method for use in the context of some existing very complex peacekeeping/peacebuilding cases on its agenda, it would then have a vehicle or vehicles that could work in an integrated partnership with the PBC and UNDP and other key players including host states, the relevant regional organisations, ECOSOC (or some equally innovative format established within ECOSOC) and donor countries and organisations.

Because of the issues associated with such a dialogue, not least the need in some cases to engage with non-state parties, all parties are likely to value an informal procedure. The tool box for the partnership configurations could include regular visits by the relevant chairperson to the region, demarches,

reinforcement of SRS and Secretariat “good offices”, interaction with regional or sub regional parties, coordination of bilateral demarches by member states with influence, closed or open meetings and creation of integrative effect by exercising oversight – including on the contribution of the UN country team. Such a development might also go some way to restoring political confidence in the Council’s willingness to put significant effort into its Chapter VI functions.

Finally this new partnership format should be the place where the elements of the regular draft resolutions of the Council are first discussed. The so called “groups of friends” which are sometimes used for this purpose are problematic and controversial in several cases and a more inclusive legitimate and open format would have distinct advantages.

5. Better Involvement of States with Interests in Issues on the Agenda

Another deep problem with Council working methods is the lack of substantive interaction with parties to conflicts or potential conflicts. Many member states find the option of only appearing at a formal meeting of the Council, when in practice the decisions have already been established, is unsatisfactory. Some have argued that this procedure does not satisfy the provisions of article 31 of the Charter.

Concern about this issue of participation has fuelled some of the determination to reform the Security Council. It also lies behind many of the challenges about Council legitimacy. Many believe in the need for real due process—especially when issues of significant national interest are at stake or specific concerns relating to proposed sanctions have been identified. They assert the need for some reasonable and structured opportunities to participate in discussions at a sufficiently early stage for their perspective to be taken into account and to participate (without a vote) in working towards negotiated outcomes.

In practice a “one off” meeting with parties and affected states is unlikely to be effective. In most cases, a working method involving an ongoing negotiating process is likely to be necessary to secure “real buy in”.

A new approach to participation might be achieved by systematically applying the innovative working method of holding Informal Interactive Dialogues, which was

begun in 2009 with Sri Lanka. Rethinking the roles of the current Council subsidiary bodies is another possibility. Recent practice shows that wider participation via informal discussions can be more easily accommodated in subsidiary bodies than in the Council as such. The Council Working Group on Children in Armed Conflict and the 1540 Committee on terrorism and WMD have demonstrated clear competence in this regard.

6. Better Involvement by Troop-Contributing Countries and Better Practical Management of Peacekeeping Operations

Since the early 1990s TCCs have been advocating for working methods reform that would allow them to be engaged in a practical ongoing way with the oversight and management of a peacekeeping force. This comes to the fore especially when issues arise that cause added risk for their personnel.

Efforts by elected Council members over time led to agreement on a series of measures. In 2001 the Council decided in Resolution 1353 that formal closed Council meetings, under the Provisional Rules of Procedure, should be held with TCCs prior to the extension of a mandate for an operation.

However, the timing and format of the meetings constrained effective participation. The text of the draft resolution was mostly set in concrete at the time of the meeting and all policy issues had been resolved. TCCs saw the process as little more than a ritual. In the past 12 months some improvements have been made in Council practice. Meetings are now being held at least a week before adoption. This has been welcomed by TCCs as a more respectful approach. But this still falls far short of participation at an early stage and an ongoing interactive relationship on policy issues affecting a peacekeeping operation. The experience in Cote d'Ivoire in early 2011, when peacekeepers were called upon to use force to protect civilians and risked becoming engaged in a major combat situation has reinforced for many TCCs the need for better-structured arrangements.

One option for improving the Council's working methods in this regard might be to apply the "devolution/delegation" approach and to systematically allow the TCCs to meet informally with a subsidiary

body. Two possibilities emerge. The first is to reenergise the Working Group on Peacekeeping Operations and allow it to work informally and collaboratively with TCCs on specific situations. Another option is that the Military Staff Committee, outlined in Article 47 of the UN Charter, be reformed—which was requested in 2005 in the World Summit Outcome document. Other options would be some combination of the two incorporating a better partnership with the Special (C34) Committee on Peacekeeping Operations of the General Assembly.

There would be significant benefits for the Council, as well as the TCCs, in such a reform. The Council has been conscious for some time – and this was brought to a head with the events in DRC in late 2009 – that its working methods for oversight of peacekeeping need improvement. Peacekeeping is a more than \$8 billion a year business - four times larger than the rest of the UN budget put together. It needs to be better adapted to modern reality.

7. Conclusion

This publication has argued that the Security Council is performing in a sub-optimal way and that more attention to developing innovative practical working methods would help to improve performance.

Many overworked Council Ambassadors would say that they are too busy with the day-to-day demands of the Council agenda and that there is no time to focus on working methods reform. There is some truth in this. Many would say that almost any reforms would involve additional costs, both for the Secretariat and more particularly national delegations, and, given the current global financial crisis, there would be no appetite for such reforms at this time. This is also true.

Some Ambassadors would add that the political dynamics in the Council at this time – particularly within and between the P5 – mean that the time is not right, politically, to undertake meaningful reform of this kind.

It is useful to remember that the United Nations (and indeed also its predecessor the League of Nations) were born as the world emerged from major global crises. Such points in history offer opportunities for new vision, new commitment and new investment in machinery and architecture better adapted for the future. So, as the world emerges from the current



interlocked crises, a turning point will come when there is a real opportunity to revision the United Nations and the Security Council.

With that in mind, it is important to also recall that even in the darkest days of World War II, a huge amount of diplomatic preparatory work was being done on the vision for the post war architecture. Whatever problems exist now between the P5, they are surely much smaller than between the USSR and western allies in 1944. However busy and however fiscally challenged governments are now, they are surely in much better shape than when all the basic work was being done on the UN in the lead up to Yalta and Bretton Woods.

Hopefully, therefore, in the next few years there will be a commitment to do some serious groundwork on the kinds of changes to the working methods of the Security Council that would optimise its performance. It is important to be prepared for the possibility of a new turning point, which will offer a chance to reform the United Nations and the Security Council.



About the Author

Colin Keating is an independent International Affairs Consultant. He was, until August 2011, the Founding Executive Director of Security Council Report in New York – a position he held for almost seven years. Previously he was Deputy Secretary of the New Zealand Foreign Ministry and, subsequently, was the New Zealand Ambassador in New York from 1993-96, serving on the Security Council in 1993-94 and later as Co-Chair of the then General Assembly Working Group on UN reform. Thereafter he held a Chief Executive position in the New Zealand Government and also worked as a partner in legal practice in the private sector.

Imprint

Friedrich-Ebert-Stiftung | Global Policy and Development
Hiroshimastrasse 28 | 10785 Berlin | Germany

Friedrich-Ebert-Stiftung | New York Office
747 Third Avenue | Suite 22B | New York, NY 10017 | USA

Responsible:
Dr. Werner Puschra, Executive Director, FES New York

Tel.: ++1-212-687-0208 | Fax: ++1-212-687-0261
www.fes-globalization.org/new_york/index.htm

To order publications:
jlant@fesny.org

The Friedrich-Ebert-Stiftung Office in New York

serves as a liaison between the United Nations, FES field offices and partners in developing countries to strengthen the voice of the Global South. It contributes to UN debates on economic and social development, and on peace and security issues. Towards this end, FES New York annually organizes some 30 seminars, conferences and roundtables and regularly publishes briefing papers and fact sheets. In addition, it contributes to a dialogue on the work of the World Bank and the International Monetary Fund in Washington, DC. The New York office is located in close proximity to the United Nations headquarters. The office has four permanent staff members and provides internships for students specializing in international affairs, development and economic policy. http://www.fes-globalization.org/new_york/

Focus on the UN Security Council

This publication is part of the series “Focus on the UN Security Council”, which analyses issues on the agenda of the Security Council as well as its reform and position in the system of the United Nations.

