

**A New Wave for the Reform of the Security Council of the United Nations: Great
Expectations but Little Results**

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Declaration

I hereby declare that this dissertation is my original work

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Abstract

The reform of the Security Council of the United Nations (UNSC) has been an elusive issue at the United Nations (UN). While practically all Member States agree on the need to change the structure of the most powerful body of the world organization, so far there has been no agreement about what elements of that reform or about the substance of the reform itself.

In 2008, after more than 15 years of discussions in the Open Ended Working Group (OEWG) with little progress, the General Assembly of the United Nations (UNGA) requested the OEWG to start intergovernmental negotiations on February 19, 2009. The general idea was that it should be easier for the Member States to agree on those issues where agreement existed, and to leave the most difficult issues for later. This approach termed interim, intermediary or transitional included the proviso of a mandatory review in the future at a time to be decided by the UN membership.

This dissertation discusses and analyzes the attempts at UNSC reform, with emphasis on the intergovernmental negotiations launched in 2009. It argues that little substantial agreement so far has come from such intergovernmental negotiations. Research findings indicate that insurmountable obstacles still lie ahead and that it is unlikely that the august body will be reformed any time soon. None of the proposals so far has obtained the necessary support for approval by the UNGA and serious disagreements continue to exist. All UN members recognize the need to make the UNSC more representative of the realities of the modern world, and that this means to expand the Council to offer participation to more members, but continue to disagree on how to do it.

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List of Abbreviations and Acronyms

AU – African Union

G-4 – Brazil, Germany, India and Japan

GNP – Gross National Product

HLP – High Level Panel on Threats, Challenges and Change

IBSA – India, Brazil, Africa Dialogue Forum

ICC – International Criminal Court

NAM – Non-Aligned Movement

NATO - North Atlantic Treaty Organization

NEPAD – Partnership for Africa’s Development

NPT – Nuclear Non Proliferation Treaty

ODA – Overseas Development Aid

OEWG - Open Ended Working Group

P-5 – The five permanent members of the UNSC

PGA – President of the General Assembly

S-5 – The Small Five Group: Switzerland, Singapore, Jordan, Costa Rica and Liechtenstein

SG – Secretary General of the United Nations

UfC – Uniting for Consensus

UK – United Kingdom

UN – United Nations

UNGA – United Nations General Assembly

UNSC – United Nations Security Council

USA – United States of America

WSO – World Summit Outcome of 2005

Chapter I – Background: UNSC Reform until the 2005 WSO

Introduction

The reform of the Security Council of the United Nations (UNSC) has engaged the energies of the world's most distinguished diplomats and politicians practically since the time that the world organization was created. As the organization's membership increased from the original 51 members to 192 in the present, more voices have been heard demanding a Council that is more representative of its larger membership. Also, with the exception of the five permanent members of the UNSC or P-5, which have the privilege of using their veto to block any potential resolution, practically all the rest of the UN membership would like to eliminate the veto to make the organization more democratic. However, as the veto is unlikely to be eliminated because the privileged members have clearly stated that they will never approve any limitation in its present prerogatives, there are a number of Member States that have aspirations not only to become permanent members of the UNSC but also to have the veto power in the same manner as the P-5.

This dissertation is about these positions, struggles and negotiations, as the UN membership attempts to move forward with UNSC reform. This is probably the most important organizational issue discussed at the UN today and has been so for the last 16 years. All countries, large and small, attach great importance to the UNSC, and each has a vision about how it should be reformed. The fact that agreement has eluded all negotiations so far demonstrates the intractability of the problem, at least until now. This dissertation will describe, summarize and analyze this important debate, and assess whether the intergovernmental negotiations that started in February 2009 have had any positive impact on moving the UN membership closer to a potential agreement.

Background Information

The UNSC is the most powerful body of the world organization. It is charged with the great responsibility of “the maintenance of international peace and security” (UN Security Council Reform, 2008, p. 1), and according to the UN Charter is required

to investigate any situation threatening international peace; recommend procedures for peaceful resolution of a dispute; call upon other member nations to completely or partially interrupt economic relations as well as sea, air, postal, and radio communications, or to sever diplomatic relations; enforce decisions militarily, or by any means necessary to avoid conflict and maintain focus on cooperation (UNSC Expansion, 2008, p. 1).

The powers of the UNSC are broad. It has the ability to authorize peacekeeping operations, refer cases to the International Criminal Court (ICC), impose economic sanctions, and under Chapter VII, authorize military action against member states that fail to comply with its resolutions, “it has, in particular, the power to make recommendations and to adopt decisions binding on the members of the United Nations” (Wood, 2006, p. 7). Article 51 of the UN Charter authorizes states to act in self-defense, but they may do so only until the UNSC has taken the steps necessary to maintain international peace and security. Article 53, paragraph 1 of the UN Charter says that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council” (Blokker, 2005a, p. 7). However, the UN Charter does not give a precise definition for an *iustum bellum*, for cases where the use of force can be justified. The UNSC, under Article 39 of the UN Charter, is left with the responsibility of determining how to interpret each case and whether there is a threat to the peace, a breach of the peace, or an act of aggression against a Member State and what decision must be taken, or what recommendations should be made to maintain or restore international peace and security (Blokker, 2005a, p. 24). This means basically that the UNSC has the power to establish norms, set legal precedents, and shape the environment in which the rest of the world lives, although some Member States believe that the UNSC should not play a legislative role. The UNSC has the power to determine when a

threat to the peace has occurred or whether a prohibited act has been committed by one of the organization's members.

UNSC Structure

The structure of the UNSC, set out in Chapter V of the UN Charter as amended in 1965, consists of five permanent members and ten elected members which serve non-renewable two-year periods, starting on January 1, with five members being replaced each year. In 1963, the UNGA, with the approval of the UNSC as required by Article 27 of the UN Charter, decided that the nonpermanent members should be geographically distributed, with five seats reserved for the African and Asian states, one for the Eastern European states, two seats for Latin America and the Caribbean and another two for Western European and other states (Walker, 2007, p. 20). There are no specific seats allocated to the Arab nations, whose representation oscillates between the African and Asian regions according to an understanding among the parties. The 1965 amendment was a small step forward to satisfy the growing complaints of the membership for an enlarged and more representative Council. The members elected for the 2009-2010 period that started on January 1, 2009 included Austria and Turkey for Western Europe; Japan for Asia; Mexico for Latin America and the Caribbean, and Uganda for Africa (Mearsheimer & Walt, 2008, p. 23). On October 15, 2009, another five Member States were elected for a two-year term starting on January 1, 2010: Bosnia Herzegovina, Brazil, Gabon, Lebanon and Nigeria (UN News Service, 2009, p. 1).

Past Changes to UNSC Structure

The UNSC has had only one structural change since the creation of the UN. In 1965, the UNGA, with approval of the P-5, amended articles 23 and 27 of the UN Charter to increase the number of elected members of the UNSC from six to ten (Gupta, 2006b, p. 10), and correspondingly, the total number of seats from the original 11 to the present 15. It also had two other non-structural changes when the representation of two permanent members of the

UNSC changed. In 1971, the UNGA voted resolution 2758 granting admission to the People's Republic of China, and in the same resolution it agreed to expel the Republic of China (Taiwan) from membership in the organization and hence from the UNSC, and gave its permanent seat to the People's Republic of China (UNGA Res. 2758, 1971, p. 2). The resolution recognized the People's Republic of China as "the only legitimate representative of China to the United Nations" and expelled the Republic of China "from the place which they unlawfully occupy at the United Nations" (UNGA Resolution 2758, 1971, p. 1). The other occasion was in 1991, when the Russian Federation succeeded the Soviet seat as a permanent member of the UNSC (Mearsheimer & Walt, 2008, p. 24).

The P-5

With the exceptions of the replacement of the People's Republic of China for the Republic of China, and of the Russian Federation for the former Soviet Union, there have been no changes in the permanent members of the UNSC, which include in addition the French Republic, the United Kingdom (UK) and the United States of America (USA).

The permanent members have the power of the veto, which means that any of them can block any potential proposal from becoming a resolution. Some may argue that Chapter VI resolutions are not binding, but any member of the P-5 can still veto them. The veto power was used frequently during the Cold War, but since then has been used infrequently. Peter Bosco, a prominent scholar about the UNSC, argues that "when the Five were united, they were almost no limits to what they could do. But if one of the Five dissented, it appeared that the Council could be paralyzed" (Bosco, 2009, p. 35). The same author said that the P-5 rules¹ the world. Since the establishment of the organization until 2008, the Republic of China (Taiwan) and then the People's Republic of China have used their veto only six times; France, 18 times; the Russian Federation/USSR 123 times, the United Kingdom, 32 times, and the

¹ The term, while offensive to many people, shows one of the most controversial issues in UNSC reform, the fact that the P-5 members enjoy privileges that no other Member State does. It is as if the P-5 members were traveling in a luxurious train in first class and the rest of the world was crowded in a third class car.

US, 82 times (UN Security Council Reform, 2008, p. 2). In 2009, Russia used the veto to avoid the continuation of the 16-year-old UN observer mission that monitored a cease-fire between Georgia and its separatist Abkhazia region (Associated Press, 2009, p. 1). However, the “hidden” veto, or the threat to use the veto, obviously has remained always in the background (Wood, 2006, p. 18) and all presenters of potential resolutions have to keep this in mind.

After the end of the Cold War, the UNSC has become more active in addressing the problems of the world. The number of resolutions passed per year has increased from an average of 15 before the end of the Cold War to 60 by 2007, or from approximately one resolution a month to one every week (Walker, 2007, p. 8). In addition, before 1989, the UNSC applied sanctions only twice, but since then it has imposed sanctions 14 times, and for a diverse range of stated purposes, including the restoration of democratic governments, the protection of human rights; and to end wars, combat terrorism and support peace agreements (Mearsheimer & Walt, 2008, p. 3). In all those cases, the resolutions made reference to the fact that those situations constituted a threat or breach of international peace, which allowed the UNSC to issue the resolutions. Also, since the end of the Cold War, with the exception of the US which remained the world’s only superpower, the permanent members have rarely used their veto. Since 1984, the Russian Federation has used its veto only five times, the People’s Republic of China three times, but the US has used it 43 times (UN Security Council Reform, 2009, p. 3). However, the non use or sporadic use of the veto by the P-5 has not decreased the criticisms of all other Member States that do not have the privilege of the veto, although it has facilitated the adoption of decisions and broke the pattern that existed throughout the Cold War.

All P-5 members are in favor of some type of UNSC reform, but they disagree about how it should be implemented. Wang Guangya, Permanent Representative of the People’s Republic of China, expressed the four principles which represented the position of his country since 2006:

- a) “Regardless of size, wealth, or might, all countries have the right to take full part on an equal footing in the discussion of all UN reform-related issues;
- b) Reform should accommodate to the maximum extent the views and concerns of all UN members, especially the developing countries;
- c) Reform should tackle the more manageable issues first and proceed gradually from there to the thornier ones. On questions where division persists, caution is called for. If consensus is not immediately reachable on them, consultations should continue. The temptation to force a decision at the Summit must be resisted.
- d) The focus on reform should be to effectively reverse the trend of giving priority to security over development that has characterized UN activities for a long time. The UN should increase resources input into development issues and effectively implement the Millennium Development Goals” (People’s Republic of China, 2008, p. 1; Guangya, 2006, p. 2).

The US, the single largest contributor to the UN budget and the hegemonic power in today’s world, may have entered a new era with the presidency of Barak Obama. In a 2009 speech to the Chicago Council on Global Affairs, the American President stressed that “it was America that largely built a system of international institutions that carried us through the Cold War... that instead of constraining our power, these institutions magnified it”, and added that “today it’s become fashionable to disparage the United Nations, the World Bank and other international organizations, although reform of these bodies is urgently needed if they are to keep pace with the fast-moving threats we face” (Brooks & Wohlforth, 2009, p. 49).

The vote of the US, as of the other members of the P-5, is indispensable for any UNSC reform to take place. The importance of the US is acknowledged by all of the organization’s members, including the other four permanent members of the UNSC. The US accounts for about half of the world’s defense spending and one-quarter of its economic output (Brooks & Wohlforth, 2009, p. 52). France and the UK are probably the strongest supporters of UNSC reform, probably because they are the smallest powers among the P-5 and believe that their

position in the Council will gain legitimacy if other similar powers join the exclusive club.

Russia also has recognized the need for reform.

UN and UNSC Reforms

All nations, large and small, acknowledge that the reform of the UN has been an important issue for quite some time. In 1979, during its 34th session, the UNGA introduced in its agenda the issue of equitable representation and an increase in the membership of the UNSC.

However, it was not until the end of the Cold War that those ideas started to be heard more frequently in the chambers and sessions of the UNGA. During the Cold War, the superpowers quite firmly maintained their spheres of influence and all Member States realized that no possibility of agreement existed. In 1993, in view of the changing international situation as a result of the end of the Cold War, the dramatic increase in the number of UN members due to the dissolution of the Soviet Union and the continuing emergence of new powers actively participating in the rapidly expanding UN activities and peacekeeping operations, the UNGA during its 48th session, established the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the UNSC and Other Matters Related to the Security Council (OEWG). The creation of the OEWG was considered a great achievement at the time. Finally, the world organization had decided to embark more actively on the process of discussing how to reform its most powerful body.

The OEWG initially made some progress. In 1997, only four years after its creation, the group was presented with a draft resolution known as the 'Razali Plan', which although was never put to a vote because of the opposition of Italy and a group of African countries, became an important point of reference for all further proposals for the reform of the UNSC. This Plan suggested an enlargement of the UNSC of nine seats – five permanent and four non permanent - and also suggested an innovative procedure for its implementation (Roos, Franke & Hellmann, 2008, p. 43). It was a proposal that generated criticisms and suggestions for improvements, but one which at the same time served as a template for the discussions and for

the formation of common alignments within the UN membership. The proposal of establishing five additional permanent members was anathema to many nations which consider the existence of permanent seats as an anachronism in the organization. It also did not satisfy those members aspiring to become permanent members because the proposal did not provide the power of the veto to the proposed permanent seats.

Also in 1997, the first year of his first five-year term, UN Secretary General (SG) Kofi Annan officially announced a plan to reform the world organization including the UNSC “to make it more flexible, accountable and effective” (UNSC, 2008, p. 1). It is possible that the new SG wanted to address during his term a problem that was viewed as essential by most of the UN membership. The reform proposal encompassed all areas of activity within the UN, including crucial issues such as peace and war, humanitarian, and social and economic issues. However, the reform proposal would move slowly through the thick and politicized environment of the UN.

A number of reports were issued in the next few years. In 2002, the SG issued his report ‘An Agenda for Further Change’; in 2004, the High Panel on Threats, Challenges and Change was established and its report published. In 2005, the SG delivered his ‘In Larger Freedom’ report in preparation for and in conjunction with the preparatory process of the World Summit to be held the same year. At the World Summit Outcome (WSO) the leaders of the world gave priority in their discussions to the issue of UN and UNSC reform. At every step of the way there was the increasing realization that reaching agreement about UNSC reform was not going to be easy, but the goal of UNSC reform remained one of the most important objectives of the UN membership, with the probable exception of the P-5 which were content with the status quo.

In the creative atmosphere of attempting to reform the UN and the UNSC, novel ideas for funding the activities of the world organization also were discussed, such as having the UN tax international trade in military equipment “tax on missiles, planes, tanks and guns” (Shawn, 2006, p. 11), but so far no agreement has been reached on those proposals. However,

the organization was able to reach positive results with the creation of the Peacebuilding Commission (including the establishment of standby reserves of peacekeepers and civilian police as suggested by the Report of the Panel on UN Peace Operations – the Brahimi Report), the Human Rights Council, and the endorsement of the Responsibility to Protect Initiative (Paul & Nahory, 2005, p. 6). In addition, the UNSC made progress in other areas, such as increasing its transparency by holding public meetings, consulting with non-Council members and countries contributing troops to peacekeeping operations, traveling or sending missions to crisis areas, publishing its program of work and targeting its sanctions in a more predictable manner (Paul & Nahory, 2005, p. 6). This shows that the agenda for reform at the time was a complex one, with the reform of the Security Council as an integral part of it.

Criticisms of the UN and the UNSC

The decision to reform of the UN and the UNSC in particular, has been the response of the organization members to a multitude of criticisms about the Council's inefficiency, legitimacy and representativity, although as Professor Wood has expressed, terms such as legitimacy, democracy, fairness and accountability "are highly subjective and can be used to justify almost any legal conclusion" (Wood, 2006, p. 4). The UN has been criticized for being "a sprawling and highly bureaucratized structure which is excessively costly, mismanaged and inefficient, corrupt and with low quality staff" (South Centre, 1997, p. 25). The same source expressed that the budget of the world organization is insufficient because it represents less than the combined annual costs of the Police and Fire departments of New York City, and that the larger contributors to the UN budget have limited the organization's growth by demanding that any UN budget growth remains as close to zero as possible (South Centre, 1997, p. 52). This is apparently the opinion of the South Centre, an intergovernmental organization of developing countries with close relationship with the Non-Aligned Movement (NAM) and the Group of 77.

Most UN members agree that the present structure of the UNSC is obsolete, that it does not provide adequate geographical representation, and that the monopolization of the five permanent seats by the victorious powers at the end of World War II is no longer representative of the political, economic and military realities of the 21st century. All UN members also recognize that the organization lost much of its effectiveness during the Cold War, when both the US and the former Soviet Union made frequent use of their veto power to limit the maneuvers of the other superpower. The problems facing the organization, however, did not end with the Cold War.

Erskine Childers, the well-known scholar of the UN system, noted that “the vast majority of members – North as well as South – have made very clear their distaste for the way the three Western powers behave in the Council, like a private club of hereditary elite members who secretly come to decisions and then emerge to tell the grubby elected members that they may now rubber stamp those decisions” (Global Policy Forum, 2008, p. 10). Ambassador Slavi Pachovski, former Permanent Representative of Bulgaria, mentioned that “it is humiliating for member states to wait for the Security Council members states’ aides to inform missions regarding the debates inside the chambers” (Vargas, 2008, p. 7). However, Ambassador Andre Erdos, once the Hungarian President of the UNSC, while regretting the second-class treatment given by the permanent members to the nonpermanent members, expressed that most of the non-permanent members had few resources and little experience or knowledge about the problems discussed in the UNSC. He said “if I asked my colleagues on the Council the difference between Slavonia, Slovenia and Slovakia, none of them, apart from the Austrian ambassador, would know” (Lebor, 2006, p. 48).

Other diplomats and scholars have expressed that the UNSC is ineffective and interested only in preserving the strategic interests of the permanent members, such as by “protecting the oil-rich Kuwait in 1991, but poorly protecting resource-poor Rwandans in 1994” (Chella, 2006, p. 449). Rwanda suffered the equivalent of three 11 September 2001 attacks every day for one hundred days, in a country with a population that was only one thirty-sixth that of the

US, but the UNSC did nothing. In fact, two weeks into the genocide, the UNSC withdrew the majority of its peacekeepers in that country (UNGA, 2004, p. 23).

Almost all UN members also agree that while Charter VII authorizes the UNSC to deal with any threat that a member state may confront, that the UNSC should become more representative of the modern world and that it should exercise its great responsibilities without bias or favoritism. The UNSC was very quick to authorize the use of force against Iraq to force to withdraw its troops from Kuwait but remained unmoved when faced with the tragic situation in Rwanda. The UNSC also passes many resolutions, but picks and chooses which ones it will enforce, creating the perception of double standards subject to great power politics (Paul & Nahory, 2005, p. 1). The UNSC has been unable to stop, let alone prevent, the wars in Kosovo; or preventing genocide, ethnic cleansing or crimes against humanity in Bosnia-Herzegovina, Rwanda, Somalia, or more recently in Darfur, Sudan.

The UK and France might have been powerful players in world politics at one time, but their importance has been greatly reduced. The same could be said about Russia, a country with much more reduced economic, political, and military capabilities than the former Soviet Union which it replaced, and which included not only Russia but also other 14 former Soviet republics which now are members of the UN. In addition, until relatively recent, most of the Council's business took place behind closed doors.

However, and despite this growing criticism of the Council, no reform proposal has been discussed which comes even close to muster the necessary majority to meet the requirement of being approved by two-thirds of the membership, including all permanent UNSC members; and the divergence in the positions of the members remains wide. Philip Gordon, of the Brookings Institution, said that "reform of the Security Council has long been high on the international agenda, but the only thing everyone agrees on is that the current arrangement is deeply flawed" (Hurd, 2008, p. 201). Brent Scowcroft, US National Security Advisor under Presidents Ford and Bush, agrees. He said "almost all our institutions are structured for a world that has departed;" and Eduard Luck, a professor from Columbia University, mentioned

that “calls for radical overhaul of the Security Council qualify as common wisdom” (Annan, 2005, p. 2).

Goff (2004) has mentioned that as long as the UNSC omits from its permanent membership countries such as Japan, which play a key role in the world by virtue of its contribution to the UN budget and its peacekeeping operations, and whole continents like Africa and Latin America, it will not be seen as representative or having the authority and credibility necessary to do its important job (Goff, 2004, p. 1). Paul & Nahory (2007) have pointed out that the critics of the UNSC have made seven demands “that the Council becomes (1) more representative, (2) more accountable, (3) more legitimate, (4) more democratic, (5) more transparent, (6) more effective and (7) more fair and even-handed,” which means that they eliminate double standards (Paul & Nahory, 2005, p. 2). Kofi Annan, the organization’s former SG, also stressed the importance of reforming the UNSC when he stated “the view, long held by the majority, is that a change in the Council’s composition is needed to make it more broadly representative of the international community as a whole, as well as of the geopolitical realities of today, and thereby more legitimate in the eyes of the world” (Hurd, 2008, p. 201).

High-level Panel on Threats, Challenges and Change

In his speech to the UNGA in September 2003, former SG Kofi Annan alerted the representatives of the Member States that the organization faced a decisive moment “a fork in the road” in which the aspiration set out in the UN Charter to provide collective security for all nations was achievable, but that it was necessary to reduce or eliminate the deeply seated divisions among the Member States about the nature of the threats we faced and whether and when it was appropriate to use force to address those threats. He challenged the organization to become more efficient and more effective and announced his desire to establish a group of “eminent people” to study those threats and suggest what could be done to avert those threats (UNGA Res. 59/565, 2004, p. 1).

In November 2003, SG Kofi Annan followed up his statement to the UNGA by establishing a High level Panel (HLP) of 16 eminent men and women to discuss and recommend how the UN should be reformed or restructured to meet the challenges of the modern era. The Panel was mandated to (a) examine today's global threats and future challenges to international peace and security, including the relationships between them; (b) identify the contribution that collective action can make in addressing those challenges; and (c) recommend the changes necessary to guarantee effective collective action, including a review of the principal organs of the UN. The Panel members were quite diverse and must have represented a diversity of opinions about how to address the difficult points in the agenda, but they were able to deliver a report in which all the members spoke with a single voice. The Panel's report, released in December 2004, made important recommendations, although it did not recommend any changes to the voting rules, recommending only that the permanent members "pledge themselves to refrain from the use of the veto in cases of genocide and large scale human rights abuses" (Brunnee, 2005, p. 115). The Panel recommended not to give new permanent members the right to veto and that there should be a review of the composition of the UNSC by the year 2020 (Kasteren, 2005, p. 265).

In addition, the Panel stated four principles which should be kept in mind by the members when reforming the UNSC:

a) They should, in honoring Article 23 of the UN Charter, increase the involvement in decision-making of those who contribute most to the UN financially, militarily, and diplomatically; specifically in terms of contributions to UN assessed budgets, participation in mandated peace operations, contributions to voluntary activities of the UN in the areas of security and development,² and diplomatic activities in support of UN objectives and mandates. Among the developed countries, achieving or making substantial progress towards the internationally-agreed level of 0.7 percent of a country's gross national product (GNP) for overseas development aid (ODA) should be considered an important criterion of contribution;

² These activities refer to programs created, executed and financed by the Member States that make a contribution to the goals and activities of the UN, such as a Member State's ODA's programs and activities.

- b) They should bring into the decision-making process countries more representative of the broader membership, especially of the developing world;
- c) They should not impair the effectiveness of the UNSC; and
- d) They should increase the democratic and accountable nature of the body (Report on the High-level Panel on Threats, Challenges and Change, 2004, p. 3).

The Panel recognized and emphasized that the UNSC needed greater credibility, legitimacy and representation, and suggested that this can be obtained by giving an opportunity to participate in the UNSC to those nations which contribute the most to the organization financially, militarily and diplomatically.³ A new size of 24 members was seen as the best possible compromise respecting those four principles (Blokker, 2005b, p. 260).

The Panel specifically recommended the membership to elect UNSC members by giving preference for permanent or longer-term seats to those member states which are among the top three financial contributors to the UN budget in their relevant regional area; or the top three voluntary contributors from their regional area; or the top three troop contributors from their regional area to UN peacekeeping missions (Kasteren, 2005, p. 264). The idea of longer-term seats was first proposed in the Razali report, which also suggested that the non-permanent members should be elected to the UNSC by the regional groups, and that the elected members could serve either permanently or for an extended period depending on the decision of each group.

In Larger Freedom Report⁴

In March 21, 2005, SG Kofi Annan issued a report entitled 'In Larger Freedom' endorsing enthusiastically the suggestions of the High Panel, and suggesting the expansion of the UNSC

³ The diplomatic contributions of the Member States are difficult to quantify but include the members' participation and initiatives in negotiations, mediations and other activities which help in conflict resolution or to advance the goals of the organization.

⁴ The complete name of the report is 'In Larger Freedom: Towards Development, Security and Human Rights for All' (A/59/2005).

to 24 members. According to Kofi Annan, there were six clusters of threats with which the world must be concerned now and in the decades ahead:

1. War between states
2. Violence within states, including civil wars, large-scale human rights abuses and genocide
3. Poverty, infectious disease and environmental degradation
4. Nuclear, radiological, chemical and biological weapons
5. Terrorism; and
6. Transnational organized crime.

There is no question that all those clusters of threats are important, and that success in some areas can translate also into advances in other areas. Reducing poverty can have a positive effect on the reduction of terrorism and international crime, as well as strengthening the capability of the states to fulfill appropriately its other many roles and functions.

In this report, the SG recommended that the Member States consider the following options proposed by the HLP: (1) Plan A, which would expand the membership of the Council by six permanent seats and three two-year term non-permanent seats; (2) Plan B, which provides for no new permanent seats but creates eight four-year renewable term seats and adds one two-year non-permanent and non-renewable seat, or (3) alternative models based on either of the aforementioned plans (Annan, 2005, p. 2).

The suggested expansion to 24 members was seen as a compromise between the competing goals of efficiency and representation. Ambassador Peter van Walsum, who represented the Netherlands on the UNSC in 1999-2000, wrote a strong commentary in the *Financial Times* expressing his views that “no one can seriously believe that a Council with 24 members can be more effective than one with 15, but it has become politically incorrect to point this out” (Paul & Nahory, 2005, p. 5). In a famous essay about the history of the British cabinet, historian C. Northcote Parkinson demonstrated that when a body goes past its most efficient size it becomes dysfunctional and irrelevant (Usmanov, 2009, p. 7). However, it seems that 24 is the maximum number that the present permanent members of the UNSC may

be willing to allow, although the US is on record favoring “a limited expansion” (US State Department, 2009a, p. 1), which probably means even a smaller number of seats. The US and also the Russian Federation have repeatedly expressed the opinion that the UNSC should remain representative but manageable.

Both Plan A and Plan B recommend that each region, considering Article 23 of the UN Charter, give preference for UNSC membership to those states which are among the top three financial contributors to the organization’s regular budget; or the top three voluntary contributors; or the top three troop contributors to UN peacekeeping missions. None of the two plans involve extending the veto to any new members, and both attempt to make the UNSC more geographically representative by allocating seats to four major regional areas, named in the document as Africa, Asia and Pacific, Europe and Americas, although the representatives of Latin America have expressed their preference that they would rather base any distribution of seats on the current regional groups which include only Latin America and the Caribbean rather than all the Americas. Some other countries, such as Italy and Mexico, at the time that the report of the Panel was made public and later on, also recommended that any changes to the UNSC should not be deemed as permanent, because there should be a review of the composition of the UNSC in the year 2020, including a review of the contributions to the UN made by permanent and non-permanent members, and of the Council’s effectiveness in taking collective action to prevent and address threats to international peace and security. The reform of the UNSC is an important but difficult issue to move forward, because of the contradictory positions of the UN members.

The Panel explained that it could not take a narrow, ‘Western’ view of the threats, focusing only on issues such as weapons of mass destruction and security, because it was necessary to include poverty, environmental hazards, disease and other issues at the same level, and refused to establish a hierarchy of threats, which indicated the Panel’s opinion that all threats are equally important, somehow interrelated and that all the threats should be given the same

priority (Hannay, 2004, p. 1). In support of this idea, the representative of Mexico indicated that “the major problems of the world are cross-cutting” (Berruga, 2005, p. 1).

Another recommendation of the Panel was the introduction of the ‘indicative voting’ system, by which UNSC members could publicly indicate their positions on a proposed action or resolution. Lastly, it recommended that the transparency and accountability of the UNSC should be incorporated and formalized in its rules of procedure. Since the foundation of the UN, the rules of procedure of the UNSC have been amended several times although they remain provisional: in May and June 1946, June and December 1947, February 1950, January 1969, January 1974 and December 1982, with most of the amendments having to do with the question of official and working languages (Gharekham, 2006, p. 14), but they still remain provisional.

The Panel’s recommendations and the SG’s report were received with criticisms by some Member States, which expressed that neither the Panel’s report nor the SG’s ‘In Larger Freedom’ report reflected, to a significant extent, the comments and views of the NAM, which represent almost two-thirds of the UN membership (Isa, 2005, p. 2). Another criticism of the High-level Panel proposals was that they disadvantage the smaller European nations, many of which meet the criteria that the Panel put forward for election to the Council, such as having reached the 0.7% ODA or making sizeable contributions to UN peace operations (Kasteren, 2005, p. 266). Five European countries –Denmark, Luxembourg, the Netherlands, Norway and Sweden- met the 0.7% target in 2004 (Bowles, 2005, p. 106).

World Summit Outcome 2005

The 2005 World Summit held during 14-16 September 2005 was a follow-up meeting to the UN 2000 Millennium Summit. The Summit, which received great publicity all over the world, was described as the “largest gathering of world leaders in history” (Swart, 2009, p. 1). Goran Persson, Prime Minister of Sweden, presided over the meetings, which were convened

to discuss the progress achieved on the Millennium Development Goals and to address the possible reform of the UN, although much of this was later postponed.

The WSO mentioned the issue of UNSC reform, although it did not provide any recommendation as to how this should be accomplished because the specifics of the reform should be discussed within the OEWG. The Summit's final resolution said "we support early reform of the Security Council... to make it more broadly representative, efficient and transparent, and thus to further enhance its effectiveness and the legitimacy and implementation of its decisions" (World Summit Outcome, 2005, p. 32).⁵ In the Millennium Declaration, all states had expressed their determination to increase their efforts "to achieve a comprehensive reform of the Security Council in all its aspects" (Millennium Declaration, 2005, p. 1).

The UNGA supported the World Summit Outcome, especially those parts of the final resolution emphasizing the social and economic issues. A few months later, the UNSC acknowledged the agreement of the world leaders at the World Summit with UNSC Resolution 1674, where the Council "reaffirmed the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity", and committed the UNSC to take action to protect civilians in armed conflict (UNSC Resolution 1674, 2006, p. 2).

⁵ The conclusions of the World Summit Outcome document (A/RES/60/1), included in paragraphs 152, 153 and 154 on UNSC reform were brief and non-committal.

Chapter II - The Main Negotiating Groups and Proposals

It is understandable that as soon as the issue of expanding the UNSC was put to discussion, that Member States formed alliances to advance their national objectives, which in many instances, but not always, meant to deprive a neighbor from occupying a seat at the Council. In this manner, three relatively stable main groups have been formed, which are the G-4, the UfC group and the African Union.

The G-4 calls for six new permanent seats, one for each of the G-4 countries (Brazil, Germany, India and Japan) and two for Africa; as well as four new non-permanent seats (Security Council Reform, 2009, p. 7). The UfC group is adamantly opposed to the creation of new permanent members, and advocates the creation of ten new non-permanent members elected on a rotating basis by the regional groups, including three new seats for Africa, three for Asia, two for Latin America and one new seat for Western and Eastern Europe. The group also calls for restraining the use of the veto of the current permanent members. The African Group calls for six new permanent members, two seats for Africa, two for Asia, one for Latin America and the Caribbean, and one for Western Europe, as well as five non-permanent seats, of which two should be reserved for Africa (Security Council Reform, 2009, p. 3). This group requests that new permanent members should have the same privileges as the current permanent members, including the right of veto. The draft resolution of the African Union differed from the G-4 proposal in that it called for immediate veto rights for all of the Council's new permanent members, including obviously for the proposed two African permanent seats from a recommended expansion of six, and five new non-permanent members, for a total of 26 council members.

In addition to these main groups, there is the Small Five Group (S-5), composed by Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland, which has made proposals for reforming the working methods of the UNSC, including limiting the use of the veto in cases of genocide and serious human rights violations, greater consultations between members and

non-members of the UNSC, especially with the countries contributing troops to the UN peacekeeping operations, and other reforms to improve transparency and accountability (ReformtheUN, 2006, p. 2). While some of the suggestions made by this group were later discussed in the UNGA and some of them were implemented by the UNSC, the P-5 expressed that any changes in the working methods of the UNSC should originate in the UNSC itself and not in the UNGA. The P-5 also refused to consider any reduction in their veto powers.

The NAM proposed the creation of five new permanent members consisting of two African states, one from Asia, one from Latin America and the Caribbean and one member from the developed countries. Other non-permanent seats should be three from Africa, two from Asia, one from Latin American and the Caribbean, one from an Arab state and another from a developed country. According to this proposal, the reformed UNSC would include 28 members (Perwita, 2009, p. 3).

It did not take very long for the divisions among the OEWG members to become blatantly evident. It was obvious to the participants that it was going to be extremely difficult to reach consensus on UNSC reform. The groups defended their proposals, strengthened their positions, and showed little sign of flexibility or compromise. Every year, the end result of the discussions in the OEWG was more anxiety about the possibility of reform, although none of the proposals submitted was ever put to a vote in the UNGA, probably because none of them could meet the threshold of obtaining two-thirds of the votes (Roos, Franke & Hellman, 2008, p. 44).

The G-4

The G-4 is formed by four middle powers with aspirations to permanent membership in the UNSC. The call for UNSC reform obviously raised the expectations of some middle powers to become members of the select club with the power to impose sanctions and military actions against nations that violate either the UN Charter or the agreements of the organization. However, there is intense competition among those medium powers, and while some of them

have dedicated great efforts to become permanent members of the UNSC, other nations have worked just as hard in the opposite direction, trying to frustrate the election of a particular member.

In the Latin American region, Brazil, a member of the G-4, is a strong candidate for permanent membership, but its election is opposed by rivals Mexico and Argentina, medium-size powers in the same geographical area. At the San Francisco Conference creating the United Nations in 1945, President Roosevelt seriously considered including Brazil as a permanent member of the UNSC, with veto rights, to keep the Latin American countries supportive of the new organization, but the rest of the P-5 rejected the idea arguing that Brazil was not a great power and this idea was rejected (O'Connell, 2005, p. 50). The term great power is difficult to define. In the context of President Roosevelt's idea the term probably meant that although Brazil was the largest and most developed country in the southern hemisphere of the Americas that still it did not compare in importance to the P-5. It is possible also that President Roosevelt may have been concerned about the geographical representation of the permanent members of the UNSC.

In Europe, Germany, another member of the G-4, is the third largest contributor to the budget of the UN and an important contributor to its peacekeeping missions (*Berliner Zeitung*, 2005 p. B-1), and also hopes to become a permanent member of the UNSC. However, Italy, another European nation, is an active participant working to avoid Germany's election to the UNSC. If Germany were admitted to the UNSC, Italy, with the sixth GNP in the world, would become the only European industrialized country with a GNP of over US\$ 2 trillion not represented in the UNSC.

Japan, another member of the G-4, counts on the support of the US. However, China, another permanent member of the UNSC, is using its immense diplomatic power to frustrate such admission. China has repeatedly opposed any resolution which it sees as rewarding Japan for its increased economic and political power. China also opposes Japan because both countries aspire to regional influence and domination, and Japan's bid to become a permanent

member of the UNSC has failed in the face of China's persistent moves to rally Asian and African countries against these attempts (Kim, 2008, p. 99-100). In addition, as long as the situation of Taiwan remains contested, this is another important factor that influences China's position. North Korea and other nations in the region also have rejected Japan's bid to become a permanent member of the UNSC. Some people in the region still remember that the Empire of Japan, a militarist and imperial power, was one of the five permanent members of the Security Council of the League of Nations before it started wars of conquest and rampage against its neighbors.

Japan's aspirations to become a permanent member of the UNSC, where all P-5 members are nuclear powers, is nothing new. Japan considers that a non-nuclear power in the UNSC can send an important message to the world that it is not necessary to be a nuclear power to become an important and respected member of the community of nations. The Japanese government came to the conclusion in the mid 1990s that, to contribute proactively to the quest for peace, Japan should seek a permanent seat on the UNSC in the context of the Council's overall reform. However, there has been some internal opposition to this decision because the UNSC is empowered to authorize war, and this is considered inappropriate given the pacifist orientation of the Japanese Constitution.

Japan, as Brazil, has been elected as members of the UNSC on ten occasions and can claim that they have the necessary experience in how it works. Japan also has been very active financing the UN peace-keeping operations for the last several years. In 2010, Japan will be paying 12.5% of all UN peacekeeping operations, second only to the US which pays 27% (UN Peacekeeping, 2010, p. 1). While some Member States are suspicious about this new interest in Japan's leadership, "it could demonstrate a sincere desire on the part of Japan of normalizing its role in world affairs" (Mochizuki, 2003, p. 57-59).

Japan kept a low profile for a long time, but more recently it has been very active pursuing an image in international politics which is more in accord to the heavy weight of its economy. In fact, because the members' contributions to the UN are based on their national economies,

Japan is the second largest contributor to the organization after the US. In 2000, Japan contributed about 20% of the organization budget, although Japan's contributions have been decreasing, from 19.5% in 2006, to 16.6% in 2008 (Wahlin & Natsuda, 2008, p. 1). The US, the only remaining superpower, contributes only 2.5% more to the UN than Japan does (Hook et al, 2001, p. 373).

Japan contributes more to the world organization than Russia, China, France and the United Kingdom combined; and its candidature is supported by the US, although such support is seen by observers as an attempt to break the solidarity within the G-4 group. China also indicated that if the UNGA and the other UNSC permanent members were to accept the G-4 proposal, that China “would take into account the feelings of others” (Security Council Reform, 2009, p. 8).

The British paper *Telegraph* mentioned that “Machimura’s unwillingness to abandon the G-4 despite US support for Japan’s candidature is a severe setback to US plans to split the group and gain entry only for its client states in an expanded UNSC” (Telegraph, 2005, p. 24); and the *Times of India* commented that “Tokyo, generally perceived to be under Washington’s tutelage in foreign policy matters, has shown admirable independence in not breaking with the G-4 despite Washington’s selective backing of its candidacy as a permanent UNSC member” (Times of India, 2005, p. 20). However, although Japan realigned itself with the G-4, it seems that Brazil and India have reduced their advocacy for the G-4 proposal, and prefer to advertise their special status as a potential candidate for a permanent membership as representatives of their developing regions. China apparently remains ambivalent about India’s candidacy, because although sometime in the past China expressed some support, it did not endorse India’s bid for a permanent seat at a recent BRIC (Brazil, Russia, India and China) meeting in Yekaterinburg, Russia, probably because it is concerned about India’s rapid economic, technological and military advances (Security Council Reform, 2009, p. 9).

India still has possibilities of being supported by Russia and by China, although China at one time declared that both India and Japan would “vote aligned with the US” (UNSC

Expansion, 2009, p. 1). India has emerged as the fourth largest economy (according to its GNP) after the US, China and Japan (Gupta, 2006a, p. 10), and has been taking steps trying to secure the support of the developing nations. India wrote off the debt of the seven Highly Indebted Poor Countries and continues with its economic and scientific initiatives, such as the one called 'Team 9' which involves a credit of US \$ 500 million and transfers of satellite and fiber optic technology to West Africa, and continues actively participating in the Partnership for Africa's Development (NEPAD) and in the India-Brazil-South Africa Dialogue Forum (IBSA) (Sen, 2005, p. 2). Russia, France and the UK have expressed support for the admission of India in the UNSC (Gupta, 2006a, p. 21).

The Macau Daily Times (12 June 2005), analyzing the present status of the discussions for Security Council Reform, pointed out how every effort by one country to obtain admission was opposed by one or more of its neighbors: "China opposes Japan's bid; Italy opposes Germany; Pakistan opposes that of India; and Argentina and Mexico opposes that of Brazil. Russia supports China's stance, while France and Britain have sided with Germany" (Macau Daily Times, 2005, p. 8). The paper also pointed out that no single member of the G-4 had the support of all five permanent members of the UNSC, a necessary condition for being admitted.

Nevertheless, all four members of the G-4 have advanced strong arguments as to why they should be considered for admission as permanent members of UNSC, and the media has echoed those claims. The Irish Times (2005, June 3) has commented that "Brazil plays a dynamic role in South America, Germany is a key player in the European Union, India has been emerging as a major regional power and Japan contributes massively to the UN budget" (Irish Times, 2005, p. 23).

The European Union remains sharply divided in relation to the G-4 proposal. The Czech Republic, Finland, France, Greece, Portugal and Slovakia supported the proposal. However, another six EU member states - Cyprus, Italy, Malta, the Netherlands, Spain and Sweden - firmly rejected the idea of additional permanent seats (Roos, Franke & Hellman, 2008, p. 47).

In 2005, Belgium, Denmark, Latvia and Poland “were still among the supporters of the G-4 proposal, but more recently, they have taken a noticeably more distanced position” (Roos, Franke & Hellman, 2008, p. 48).

In 2006, Brazil, Germany, and Brazil submitted another draft resolution to the President of the General Assembly (PGA) suggesting that they be admitted as permanent members of the UNSC, but this time Japan decided not to join the group, probably on the belief that the three-country resolution had very little chance of being adopted because of the opposition of the US. Later, Japan introduced a resolution of its own, which kept the G-4 membership the same, but which provided a 15-year freeze on the veto power for any new permanent member. Japan’s draft suggested expanding the 15-member UNSC to ‘only’ 25 members by adding six permanent and four nonpermanent seats. Japan also suggested the creation of ‘semi-permanent membership’ status, allowing an elected country to remain a member for a period longer than the current two-year term, specifically for two straight terms but without veto power. Japan was obviously making its position more flexible trying to obtain greater support from the membership. Japan’s proposal of expanding the UNSC to 25 members probably was determined by the declared opposition of the US to increase the number of UNSC members, and probably with the expectation of further negotiating some changes to the proposal to accommodate the divergent positions of the US and the Russian Federation, on one hand, which advocated for a smaller, more efficient Council; and most of the developing countries, on the other hand, which were focused on making the UNSC more diverse and representative. In fact, almost immediately after introducing the proposal Japan expressed its willingness to compromise with any requests for changes to the draft (Rodriguez & Cleenewerck, 2009, p. 30-31).

Japan and Germany were at the losing end of WWII, but have re-emerged as powerful economic and democratic nations (Global Policy Forum, 2008, p. 1). Japan and Germany, and also India, contribute large financial resources to the budget of the UN, and human assets to its peacekeeping operations, but their desires to become permanent members of the UNSC

have been thwarted repeatedly. The proposal was not put to a vote at the UNGA, mainly due to strong opposition from China and the US, although each for different reasons, and also because it lacked sufficient support from other UN members as well. China is adamantly opposed to the election of Japan; and the US, although supportive of Japan, is opposed to the election of Brazil and India. The US also seems now more flexible about the potential admission of Germany, a country to which it strongly objected initially, especially after Germany, as President of the UNSC at the time, refused to support the US war in Iraq. The proposal of the G-4 is self-serving because it attempts to provide those emerging nations with permanent seats in the UNSC.

Uniting for Consensus

While at the superficial level the UfC group recommends a permanent freeze on the admission of new permanent members with veto powers, and this certainly is the declared position of the many small countries in this relatively large group, the main leaders in the group seem more inclined to advance their national interests by depriving another member of their region from becoming a permanent member of the UNSC.

The UfC has a green and a blue model, both introduced in April 2005. The blue model enlarges the membership to 28, which includes the P-5 and 23 non-permanent members. It adds eight non-permanent seats, two for Africa, two for Asia, two for Europe and two for the Americas. The new members would hold four year terms and leaves open to discussion whether those seats will be renewable or not. This proposal is quite similar to the Plan B suggested by the SG (Panama Proposal, 2007, p. 3), and is favored by most of the members of the UfC group. The green model enlarges the Council to 25 members, the P-5 and 20 non permanent which will serve for two-year renewable terms. The UfC has explained that blue model is democratic, flexible, and provides for accountability and equitable representation (Security Council Reform, 2009, p. 3). However, the UfC has never explained why it made the two alternative proposals which came out at the same time. Obviously, the group wanted

to provide some choice to the rest of the membership while avoiding the creation of any new permanent seats with or without the veto power.

The African Group

The proposal of the African group, the largest group with 53 nations, advocates a greater representation of their continent in the UNSC. They argue that Africa is the only continent that is without a permanent seat in the UNSC (Touray, 2009, p. 2). The decision setting the parameters of the continental position was adopted at the meeting of the Executive Council of the African Union held in Addis Ababa, Ethiopia, on 7-8 March 2005 and is also known as the 'Ezulwini Consensus' (Kumalo, 2005, p. 1). It calls for an expanded structure of 26 members, with six new permanent veto-wielding seats and five new non-permanent seats, with African countries included among both the permanent with veto rights (two seats) and the non-permanent members (two seats) (Freiesleben, 2008a, p. 2).

This group constitutes about thirty percent of the membership of the UNGA and its cooperation is badly needed to obtain the required two-thirds of the UNGA votes for any country to become a new member of the UNSC. However, as with the other proposals, the recommendation of the African group also hides the national interests of the larger African countries, such as Nigeria, Egypt, and South Africa, which are more likely to occupy the proposed permanent seats. However, other African nations, such as Senegal, Algeria, and Kenya, also have expressed an interest in being considered for the permanent seats (Xinhua, 2007, p. 1).

In January 2007, Ambassador Bashir Wali, the Permanent Representative of Nigeria and the chair of the African Group, made an effort to convince the African Union to change its position to allow for permanent membership without veto rights. He said that such a shift in the position of the continental organization would enable Africa "to put our foot in the door first," and that "those who want to see democracy in the UN system are very much unhappy with Africa's position" (Sudan Tribune, 2005, p. 2). Fani-Kayode, a spokesman for Nigerian

President Olusegun Obasanjo also affirmed the position that the African Group should accept a permanent seat, with or without the veto, to give Africa a position in the UNSC (Sudan Tribune, 2005, p. 1). However, the members of the African Union repeatedly have favored to keep the organization's original position not to accept any reforms of the UNSC that did not include the right of veto for the African seats (Xinhua, 2007, p. 1). The unity, and thus the strength, of the African position have come at a cost. Some other members see the firm African stand as only facilitating the continuation of the privileged position of the five permanent members of the UNSC (Kumalo, 2005, p. 3) and hindering the possibility of reaching agreement.

Other Proposals and Issues

The proposals of the G-4, UfC and the African Group are not the only ones that have been discussed by the UN membership, although those are the most important. The preoccupation about how to reform the UNSC has stimulated not only the minds of the representatives in New York and the Member States' capitals, but also individual scholars and non-profit organizations. The representative of Panama presented a proposal that would expand the UNSC from its current size and membership to a size of 21 members, including one seat for Latin American and the Caribbean, two for Asia, two for Africa, and one for Eastern Europe and other nations. These new members would be elected for five year terms and would have the right to be re-elected immediately. In addition, any Member State elected for four consecutive terms would automatically become a permanent member, but without obtaining the right to veto the decisions of the Council. The Panamanian proposal also puts some limitations on the P-5, by making those members not eligible to occupy the Presidency of the UNSC and not eligible to chair any of the subsidiary bodies of the UN, such as the Peacebuilding Commission, the Counterterrorism Committee, the Sanctions Committee and the specific tribunals (ReformtheUN, 2007a, p. 1).

The Philippines, on 11 June 2009, suggested increasing the number of permanent members to 13 by adding eight new seats, and to increase the number of non-permanent members to 18 by adding another eight seats. The proposal also mentions that the first elected regional 'permanent' members initially would serve for a term of five years, but after this period, the region would decide a member state for the replacement. However, if the region could not make a decision, then the permanent member would continue for another five years until the region can decide what member within the region would be the replacement (ReformtheUN.org, 2009, p. 3). Cuba has not presented a formal proposal, but has advocated the addition of six permanent members, two for the African countries, two for Asian developing countries and two for Latin America and the Caribbean (Redaccion Ahora, 2009, p. 1).

Even non-governmental organizations have submitted UNSC reform proposals to the UN membership for consideration. The Center for UN Reform Education, a non-profit research organization, put forward a plan called the Model X, which expands the size of the Security Council to 20 members by adding five new renewable seats for a period of four years. In addition, Model X divides the number of seats (the P-5 and the 15 non-permanent members) in such a way that Africa, Asia, Europe, the Americas and the Pacific would each have five seats, ensuring a more balanced representation from each continental region (Security Council Reform, 2009, p. 5).

Some scholars and countries have suggested that the European Union should be represented in the UNSC with only one permanent member. The European Union collectively contributes about 40-50% of the organization's budget (Usmanov, 2009, p. 4). Italy initially suggested that the European Union should be represented in the UNSC by a single seat to allow greater participation to developing countries, but after this proposal was discussed in the European Union without positive results, Italy does not mention this possibility any more, although scholars continue to talk about this idea from time to time. The European think-tank

Skeptika has also advocated for a single European seat at the UNSC, but this will mean that both France and the UK will have to vacate their seat, something that is extremely unlikely.

The UK has repeatedly rejected this suggestion, saying that the UN Charter does not allow international organizations such as the European Union to hold a seat in the UNSC. The British representative recently expressed that “we remain one of the top nations in the world in terms of power projection, we’re the fourth largest contributor to the UN and its peacekeeping operations, we have troops deployed on UN mandated operations... none of my fellow permanent members have suggested that Britain should cease to be a permanent member of the UNSC. Our role as of now is justified and it is even more justified if the UNSC is bigger and more representative of the world” (Sawers, 2009, p. 2). The British government also is an important voluntary contributor to UN funds and programs. In 2005, the UK contributed over £ 610 million to the UN (National Archives, 2005, p. 1). If the European Union were admitted as a permanent member, this also could eliminate completely Germany’s aspirations to become a permanent member. However, there are other issues about UNSC reform which are important in addition to what nations will become the new members of the UNSC, such as the rules of procedure of the UNSC, which remain ‘provisional’ after almost sixty years since their creation.

Chapter III – The Facilitators’ Report and Analytical Overview of the Intermediary/Interim Approach

This chapter discusses and analyzes the efforts toward reforming the UNSC starting with the UNGA’s 61st Session with special focus on intermediary/interim approach. It includes the important Facilitators’ Report and the interim approach until the beginning of the intergovernmental negotiations which started in February 2009.

UNGA’s 61st Session (2006-2007) and the Facilitators Report

During UNGA’s 61st Session, reform efforts witnessed some initial signs of dynamism in the General Assembly. Haya Rashed Al Khalifa, the Bahraini President of the Assembly, proposed rearranging the reform debate along five key issues or themes: (1) the categories of membership, (2) the question of the veto, (3) regional representation, (4) the size of the enlarged Council and (5) the working methods of the UNSC and its relationship with the UNGA. She asked five ‘facilitators’ to guide the consultation process and to develop a report on the current positions and views of the Member States. While the idea of dividing the discussion in this manner was considered initially as a way to facilitate the discussions, later on the delegations started to express doubts about how to arrive at specific agreements in each of the areas because they saw all these themes as interconnected.

Mrs. Al Khalifa also suggested that rather than continuing on the assumption that a lasting solution to the question of UNSC reform had to be found, that a more realistic goal was to attempt to achieve some progress based on an ‘interim approach,’ an agreement that did not have to be permanent and final, but which recognized that the reform of the UNSC was a work in progress (Roos, Franke & Hellman, 2008, p. 50). This initiative was generally well-received by the UN membership, although some members, such as those of the G-4 and the African Group, questioned the wisdom of such approach.

The Report of the Facilitators,⁶ which was completed on time and submitted to the President of the UNGA on April 20, 2007, suggested the Member States to consider several options which included either a limited expansion, which they believed was supported by those Member States which were concerned about the efficiency of the UNSC; or a large expansion, believed to be supported by members which were concerned about the representativity of the UNSC; or a medium-size expansion, believed to be supported by those states concerned about both efficiency and representativity; or a limited expansion in the first stage followed by another expansion in the framework of the review (Report of the Facilitators, 2007, p. 6). The Report also suggested different options for the election of the new nonpermanent members: (a) extended-length seats, allocated either for the full duration of the intermediary arrangement (to be determined) and where Member States could reserve the right of recall; or for any period longer than the actual two-year term with no possibility of re-election; or (b) two-year seats with the possibility of immediate reelection (ReformtheUN.org, 2007b, p. 1).

The Report of the Facilitators was quickly criticized by some of the Member States and by some groups of states. Egyptian representative Maged Abdelaziz criticized the report arguing that it missed the most important consideration which was the guarantee that any expansion should include the permanent category with the power of the veto (AbdelAziz, 2006, p. 1). Also, in his statement to the UNGA, Ambassador Rastam Mohd Isa, Permanent Representative of Malaysia and Chairman of the Coordinating Bureau of the NAM on behalf of the Movement expressed that “the member countries of NAM, which represent almost two-thirds of the membership of this Organization, have noted that generally the ideas and observations submitted by NAM have not been taken into consideration in the report” (Mohd Isa, 2005, p. 2).

⁶ Report of the Facilitators to the President of the UNGA on the Consultations Regarding the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council. (2007). New York: United Nations.

The G-4 complained that the report did not acknowledge “that a substantial consensus existed within the membership toward approving an enlargement in both categories of membership: permanent and non-permanent” (Freiesleben, 2009, p. 11). The G-4, the US and a number of other states insisted that new facilitators should be appointed by the Chairperson to study the apparent omissions in the Facilitators’ Report. On the other hand, the UfC group insisted that there had never been consensus about increasing the membership in both permanent and non-permanent seats and denied that there was any need for the appointment of new facilitators. At the end, the Chairperson Sheikha Haya acceded to the demands of the G-4 (Freiesleben, 2009, p. 12).

The Facilitators Report, relatively short of only 18 pages, made a reasonable attempt to incorporate all the ideas that had been discussed for years, and attempted to provide a framework for further discussions. The five facilitators made an assessment of the opinions of the Member States by consulting individually with each of them and made an attempt to determine which options were possible and which were not, describing “what was feasible at this stage” (Report of the Facilitators, 2007, p. 4). It recognized the limitations about reaching potential agreement on some important issues and reminded the Member States of their own assessments of the likelihood that their specific position could be approved by the UNGA. It stated that “a significant number of Member States tend to agree that their ideal solution may not be possible at this stage” and that “the position of the major interest groups... are not likely to be fully realized at this stage” (Report of the Facilitators, 2007, p. 4).

The report recognized that the reform of the UNSC was essential for the legitimacy of the organization but by not suggesting the creation of additional permanent seats, the report immediately antagonized those nations with aspirations to become permanent members. The new options presented in the report were all either extended seats or short-term 2 year seats with the possibility of re-election. The report acknowledged the impossibility of eliminating the veto at this stage because of the P-5 declared opposition to its elimination, but did not suggest that this possibility could even be discussed sometime in the future. The only

recommendations it gave about the veto were about how to limit the veto powers of the P-5, something that got an immediate reaction from some of the permanent members, especially the United States.

The report identified the working methods as an issue where agreement was possible, not only because its reform did not require a Charter amendment, but also because even some permanent members had expressed the opinion that they were willing to accept some level of reform of the working methods, although “some of them” (Report of the Facilitators, 2007, p. 18) mentioned that those reforms should be initiated by the UNSC itself and not by the UNGA. However, with all its limitations, the Facilitators Report was a step forward in the discussions of UNSC reform.

Two new facilitators were appointed: Heraldo Munoz, the representatives of Chile and Christian Wenaweser of Liechtenstein “to move the consultation process forward on the basis of the Facilitators’ Report” (Okouma, 2007, p. 1) and a new report was submitted to the President of the UNGA on June 26, 2007. Their report (A/61/47, SUP Annex IV) offered some examples of the form of transitional arrangement that the Member States could consider. This second report supported the previously introduced ‘intermediary approach’ to move the discussions toward immediate reform of the UNSC, and provided the UN members with some guidelines for their consideration.

The 61st UNGA Session, by suggesting an ‘intermediary approach’ was believed to have made an important contribution in moving the discussions in the right direction. After all, it should be easier to agree on some terms that will be temporary than on UNSC changes that will stay for a long time. At least this was the general idea conveyed by the first and second group of facilitators and accepted by the UN membership. The reality, however, was going to be different.

UNGA’s 62nd Session

The 62nd Session of UNGA moved the issue of UNSC reform one step forward. The President of the General Assembly, Srgjam Kerim, former Ministry of Foreign Affairs and

former Permanent Representative of Macedonia, stated that “any changes should be aimed at raising the UN effectiveness and consolidating its central role in the world affairs” (Global Policy Forum, 2007, p. 1). On June 17, 2008, at the conclusion of the 62nd session of the UNGA, the President said “while we may continue with the work of the Open Ended Working Group during this session of the General Assembly, this does not preclude the commencement of negotiations” (UNGA President of the 62nd session, 2007, p. 2), and emphasized seven principles⁷ which could serve as guidelines for the membership in relation to UNSC reform and which established the foundation for future discussions. These principles or guidelines constituted the framework within which the UNSC reform should be negotiated, and the President requested from the Member States to consult, accommodate the interests of all sides and refrain from taking steps which could undermine achieving result-oriented solutions.

An important decision taken during the 62nd Session was the approval of Resolution 62/557, which was perceived as an important breakthrough in the procedures to discuss UNSC reform. The resolution established an “informal plenary” of the General Assembly whose decisions would be taken by two-thirds majority vote rather than by consensus as in the OEWG. The benefits of the resolution were obvious. It had to be easier to reach agreement by two-thirds majority than by consensus. However, the relationship between the OEWG and the “informal plenary” remained undefined and became a very sensitive issue.

⁷ The seven principles are:

- a) We must bear in mind that UNSC reform is an integral part of strengthening the UN. It must therefore go hand in hand with the transformation of the wider UN system.
- b) Prudent and principle-oriented guidance by the President of the UNGA is required, though it must be based on a joint venture with Member States in good faith and mutual respect.
- c) The way forward ought to be accomplished through an objective and transparent process to first identify the negotiable in order to then move to intergovernmental negotiations.
- d) The OEWG should carry out consultations on the framework of the modalities for intergovernmental negotiations.
- e) Further steps must contain components and notions that will allow the membership to reach a general agreement on all aspects of UNSC reform, in particular on both the composition of the Council, and its working methods.
- f) The reform of the UNSC must accommodate the interests and concerns of all sides, especially those who are currently underrepresented; and
- g) Member states should refrain from steps which could serve to undermine the current momentum and consensus to continue a process with the intention of achieving result oriented solutions (UNGA President of the 62nd session, 2007, p. 2).

This resolution, which also became known as the “decision” of the 62nd Session, established a deadline for the beginning of the intergovernmental negotiations “no later than 28 February 2009” (UNGA A/63/960, 2009, p. 2) and item (e) of the decision mentioned that such negotiations should be based on “the positions and proposals of the Member States, regional groups and other groupings” (UNGA A/63/960, 2009, p. 2), the five key issues and UNGA documents A/61/47, UNGA resolution 61/561 and the report of the OEWG about its work during the UNGA 62nd session (UNGA A/63/960, 2009, p. 2).

The President of the 62nd Session concluded by expressing his belief that consensus had been achieved in moving the discussions along the five main issues proposed by Mrs. Al Khalifa (UNGA President of the 62nd Session, 2007, p. 2). However, in his speech at the 7th meeting of the OEWG, the President summarized the advances made during the 62nd session saying that “the only agreement we have” is “that all positions and proposals form a basis for intergovernmental negotiations” (UNGA President of the 62nd session, 2008, p. 2). In other words, the only agreement reached had been to continue the discussions.

Analytical Overview of Intermediary/Interim Approach

Origin of the Intermediary/Interim⁸ Approach

The idea of reaching some kind of tentative or interim agreement about UNSC reform and then establishing a mandatory review sometime in the future is not a new idea. It was first introduced into the discussions of the UNGA by Germany during the mid-1990s in an unsuccessful attempt to accelerate the negotiations toward agreement and to attract skeptical

⁸ The words interim, intermediary, transitional and temporary have been used interchangeably in the discussions about the new approach to reform the UNSC. In addition, there seems to be some confusion even among scholars about what should be included in the interim or intermediary approach, probably because this term has been increasingly used since the 1990s. The representative of Brazil has mentioned that “delegations use such terms as ‘intermediate’ and ‘intermediate’ to mean different things (Overview of Intergovernmental Negotiations, 2009, p. 6). The representative of South Africa also expressed confusion about the meaning of the ‘intermediate approach’ saying that it lacked clarity and needed more precision (Overview of Intergovernmental Negotiations, 2009, p. 6). In this dissertation, the interim or intermediary approach includes all discussions regarding arrangements that fall short of being permanent solutions to the issue, and that have taken place after the passage of UNGA Resolution 62/557 on September 2008.

states to start direct negotiations. In a speech in the OEWG in 1996, German Ambassador Dr. Gerhard Henze mentioned that “a review clause would open up possibilities for further improvements... the review, of course, would have to address all aspects of the reform package, including permanent memberships” (Hauben, 2008, p. 2). He argued that by using this approach the membership would not create new “eternal” but only “momentaneous” members, both permanent and non-permanent members (Hauben, 2008, p. 2).

When this idea was first proposed, the response of some of the other members was quick to come. New Zealand Ambassador Colin Keating immediately replied that there was already a provision in the UN Charter which permitted review and that a new provision would not add anything. He added “the only meaningful element that a periodic review could contribute to an overall compromise package would be to adjust the way in which Article 108 operates... so that any new class of privileged members would not be able to unilaterally frustrate future reviews” (Ney, 2008, p. 2). However, the German Ambassador apparently had already thought about this objection and replied that there was legal support for such an approach. He responded that “an appropriate place for a periodic review clause would be article 23 of the UN Charter. Article 23 would read as follows: ‘Article 23 (3) each member of the UNSC shall have one representative, Article 23 (4) new permanent members who are not the original five members are subject to a periodic review in accordance with Article 108. The review process is compulsory and will take place after 15 years...ratification of the review result does not necessarily require ratification of the new permanent members’” (Ney, 2008, p. 3). Although not accepted by the UN membership, the seed of the idea had been planted and was going to be incorporated into some of the speeches as the discussions progressed.

A couple of months later in 1996, the representative of the Republic of Korea, an opponent of adding more permanent seats to the UNSC, given his country’s membership in the UfC brought the idea back saying, “another development is that even those who support an increase in permanent members accept the proposition that the word ‘permanent’ should not imply ‘eternal’, a point made continually by delegations with strong reservations on that

increase” (Freiesleben, 2007, p. 3). He noted “that a nation widely regarded as a direct beneficiary of an increase in permanent membership put forward the idea that new permanent members should not be eternal but subject to periodic review with a 15-year interval in the form of a General Assembly vote” (In-Kook, 2009, p. 3). He echoed his delegation’s “repeated advocacy that the qualifications of UNSC members must be checked against time, and that democratic review in the form of elections was essential” and added that “the combination of ‘permanent’ and ‘periodic review’ could be seen as having something in parallel with the mix of ‘non-permanent’ and ‘longer-tenure’” (In-Kook, 2009, p. 3). However, the idea did not gather sufficient support, although sporadically one or another member would mention it, either to endorse or to criticize this approach, until it was mentioned again in the Facilitators’ Report in 2007.

Main Elements of the Interim Approach

The Facilitators’ Report advocated as one of its most important objectives the need to produce an agreement on those issues on which agreement was possible, and postpone for a later time those on which agreement could not be reached. The suggestion was to find a compromise which would allow all the contending parties to advance their objectives while leaving the most intractable issues to be negotiated later. It was a way in which some progress could be made without reaching a final agreement.

The words interim, intermediary, transitional and temporary have been used interchangeably in the discussions about the newer approach to reform the UNSC. In addition, there seems to be some confusion even among scholars as to what should be included in the interim or intermediary approach because the possibility of this approach started to be discussed since the 1990s. This dissertation includes in the interim or intermediary approach the discussions that have taken place after the passage of UNGA Resolution 57/557 on September 2008.

An interim approach, also by definition, should have a review date, a time in the future when the membership will get together again to review the results reached during this period and determine what changes, if any, have to be made; in other words, when the interim agreements become permanent, unless a decision was made to keep them temporary and establish a new review deadline. The report specifically cautioned that “issues on which member states will not agree in the negotiations would have to be deferred to the review” (Report of the Facilitators, 2007, p. 5), and acknowledged the possibility that on certain issues it may be difficult to reach agreement, that “a definitive solution might not be feasible at this stage” (Report of the Facilitators, 2007, p. 5). Still, the idea was to reconcile the different positions as much as possible and reach an agreement that was a compromise, not intended to reflect the lower common denominator, but a potential solution which was politically sustainable and flexible enough to permit the membership to continue its deliberations and discussions in the future (Report to the President of the UNGA, 2007, p. 3).

Immediately after the UNGA passed its resolution 62/557 in September 2008, the OEWG was requested to begin preliminary discussions about how to start and conduct intergovernmental negotiations in an informal plenary of the General Assembly as part of its 63rd session, to begin no later than February 28, 2009 (UNGA President of the 63rd Session, 2008, p. 2). The basis for such intergovernmental negotiations would be: (a) the positions and proposals of the membership, regional groups and other member state groups, and (b) the five key issues (United Nations, 2008, p. 2-3).

The interim approach encouraged the members to discuss five relevant areas of Security Council Reform and created a working group for each of these important issues which were headed by an ambassador from a different geographical region.

Working Group:	Facilitator:
Categories of Membership	Ali Hachani (Tunisia)
Question of the Veto	Andreas D. Mavroyiannis (Cyprus)
Question of Regional Representation	Mirjana Mladineo (Croatia)

Size of an enlarged UNSC

Heraldo Munoz (Chile)

Working methods of the UNSC and the relationship

between the UNSC and the General Assembly

Frank Majoor (Netherlands).

The Member States discussed the creation of a new membership category, one that could be defined according to the desires of the members, and which could be an extended seat that could exist either for the whole duration of the intermediary period, or extended seats for a longer term than those presently allowed to the existing non permanent members, with or without the possibility of reelection.

The unstated objective of this idea was that those countries which pursue as a goal to become permanent members of the UNSC would be induced to accept an extended nonpermanent membership as a substitute during the interim period. The suggested new membership category, which was not permanent, did not include the right to a veto which had been one of the most dividing issues in UNSC reform. The African Group, however, refused to consider this alternative and declared its intention to pursue vigorously the establishment of permanent seats with veto power allocated on a regional basis to guarantee the blatant discrimination to which this continent has been subjected since the foundation of the world organization.

The report recognized that there are 'inseparable links' between the size and categories of memberships and the regional representation and that those were difficult and complicated issues. Although no country opposed expansion in the abstract, each state had its own views about how large this expansion should be, how it should take place, and above all which should be or should not be the Member States likely to become members of a reformed UNSC.

The report also mentioned the main criteria that ought to be considered when determining the size of an expanded UNSC, and repeated the often mentioned objectives of achieving equitable geographical distribution as provided by article 23 of the UN Charter, enhanced credibility, efficiency and effectiveness, as well as to consider the financial and

diplomatic contributions of the members elected to the UNSC and their respect for democracy and human rights (Report of the Facilitators, 2007, p. 15). Other important factors suggested for consideration were population, regional role and standing, size of its military forces and the aspirant's contributions to peacekeeping operations (Report of the Facilitators, 2007, p. 13). Also, while reaffirming the general agreement about expanding the UNSC, the report mentioned that the ratio between the UNSC and the UN membership was 21% in 1945 (a ratio of 1:5), 13% in 1965 (a ratio of 1:8), but less than 8% today (a ratio of 1:13) (Report of the Facilitators, 2007, p. 16). Obviously, an expansion was long overdue.

All Member States agree that any reform should enhance access for non-Council members by improving the working methods of the UNSC (Report of the Facilitators, 2007, p. 7). In general, most countries called for better notification to all Member States of all UNSC meetings, more frequent briefings by the President of the UNSC and by the Chairperson of the subsidiary bodies, and the institutionalization of periodic reviews of the implementation of the UNSC mandates and decisions (Report of the Facilitators, 2007, p. 17).

However, the Member States started to disagree even before the start of the negotiations. The UfC group immediately reacted by saying that all decisions should be based on consensus, with the G-4 responding that insistence on consensus would stall the negotiations and preclude any agreement (Swart, 2009, p. 1). There were no specific instructions about how to start such negotiations and no clarity about the rules of procedures that should be used to reach an agreement (Swart, 2009, p. 2). Some African countries also voiced their displeasure, saying that the intermediary approach sought to retain the status quo under the guise of accountability, and that it will not advance the reform process promised by the world leaders in the WSO document (ReformtheUN, 2009, p. 1).

Criticisms about the report came not only from some state representatives but also from some scholars who also expressed their skepticism with the suggested approach. Thomas Weiss, chair of the Academic Council on the UN System and Professor at the Ralph Bunche Institute for International Studies at City University of New York, expressed his strong doubts

about the political viability of the interim approach by asking “how do you temporarily move toward implementing a Charter revision which requires approval by the members, and in the case of the P-5 all of them, and the US Senate?” He concluded by saying “with a stipulation that we will revisit? In my view this is a non starter” (Freiesleben, 2008b, p. 5). The same scholar also cautioned that such an approach could end up becoming a permanent solution, because it was impossible to guarantee that any additional changes in the future will receive the necessary attention and support (Freiesleben, 2008b, p. 7).

However, the representatives of some Member States have supported the interim strategy. French Ambassador Jean Maurice Ripert is on record supporting the option of an intermediate reform that would temporarily provide seats for terms longer than two years, maybe five, and immediately renewable. He suggests that at the end of the initial phase, which could last from 15 to 20 years, it would be possible to have a review conference to evaluate the effects of the reform and the need for finishing the reform probably at that time making permanent the longer-term seats. He explains that the eventual admission of new states to the status of permanent members is necessary for several reasons; including the acknowledgement that new powers have emerged which have the willingness and the capacity to assume significant international responsibilities. He reasons that not creating new permanent seats would increase the gap between the UNSC and the reality of the contemporary world, that those nations with the ability to make a substantial contribution to the maintenance of peace and security (politically, financially, or militarily) should be able to utilize their capacities fully with a mandate according to their size and power; that the relationship between the permanent members and the non-permanent members is a very important factor to the efficacy and efficiency of the Council; and that unbalance between these two membership categories would have negative effects on the efficiency of the UNSC (Ripert, 2009, p. 2). France is well aware that one way to reduce the often heard criticism of its permanence in the P-5 despite of its reduced international status may be by expanding the UNSC and allow like powers to become members of the select club.

Intergovernmental Negotiations

Immediately after the UNGA passed its resolution 62/557 on UNSC reform in September 2008, the OEWG, which consists of all Member States, was asked to start preparatory discussions on how to conduct intergovernmental negotiations in an informal plenary of the UNGA. Such intergovernmental negotiations were scheduled to begin in the informal plenary no later than February 28, 2009.

In his address to the 63rd Session, its President Miguel d'Escoto Brockmann, announced the start of the intergovernmental negotiations. He said that he would present “a work plan, providing clarity on the terms and modalities and also providing a short term schedule of the meetings on in particular the five key issues” (UNGA President of the 63rd Session, 2009, p. 2). On February 18, 2009, the Member States agreed that the negotiations of the UNSC reform and its five key issues would be held in accordance with the agenda proposed by the President of the 63rd Session (ReformtheUN, 2009, p. 1). The decision was taken relatively quickly and without much discussion because the proposed agenda was left purposely ambiguous and thus satisfied the potential national interests of all the participants. However, it was quickly evident that reaching agreement was not going to be easy.

Positions of Main Negotiating Parties on the Issue

The positions of the main negotiating parties have not changed very much after the start of the intergovernmental negotiations. The official position of the US about the reform of the UNSC has not changed during the interim approach. The US advocates “a criteria-based approach under which potential members must be supremely well qualified, based on factors such as economic size, population, military capacity, commitment to democracy and human rights, financial contributions to the UN budget and to the UN peacekeeping, and its record on counterterrorism and nonproliferation” (US State Department, 2009a, p. 2). More recently, the US representative reiterated the US support for a criteria-based approach making emphasis on democracy and human rights. Some critics of the US have expressed that it is ironic that the

US attempts to enforce the human rights criteria on aspiring candidates when both the US and China, both permanent members of the UNSC, have been repeatedly criticized for human rights violations (Security Council Reform, 2009, p. 3). However, arguments against the US are frequent both inside and outside of the UN, probably because of the hegemonic position that this country plays in international politics.

Russian Foreign Minister Igor Ivanov also has supported the interim approach and the start of the intergovernmental negotiations. He has actively provided ideas such as that “the review is an element of the interim’ model and therefore it would be logical to address those issues directly after the Member States have made a fundamental choice in favor of the interim’ model” (Walker, 2007, p. 67). France and the UK are both on record supporting the reform of the UNSC and the interim approach. China’s position is less clear but also supportive of UNSC reform. Ambassador Wang Guangya mentioned that “China believes that as an open platform with the participation of all the 192 member states, the OEWG could and should play an important role in the future negotiation process” (Guangya, 2008, p. 1). France and the UK have supported the candidatures of Japan and Germany, while China has emphasized that the new members should be elected after all the parties have reached an agreement, and that it is important not to push for a fast solution.

The German Ambassador at the UN, in his speech during the intergovernmental negotiations, compared the reform of the UNSC with constructing a building, with the items in the negotiable text resembling the bricks in a construction site. He says that all the building blocks are there but that now it is necessary to put them together so that the final product becomes visible for everybody (Freiesleben, 2008b, p. 2).

Indian Ambassador Nirupam Sen has been more critical of the interim reform process as evidently he sees the new approach as hindering rather than facilitating the goal of India to become a permanent member of the UNSC. He would have preferred rather a direct approach where India could have the possibility of achieving its goal without going through the labyrinth of never-ending intergovernmental discussions and consultations. He said that “the

interim solution is not a solution but a problem, not a structure but gerrymandering; talking of overarching groups, it is not an arch for throwing bricks in the air and hoping that they will hold like a rainbow” (Freiesleben, 2008b, p. 3). In his opinion, all the various options presented to the UNGA through the different letters and other communications should be integrated, discussed, and voted upon, keeping in mind the mandate of UNGA Decision 61/561 that all the positions of Member States and all the proposals presented should be included (Freiesleben, 2008b, p. 3). The same environment of intractability that characterized the discussions in the OEWG has surfaced in the discussions of the intergovernmental negotiations. Italian Ambassador Marcello Spatafora even has accused the governments of the G-4 group of using financial aid to blackmail developing countries into supporting the G-4 bid for UNSC permanent seats. He expressed anger at the “improper and unethical behavior” of those governments, and went as far as to ask for a formal investigation on the matter (Security Council Reform, 2009, p. 6). This is just demonstrative of how the heated debate about UNSC is being conducted in the intergovernmental negotiations.

The Member States of the African Group, the largest group in the United Nations, in a meeting held in New York in 2008 to review the goals and objectives of the interim approach, reaffirmed the African Common Position⁹, reached by the representatives of the African Union in Ezulwini, Swaziland and Sirte, Libya, to keep without changes their original proposal for the reform of the UNSC (Security Council Reform, 2009, p. 5). Such proposal allocates two permanent seats with veto powers to African countries in the UNSC (Security Council Reform, 2009, p. 5).

There are some countries which expressed their hopes that they could represent Africa in the UNSC as a permanent member, although there is no consensus about what countries should be elected to represent the continent (Security Council Reform, 2009, p. 9). South African President Thabo Mbeki has expressed that his country is ready to take up a permanent

⁹ The African Common Position is the position discussed by the African Union in their Ezulwini, Swaziland and Sirte, Libya, meetings, which was ratified and confirmed by the African heads of states in their meeting in Addis Ababa, Ethiopia, on March 5-8, 2005.

seat on the UNSC when this body is reformed (Security Council Reform, 2009, p. 9). The P-5 members have mentioned that they would support the participation of Africa in the UNSC with some of them calling particularly for permanent representation for Africa without specifying the number of seats to be allocated in this regard. Critics have argued that the firm stand of the African group has only facilitated the continuation of the privileged position of the P-5 and avoided the possibility of moving forward with the UNSC reform, although similar criticisms have been charged against the two other groups as well.

Chapter IV - Impact of Intermediary Approach on Issues under Negotiations

How Would It Translate on the Five Main Issues

The interim or intermediary approach is supposed to reach agreement, or at least reduce disagreement, on the so-called five main issues of size, categories, regional representation, the veto and working methods. This section discusses what advances have been made, if any, and the difficulties that still lie ahead in each of the five major questions.

Size of an Enlarged UNSC

As the Report of the Facilitators stated in 2007, the majority of the delegations are of the view that the restructuration of the UNSC needs to be based on “the contribution to the maintenance of international peace and security and to the other purposes of the Organization”, and the consideration of factors such as the level of financial and diplomatic contribution to the UN, troop contributions to the peacekeeping operations, population, the size of military forces, respect for democracy and human rights and the regional role and standing of the candidates to new membership in the UNSC (Report of the Facilitators, 2007, p. 13). No member of the organization opposes the expansion or enlargement of the UNSC, but they greatly differ on how such expansion should be made, what types of seats (permanent or non-permanent) should become available and, above all, which are the Member States likely to occupy those seats.

In its abstract form, agreement exists that the UNSC should be enlarged. An argument frequently expressed is that if the number of the present members in the UNSC is compared with the executive bodies of other international organizations, such as the IMF or the World Bank, the number of members of the UNSC is extremely small; and to make the ratio of

leaders¹⁰ to members comparable, the number of members of the UNSC would have to be increased to 24 (Blokker, 2005b, p. 258).

The report anticipated that reaching agreement about the size of the reformed UNSC was not going to be easy. It mentioned that “bearing in mind the inseparable links between the regional representation cluster and those of size and categories of membership, it might prove to be very difficult to devise any workable solution prior to the agreement on the number of seats to be distributed” (Report of the Facilitators, 2007, p. 14). Up to the present, most Member States have focused their speeches and proposals on the expansion of the UNSC rather than on making the UNSC more efficient (Vargas, 2008, p. 8), and no agreement has been reached about the size of a reformed UNSC.

Categories of Membership

The major categories of membership in the UNSC that have been discussed are non-permanent and permanent, each with its different variations. The non-permanent new seats could be for different period length and with or without the possibility for re-election. The permanent membership seats could be with or without the power of the veto. A number of states want the expansion of both permanent and non-permanent members, others expressed an interest in intermediate seats –nonpermanent at the beginning, but which could become permanent after a period of time or after successive elections- and others, such as the UfC members, have called for an increase only in the non-permanent category and oppose the idea of adding new permanent members.

The G-4 obviously aspire to obtain permanent seats with veto power, although they have declared that they are willing to accept permanent membership without veto power as long as they could be invested with veto power sometime in the future. Japan suggested up to 15 years in the future. India expressed in March 2008 that it is ready to negotiate an interim

¹⁰ Leaders refer to the Member States that occupy a managerial position or a position of influence in the hierarchy of the international organization (Blokker, 2005b, p. 258).

solution as long as the overall process included a provision that a permanent seat might be open in the future (Sen, 2009, p. 1). Germany also now agrees with an interim solution that includes a new category of renewable long-term but non-permanent seats (Roos, Franke & Hellman, 2008, p. 51). Germany faces a difficult situation, because India and Brazil count with the support of some countries in the developing world, which does not exist for a third EU member, although China expressed its support for Germany's candidacy.

The African Group, on the other hand, remains firmly convinced that justice to them could be done only by awarding the continent two permanent seats with veto power, although the Group would be willing to forego its claims to veto if all permanent seats, including those of the P-5 were eliminated, something that in the present circumstances is not an option. Those countries in favor of permanent membership consider that non-permanent membership in the UNSC equals to a second-class status with little, if any, decision-making capability. Another often unmentioned reason of the aspirants to permanent membership is the so-called 'cascading effect', the fact that when a nation becomes a permanent member of the UNSC it has the privilege to sit on many boards of the UN system and appoint their nationals to senior positions in the organization.

The UfC is adamantly opposed to the election of new permanent members and ferociously opposes giving the veto power to any new member of the UNSC. If they could, they would like the veto power completely eliminated, although they recognize that this may not be possible at the present time because none of the P-5 members would relinquish its veto power. In fact, none of the P-5 wants any addition to their category, although all of them have supported the idea of adding new permanent members without the right of veto. The Mexican representative, a member of the UfC group, expressed that the preference of his country would be an increase in the number of elected nonpermanent members for a longer period of time with the possibility of re-election for those nations which have demonstrated a commitment to the purposes of the UN (Berruga, 2005, p. 4). The representative of Pakistan expressed that "our flexibility stops at our red lines, principally our opposition to the addition

of new individual permanent members of the Security Council” (Akram, 2008, p. 1). He also reminded the audience that the position paper of the NAM indicated that “if there is no agreement on other categories of membership, expansion should take place only, for the time being, in the non-permanent category” (Akram, 2008, p. 2). In other words, the debate about the categories of membership is a divisive issue and one where the different positions of the Member States are unlikely to produce agreement any time soon.

Question of Regional Representation

The question of regional representation also has been a politically charged issue. Representativity is seen by some states as equal to legitimacy. There is the feeling that some geographical regions, such as Africa, Asia and Latin America including the Caribbean, and maybe the Eastern European countries are underrepresented in the UNSC. Some Member States have complained that a Council that is perceived as illegitimate does not have many tools with which to win the support of the Member States and “would rapidly lose its power, influence and effectiveness in world politics” (Hurd, 2008, p. 203). Others expressed that the goal of regional representation is already enshrined in the election of the non-permanent members and this idea is not challenged by any Member State (Hurd, 2008, p. 204). Others have gone further by saying that the poorest nations, which only pay a bottom-line of US\$ 17,795 in annual UN dues already get a good bargain for their money, because it allows them one vote in the UNGA, the honor of flying their flag in front of the UN building, and the possibility of being elected to serve a two-year term in the UNSC (Shawn, 2006, p. 226). Going too far with the idea of expanding the Council to ensure representation could end up making the UNSC less representative. The absurdity of going too far securing representation is exemplified by the 1970 historical example when three African countries were represented in the UNSC, all of them with a total population of less than ten million people (Hiscocks, 1973, p. 100).

However, the discussions about making the UNSC more representative are at the center of the debate about UNSC reform. The representative of Germany stated that “the legitimacy of the Security Council is based on its own representativeness¹¹,” but added that, according to the UN Charter and the decisions of the UNGA, the UNSC cannot represent the respective regions but rather “have a global accountability as well as an obligation to the international community as a whole” (Matussek, 2009, p. 1). India questioned the general notion of regional representation, arguing that there was “not even a regional interest or support for regional seats”, and asked “How can you represent something that does not exist? What is the regional interest of Asia?” (Ney, 2009, p. 2). Others responded to those allegations saying that if the UNSC were to add Japan and Germany as permanent members, without also including other major less developed countries, the UNSC would become less representative, less diverse, and less legitimate from the viewpoint of the majority of the UN member states.

At a theoretical level, Hurd (2008) developed five hypotheses about legitimacy and UNSC reform, which are: “1) the membership of the Council is representative of the UNGA membership, 2) the membership of the Council is diverse; 3) the state is a member of the Council; 4) the state has an opportunity to participate in the deliberations of the Council, and 5) the level of deliberation at the Council is high” (Hurd, 2008, p. 208). The first three hypotheses are based on membership and the last two on deliberation (Hurd, 2008, p. 208). All hypotheses that deal with the legitimacy of the UNSC also mention a potential trade-off between increasing the Council’s legitimacy and furthering other values, such as efficiency, effectiveness, or power. However, it is generally accepted that the size of the UNSC is negatively correlated to its effectiveness, and some countries, such as the US and the Russian Federation, frequently raise this argument as a cost of a larger membership (Hurd, 2008, p. 212). Hurd made an analysis of the positions of the Member States and determined that the

¹¹ The idea of making the UNSC more representative of the world usually means expanding the UNSC to allow for greater diversity to make the UNSC more representative of the organization’s expanded membership of 192 nations. However, the ‘solution’ usually advocated to make the UNSC more representative is to have the different geographical regions represented in the Council, which in many cases may mean voting into the UNSC the most powerful, industrialized, populous or important countries in a region.

evidence so far “makes it plausible to conclude that much of the legitimacy talk around which reform arguments are constructed is a false front, covering-up the political interests of states”, and added that the Member State’s references to legitimacy “may be largely insincere” (Hurd, 2008, p. 213). In other words, according to this scholar, Member States raise the banner of representativity to pursue their own national interests and not the interests of their regions.

Nevertheless, a lot of attention continues to be paid to the question of regional representation, although it is generally acknowledged that even if the nonpermanent members were elected on a regional basis; that these Member States still cannot represent their respective regions. Some delegations have the view that the concept of regional seats is not feasible at this stage (Islamic Republic of Afghanistan, 2009, p. 2). Cuba expressed that the diversity within a regional group should be considered in determining how many seats a region should hold, meaning that the purpose of the regional group is to project the diversity of the region in the Council (Hurd, 2008, p. 204). Singapore also mentioned that small states should be elected to the UNSC in the interest of diversity (Hurd, 2008, p. 205).

Article 23 of the UN Charter mentions “equitable geographical distribution” as one element, among others, to determine the election of members to the UNSC. The Charter does not mention “regional representation” and, according to India, there is no such thing as a regional seat (Ney, 2009, p. 1). However, some states, such as Mexico and Pakistan, suggested a process of regional rotation highlighting the potential benefit of increased accountability that this procedure would carry. Those countries defended this recommendation saying that “the fact that there are term limits, and that these seats must meet the criteria of standing for election, would assure the accountability toward the regions they are related to” (ReformtheUN, 2007c, p. 2). The representative of Pakistan expressed that equitable geographical representation, as expressed in Article 23 of the UN Charter, would make little sense if the seats allocated to a region were to be occupied permanently by a single country as demanded by the Member States of the G-4. He distinguished this type of permanent regional representation from the African demand for ‘permanent seats’ for the entire region, which

allocates the seats to the whole continent and not to individual countries (Akram, 2008, p. 2). However, the African position calls for the allocation of two additional permanent members with veto power, which obviously have to be occupied by specific Member States, not by the whole continent. The Ezulwini Consensus is unclear about whether those permanent seats will be permanently occupied by an African country or rotated among the membership. The only reference the Consensus makes about this issue is that “the African Union should be responsible for the selection of Africa’s representatives to the Security Council and that the question of the criteria for the selection of African members of the Security Council should be a matter for the African Union to determine” (Ezulwini Consensus, 2005, p. 10). In the African proposal, only the two nonpermanent seats allocated to Africa would rotate among the countries of the region.

Christopher Hill, a well-known scholar and present US Ambassador to Iraq, expressed the opinion that “some kind of a deal on the basis of a combination of the two principles of regional/continental representation and revolving membership” seems to be most likely to come out of the interim negotiations “if the major middle-range (and potential great powers) on each continent can agree to some principles of rotation which satisfies their respective interests and *amours propres*” (Roos, Franke & Hellmann, 2008, p. 50-51). This, obviously, is difficult to accomplish.

While it is true that some geographical regions are underrepresented in the UNSC, and that they have been for a very long time, the inability of the underrepresented regions to present a unified position to press their claim so far has hindered reaching an agreement about this issue. It seems that not only there is a need for the different geographical regions to agree about how to implement a potential reform, but also to come to agreement within each region. As long as inter-regional controversy and disagreements continue, the possibility of moving the discussions forward loses momentum and threatens to stall the negotiations.

Question of the Veto

The existence of the veto vested in the five permanent members of the UNSC has been a thorn in the flesh of the UN membership. The HLP specifically acknowledged that “the institution of the veto has an anachronistic character that is unsuitable for the institution in an increasingly democratic age” (Report of the High Level Panel, 2004, p. 2). The HLP also acknowledged that there is “no practical way of changing the existing members’ veto powers” although it also suggested that there could be limitations “to matters where vital interests are genuinely at stake” (Usmanov, 2009, p. 4).

While all members understand that the establishment of the veto was an indispensable concession to the victors of World War II to join the world organization, (mostly the former Soviet Union and the US), and that the founders recognized that war could result if any proposed military action were to be carried out against the opposition of any of the other permanent members (Walker, 2007, p. 1), most members today see the veto as unjustified in a democratic organization. SG Boutros Boutros Ghali complained about why he should have “ten eyes all the time looking over my shoulder to see what I am doing?” (Almond, 2006, p. 261), referring to the pervasive presence of the P-5 in the work of the organization. However, the nations which already have the veto are unlikely to renounce it. Most permanent members accepted the potential enlargement of the UNSC and other reforms with the condition that they would preserve their veto powers amongst other conditions.

Also, at least theoretically, it could be argued that when seven members of NAM are elected to the UNSC that they possess a sixth veto because by withholding consent simultaneously they could block any resolution (Malone, 2004, p. 14). This situation, however, does not happen all the time because many nations are not members of NAM and 17 others are only observers of the organization, such as Bosnia-Herzegovina, Brazil, Costa Rica and Mexico (Non-Aligned Movement, 2009, p. 1). In addition, the division and fragmentation of NAM is unlikely to produce this outcome and the organization does not have a unified position on all issues discussed at the UNSC.

The G-4 agreed to postpone the discussion about the establishment of permanent seats with veto power, although Germany and other candidates expressed that there can be no discrimination between first-rate and second-rate permanent members (Usmanov, 2009, p. 6). Germany and Japan base their aspirations on the realist approach¹² which argues that the UNSC should be a reflection of the actual distribution of wealth and power in the world and not only based on abstract ideas of fairness and justice (Usmanov, 2009, p. 6). Those nations want a permanent seat and in the past have even threatened to reduce, or hinted that they would be forced to reduce, their financial or military troop contributions to the UN if they are not provided with this status (Islamic Republic of Afghanistan, 2009, p. 1). Russia proposed to delay the discussion of the veto until later, after an agreement was reached about the enlargement of the UNSC, and this opinion was voiced by other countries including India (ReformtheUN, 2009, p. 3).

On the other hand, several countries, among them Costa Rica, France, Iceland, Italy, Spain, Liechtenstein, the Netherlands, Norway and the Philippines have steadfastly defended the position that new permanent members should not be granted the veto, and recommended restrictions on the use of the veto by the current permanent members, and asked that an explanation be issued by the country exercising the veto to increase transparency, supporting the changes in the working methods already suggested by the S-5.

Other proposals introduced in the discussions have asked the P-5 to agree on not using the veto in cases dealing with Article 27, paragraph 3 of the UN Charter, and in cases of humanitarian emergencies, violations of human rights or genocide (OEWG, 2008, p. 4); or restricting or limiting the scope of the application of the veto by either restricting the use of the veto only to Chapter VII issues or by barring or disallowing it in Chapter VI decisions. Others have attempted to enhance the accountability for the use of the veto by asking the permanent member to issue an explanation as why a veto was exercised; placing a cap on the

¹² Realism is an approach in international relations theory based on the assumption that the international system is “anarchic; that nation-states pursue their own national interests defined in terms of power; and that there is skepticism toward international laws, institutions and ideas that attempt to transcend or replace nationalism and the primacy of power politics” (Wayman & Diehl, 1994, p. 5).

number of times that a permanent member can exercise its veto; barring the veto where a permanent member is a party to the conflict; requiring two negative votes to reject a draft resolution, or encouraging individual state or collective pledges from using the veto in certain instances (Report of the Facilitators, 2007, p. 5).

Vargas (2008) suggested that a possible compromise might be to renew an unsuccessful amendment proposed by Australia in 1945 during the formation of the organization. According to the Australian proposed amendment, the use of the veto would be limited to decisions taken under Chapter VII of the UN Charter, and no single P-5 member could veto a decision supported by the other four. The P-5 is unlikely to agree with any of these proposals.

However, although the question of the veto ranks very high in the priorities of the Member States, veto reform alone or by itself may not be the single most important factor in the intergovernmental negotiations which will seal or break the reform of the UNSC, if substantial agreement can be reached on the other items in the agenda. In addition, there is a difference in views between those who consider the veto as an issue on its own, and those who are more flexible and willing to accept it as one element of the working methods. The former looks at the veto from a structural point of view because it is linked to the discriminatory P-5 status, while the latter looks at it from a procedural perspective.

The next item in the agenda, the working methods, seems to be the only issue where most Member States have the possibility of reaching agreement, although they also need the affirmative votes of the P-5.

Working Methods of the UNSC and its relationship between the UNSC and the UNGA

The fifth issue mentioned in the Facilitators Report was the working methods of the UNSC and its relationship between the UNSC and the UNGA, a topic of great concern for most of the Member States. There are three main documents about the working methods of the UNSC: the UN Charter itself, the Council's Provisional Rules of Procedure, which have been amended nine times, and the San Francisco Statement of 8 June 1945 on Voting Procedure in

the UNSC (Hiscocks, 1973, p. 82). Member States have complained about the secrecy in which decisions are taken, about the second-class citizenship of the non-permanent members of the UNSC which are generally called to rubber-stamp the decisions already made by the P-5, and about the lack of information given to the membership.

Several Member States expressed their disappointment about rarely being consulted or even informed about issues determined by the UNSC. States not members of the UNSC have complained that even when they are subject to, or involved with, a matter discussed by the UNSC, that they are excluded from the discussions and the negotiations of resolutions and allowed to speak only after a decision has been made and voted by those on the Council (Security Council Reform, 2009, p. 3). Mehdi Danesh-Yazdi, Ambassador from Iran to the UN asked: “How can one expect member states to implement decisions that are made without even minimal engagement on their part, or even without their knowledge?” (Security Council Reform, 2009, p. 4). Ambassador Davide of the Philippines told the UNSC that due process and the rule of law demand that Member States that are not members of the UNSC, but are the subjects of its scrutiny, should have a right to appear in front of the Council at all stages of the proceedings concerning them to state or defend their positions on the issues and subjects related to the scrutiny. He emphasized that such participation is unfairly limited by rules 37 and 38 of the provisional rules of procedure, and that such denial of due process constituted a violation of the basic principles of the rule of law, which requires that a party must be heard before it is condemned (Security Council Reform, 2009, p. 4).

The Report of the Facilitators suggested that “any reform scenario should enhance access for non-Council members by improving the working methods of the Security Council” (Report of the Facilitators, 2007, p. 6). However, while some progress has been made in this area since the start of the UN reform process, still claims for more transparency and efficiency are often heard in the speeches of the delegates during the intergovernmental negotiations.

One idea advanced by some scholars and diplomats is the potential institutionalization of the Presidency of the UNSC as a potential improvement of the working methods of the

UNSC. Under the present arrangement, the Presidency of the Council is rotated every month according to the alphabetized name of the country in the English language, a practice that many believe is inefficient because there is not enough time for a new President to accomplish much in only a one-month period. Ambassador Ahmad Kamal, former Permanent Representative of Pakistan, mentioned that “the power of the Security Council President is zero” (Vargas, 2008, p. 5). Obviously, there are many benefits from a longer period of the Presidency, including reducing the time required for the President to learn his new job and allowing for greater continuity of agenda items. However, this idea for increased efficiency runs against the desire of many small countries of having an opportunity to be President for at least a month during their two-year non-permanent membership to the UNSC.

The S-5 proposal, widely supported by the UN membership, recommends a series of steps to further ensure the accountability, transparency, inclusiveness and representativeness of the UNSC with the objective of improving its legitimacy and effectiveness (S-5 Proposal, 2006, p. 1). Among those recommendations is that the UNSC should submit to the UNGA, in accordance with Article 24, paragraph 3 of the UN Charter, special topical reports about issues such as the proposed termination of peacekeeping operations in a given country, the imposition of sanctions, or other enforcement measures against a Member State. The group also advocates that when the decisions of the UNSC require the membership to implement the agreements, that the UNSC should seek the opinion of the interested parties to ensure and facilitate their ability to implement the decisions (S-5 Proposal, 2006, p. 3), and that the UNSC should also, in accordance with Article 50 of the UN Charter, give sanctioned countries an opportunity to consult, on a timely and efficient basis, with the relevant sanctions committee (S-5 Proposal, 2006, p. 3).

Most of the recommendations of the S-5 were included in the paper on ‘Improving Working Methods’ presented by the President of the UNSC (S/2006/507) in March 2006, although the President did not address the recommendation that the Council establish “lessons learned” groups or the use of the veto only in Chapter VII cases.

Other concrete proposals to improve the working methods are to implement better notification to all Member States of all the meetings of the UNSC, including its unscheduled meetings; the early distribution to all UN members of draft resolutions; and more frequent briefings to the membership by the President of the UNSC (Report of the Facilitators, 2007, p. 17). Other criticisms have been that the UNSC encroaches on the functions and prerogatives of the UNGA, as when the UNSC scheduled meetings to discuss gender rights, HIV/AIDS, terrorism and the UN procurement of peacekeeping (Usmanov, 2009, p. 3).

However, this fifth question or topic is an issue where agreement is more likely to be reached, because it involves accommodating the desires of the majority without changing the structure of the organization or the privileges of the P-5 in any substantial manner. In fact, some progress has been made already, mostly at the initiative of the UNSC itself. The UNSC has been holding open meetings more regularly; and it frequently arranges thematic debates and ‘Arria-formula’ informal meetings to learn the views of states not members of the UNSC and the opinions of independent experts and representatives of the civil society (Churkin, 2009, p. 1).

Phil Goff, Minister of Foreign Affairs and Trade of New Zealand acknowledged some of UN the reforms implemented so far, such as “improving effectiveness in the General Assembly and within the UN Secretariat; the overhaul of peacekeeping functions following the recommendations of the Brahimi report; the formation of the UN Development Group to improve coordination of development policies; closer interaction between the UN and international financial institutions to enhance cooperation, and, importantly, the greater engagement of civil society with the UN system” (Goff, 2004, p. 1). Ambassador Nassir Abdulaziz Al-Nasser of Qatar, during his month presidency of the UNSC in July 2006, mentioned that, in an effort to fulfill some of the recommendations of the Member States, the UNSC held more open meetings; and cited that during that year 217 out of 259 formal meetings were made public (ReformtheUN, 2006, p. 2). Usmanov added that “provisional

agendas and draft resolutions also are now distributed rather than kept under lock and key” (Usmanov, 2009, p. 3).

On the other hand, some of the permanent members of the UNSC have declared that the working methods of the UNSC should be left to the UNSC itself. Russian Ambassador Churkin even expressed that “it is advisable to remove the question of the UNSC working methods from the list of key issues that the Council’s reform should discuss” (Churkin, 2009, p.2).

Chapter V – Concluding Comments

This chapter will discuss, analyze and evaluate the progress made so far in reforming the UNSC, and identify the major obstacles that still remain in reaching a potential agreement. While all delegations have paid lip-service to the idea of negotiation and compromise, and some have certainly expressed a need to made their positions more flexible with this goal in mind, the reality is that most of the Member States are unable to accommodate the desires of those other Member States that have a different idea about how the UNSC should be reformed.

Most of the UN Member States agree with former SG Kofi Annan when he wrote in his ‘In Larger Freedom’ report that “the task is not to find alternatives to the UNSC as a source of authority but to make it work better” (Schrijver, 2005, p. 45). The Indian representative, probably reflecting the views of other members, has also said that it was better to have an imperfect organization than none at all (Gharekham, 2006, p. 28). The international organization is perceived to be “ineffective but indispensable” (Prantl, 2006, p. 254), and Weiss mentioned that “much of contemporary UN debate can be compared with the Roman Senate’s effort to control the Emperor” (Weiss, 2009, p. 5). Therefore, it is unlikely that disagreement about UNSC reform will break the organization to pieces because with all its faults and limitations, the organization’s executive body plays an important role and the disappearance of the organization just will make the world more anarchic and dangerous rather than less.

The elusive goal of reforming the UNSC, first introduced in the agenda of the UNGA in 1979 received routine treatment but no decision until 1993 when the OEWG was created. In the past 16 years, some progress has been made in some areas, and some institutions have been created or reformed, such as the Human Rights Council, the Peace Building Commission and the Central Emergency Fund, although right from its start the Human Rights Council was criticized by the US for concentrating its criticism on Israel and ignoring all other violators

(Bolton, 2006, p. 9). Resolutions have been passed about development, management reform, strengthening the UNGA and ECOSOC, and a comprehensive anti-terrorist strategy has been elaborated and adopted. Progress was also made in opening up the UNSC to the rest of the UN membership through open meetings and consultations with concerned governments and groups, including civil society organizations. It is possible that the future will also see a greater proliferation of informal groups, which in many cases have taken certain important functions without formally challenging the UNSC.

However, the issue of expanding the UNSC has been discussed in the OEWG, now for over 16 years, with the membership unable to reach agreement. While the majority of the nations, including the five permanent members of the UNSC, pay lip-service to the idea of reforming the UNSC, so far none of the proposals has been introduced for a decision by the UNGA, which will need to vote on these proposals. The successful proposal (and candidates) will need to obtain the votes of the two-thirds members of the UN, which is the minimum required to change the UN Charter. In addition, any change to the organization's Charter also has to be approved by the five permanent members of the UNSC.

The reform of the UNSC continues to be a long process, advancing at a turtle's pace. Lord Hannay, the representative of the UK, stated that he thought that UNSC expansion would eventually happen but that it was going to be difficult to achieve (Hannay, 2004, p. 2). More than the interests of the organization, what is at stake in those discussions are the political interests of some medium powers trying to get a permanent seat in the Council. The reform of the UNSC may be an unachievable objective as long as the main groups advocating for reform do not negotiate and exchange substantial concessions.

The interim approach –and the start of the intergovernmental negotiations- raised the expectations that agreement was close at hand, that it was only necessary for each Member State to show some flexibility. However, after a year of negotiations under the new arrangement only cosmetic changes have been produced which really have not altered the entrenched positions of the membership. The G-4 agreed not to ask for the veto and even to

accept the creation of longer-term non-permanent seats which eventually could become permanent, although as in each of the other groups, there is a spectrum of positions within the group. However, the African group has held its ground and persists in the need to create permanent seats with veto power which could restore the African nations with the position in the UNSC which they have a right to occupy.

The first year of intergovernmental negotiations has not advanced very much, if at all, the goal of reforming the UNSC. If anything, the negotiations exercise has demonstrated how far the different positions are and how irreconcilable they are. Reforming the UNSC is not only about how to make the UN work better or become more representative as it is a way to advance the national interests of some Member States either by aspiring to become a member of the UNSC or by depriving an important Member State in the region to become a member, or by making possible for small states eventually to have a day in the sun by becoming members of the Council even if only for a temporary period of time. National rather than regional or international objectives permeate the discussions of how to reform the UNSC.

On November 12 and 13, 2009, the UNGA concluded the annual joint debate on the question of the equitable representation on and increase in the increase of the UNSC and related matters. The reform of the UNSC is now called in a UN document a “delicate engineering project” (GA/10887, 2009, p. 1). In the sessions, many delegates have expressed their frustration and disappointment at the manner in which the intergovernmental negotiations are being conducted. Gustavo Alvarez, the representative of Uruguay even mentioned that “it would not be useful to continue discussing matters that would not enjoy the majority of support” (GA/10887, 2009, p. 3). Manuel Korcek, from Slovakia, mentioned that “the question of size and categories of membership of the Security Council had proven to pose the greatest challenge to reform efforts” (GA/10887, 2009, p. 3). Kennedy Jawan from Malaysia lamented that “the second and subsequent negotiating rounds lacked the ‘sterling’ quality of the first” (GA/10887, 2009, p. 5). Vanu Gopala Menon, from Singapore, expressed that “deep divisions remained despite the last session’s hotly debated

intergovernmental negotiations” (GA/10887, 2009, p. 6). John Mcnee, from Canada, lamented that “there was serious disagreement over membership categories” and concluded that “no proposal had anywhere near the support necessary to be adopted” (GA/10887, 2009, p. 9). Park In-kook, from the Republic of Korea, expressed that his government was “disappointed that too little substantive progress had been made in terms of the positions of the major groups” (GA/10886, 2009, p. 19). Christian Wenaweser, from Liechtenstein, mentioned that “willingness to compromise was minimal at best” (GA/10886, 2009, p. 13). Mohammed Loulichki, from Morocco, assessed that “sharp differences still existed between the parties and no proposal on the ‘categories of membership’ question had the necessary support” (GA/10887, 2009, p. 10). Andrew Goledzinowski, from Australia, reported that “little progress had been made and the Assembly had not engaged in substantive negotiations” (GA/10887, 2009, p. 14). Amjad Hussain B. Sial, from Pakistan, concluded that “it was clear that achieving a solution was far away” (GA/10886, 2009, p. 14). Joel Musa Nleko, from Swaziland lamented “the direction that the intergovernmental negotiations were taking” (GA/10886, 2009, p. 18).

However, it was a representative of a Member State of the African group, Alfredo Lopes Cabral, from Guinea Bissau, who made an attempt to reach to his peers and encourage them to be more reasonable when discussing UNSC reform, to be open-minded and not just repeat entrenched positions but to engage in the discussions in a spirit of give and take (GA/10887, 2009, p. 15). It was also kind of ironic that Daniele D. Bodini, the representative of San Marino, one of the smallest nations in the UN membership, was the one who reminded the rest that “the difficulty of reaching a comprehensive agreement lies in the Assembly’s inability to subordinate national interest to the international ones” (GA/10887, 2009, p. 15).

With the exception of the diplomatic appeal from the representative of Guinea Bissau, most other members of the African group, and of the other groups (G-4 and UfC) as well, continued to advocate their positions and showed no indication of potential compromise. Bakun Olu Omenola, from Nigeria, deplored “the foot dragging approach of some members”

which has retarded reaching a potential agreement (GA/10887, 2009, p. 13). Maged Abdelaziz, from Egypt, speaking on behalf of the NAM, mentioned that the transitional approach was not acceptable because “it did not respond to the African demands and was actually a means to defer action” (GA/10886, 2009, p. 5). He added that he believed that the intergovernmental negotiations were a way to circumvent the African demands. Raymond Serge Bale, from Congo, expressed the exasperation of the African group by forecasting that unless the UNSC became more transparent, democratic and representative, that “it would be doomed to a tragic, numbing death” (GA/10886, 2009, p. 17).

Very few voices remained optimistic about the potential of reaching agreement in the intergovernmental negotiations. Hilario Davide Jr., from the Philippines, mentioned that despite the “long, discouraging, frustrating, exasperating and even painful history” he saw a possibility for potential agreement in the future (GA/10886, 2009, p. 13), and Saviour F. Borg, the representative of Malta, optimistically assessed that “the progress of the last year on the reform had been the result of healthy and proactive exchanges that took place in the intergovernmental negotiations on key issues” (GA/10886, 2009, p. 13). One wonders if those two delegates were present during the negotiations or if they have the enviable optimistic capacity to see a glass that is only one-half empty as one-half full.

Even single countries continued to defend their particular positions which were different from the major groups. Pablo Solon, the representative of Bolivia, advocated for a UNSC of 25 members “without privileges, without permanent members” which obviously included depriving the P-5 of their veto powers, a forceful political statement but which ignores the realities of the organization. This position is more radical than that of the UfC which recognizes that the elimination of the veto powers of the P-5, at the present moment, is not possible.

The UNSC will be reformed some day, but the form it will take is still undecided. The five permanent members of the organization, which have to support the reform, have different ideas about how the UNSC should be reformed and which countries should be allowed to

enter into the select club. The only thing that can be predicted with great certainty is that those five permanent members are not going to give away their veto power.

However, the organization eventually will have to change. The most likely scenario is that after a new structure gets approved, that the candidatures will be presented to the UNGA, and that the UN members will vote on each candidate to see if any of them can obtain the two-thirds required for admission. After this step is taken, if the adopted structure includes permanent members, there is the possibility that one of the P-5 could veto the entrance of a particular candidate, but this will require a political decision to ignore the desires of the majority of the nations of the world, a difficult judgment to make without being accused of intransigence, favoritism or even irrationality. Once the UNGA makes a determination about what countries have met the two-thirds threshold, it is possible that the P-5 will go along with the decision unless the country which has obtained the votes represents an important economic or military threat to one of the permanent members of the UNSC.

If the past offers a lesson it was during the discussions of the 1963 reform which expanded the UNSC. In this reform, France and the former Soviet Union voted against the resolution while the US and the UK abstained. China also abstained on the second part of the proposed amendment. Therefore, all P-5 expressed disagreements with the UNSC expansion. However, within two years all of them had ratified the amendment, probably in response to pressures from the UN membership whose allegiance in the Cold War was badly needed by the P-5 (Voeten, 2006, p. 293).

In addition, calls for UN reform will continue in the future, because always there will be possibilities for improvement about how the world organization deals with the problems of an increasing humanity and complex world, especially in such grave situations as occurred in Rwanda. Looking ahead to another one hundred years, Vaclav Havel, the president of the Czech Republic, foresees a new UN with two parallel assemblies, one like the present General Assembly and another directly elected by everyone in the world, with the two legislating for

the world. The UN will have its own military and police and will monitor and enforce security, human rights and human social welfare (Bowles, 2005, p. 151).

However, as Weiss mentioned in his 2009 book ‘What’s Wrong with the United Nations’ the continuation of the traditional sovereignty concept as the cornerstone of the UN is a fundamental structural weakness that is in urgent need of replacement. Hiscocks, three decades and a half ago, mentioned that the voluntary reduction of state sovereignty embodied in Articles 24 and 25 of the UN Charter was a historic act which could become the nucleus from where some system of world government could eventually develop (Hiscocks, 1973 p. 56). The Member States of the UN will have to reach some kind of integration, such as the one achieved by the European Union, to achieve many of the organization’s important goals. The “problems without passports”, as SG Kofi Annan named them, will require strong cooperation across borders, and this is unlikely to be achieved by the present UN, whether reformed or not.

The reform of the UNSC will continue to engage the efforts of the UN membership because of the importance that all Member States attach to the body that can make so many important decisions in the world organization. However, without an agreement about how the expansion will proceed, and how many seats and of what kind will be created, the aspirants cannot present their candidatures to the consideration of the UNGA. For a candidate to be admitted to the UNSC it requires the consenting vote of two-thirds of the members of the UNGA including the favorable vote of the P-5.

While it is possible that some Member States could shift their present allegiances and make possible the formation of a two-thirds majority (128 out of a present UN membership of 192), it is unlikely that this could happen unless either the African Group loses its consensual unity or changes its present position; or a substantial number of Member States defect from the UfC group; or the G-4 relinquishes its demand for permanent seats which then would make its position closer to the UfC. These changes or massive defections, however, are unlikely to occur unless one or all of the main negotiating groupings find that the road to

realizing their absolute positions faces an impasse, and the time runs fast against their interest, and that compromise better serves it. However, it should also be pointed out that many Member States, in fact a majority, do not belong to any group, although these members are divided, either favor one or another group, or pursue its own national vision as the representative of Bolivia apparently did in the recent international negotiations. These Member States, although not belonging to a particular group, have expressed positions that could be aligned with either the creation of permanent seats with veto power which echoes the position of the African group and the G-4, or are absolutely against the expansion of the veto power and may or may not approve of extended nonpermanent seats as advocated by the UfC.

On December 23, 2009, 138 Member States sent a joint letter to Ambassador Zahir Tanin of Afghanistan, the chair of the intergovernmental negotiations on UNSC reform, requesting a text of options. Members of the African Group, UfC, the S-5 and others later addressed Ambassador Tanin with the same request. Later, two other Member States joined in the request and brought the number of parties to 140. The letter said that the text would enable the Member States to “immediately embark upon negotiations on the basis of such a text, in order to identify areas of convergence and find a final solution that can garner the widest possible support” (ReformtheUN, 2010, p. 2). On January 13, 2010, Ambassador Tanin responded to the request that he would “carefully study the appeal contained in said December 23 letter, as well as other input received” (ReformtheUN, 2010, p. 2). Although the decision to move the discussions to text-based negotiations has not altered the positions of the main groups or the individual members and is only an attempt to change the procedure to make the negotiations more productive, it has been seen as an important breakthrough because it has joined a multitude of representatives from the different groups in a common effort. Several State Members have identified four potential areas of convergence: the size of an enlarged Council around the mid-twenties; the need to reform the working methods; the need to improve the relationship between the UNGA and the UNSC and establishing limits for the use of the veto (ReformtheUN, 2010, p. 3). Obviously, an agreement about the potential size of an enlarged

UNSC obscures the divisive issue of what categories of membership will become available and which countries are likely to occupy those seats. As previous procedural steps taken in the past, including the establishment of the intergovernmental negotiations themselves, the move to a text approach may not produce the intended results.

The intergovernmental negotiations will continue this year. The fifth round of negotiations is expected to continue in mid-February or early March 2010. Hopefully, some common ground will be found, but as this study has shown, there are still many obstacles to reach an agreement. Many nations would rather prefer the continuation of the status quo, which they despise and have greatly criticized, rather than a reformed UNSC which includes a nation that they are very concerned about. In the presence of two evils, the status quo may seem preferably to many Member States, because at least they can continue criticizing it, playing the victim and accusing those who think different as responsible for the deadlock in the intergovernmental negotiations.

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