



## Security Council Reform – the 62<sup>nd</sup> GA Session and the Road Ahead

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*The following analysis provides an update to chapter 1 on Security Council reform in the Center's publication "Managing Change at the United Nations" (April). It covers events and Member States dynamics in the Open-ended Working Group and in the Security Council during the 62nd General Assembly session, and - as the Open-ended Working Group is about to meet on 11 November 2008 - also on the road ahead.*

Long and contentious attempts to change the structure and working methods of the Security Council are not new. The first concrete reform proposals surfaced as early as the 1950s. Then in 1965 the number of non-permanent seats was adopted, expanding the number of non-permanent seats from six to ten. Although in large part the reform grew out of a desire to accommodate the many newly independent African and Asian countries, it failed to completely satisfy the rapidly growing UN membership. The matter continued to be a subject of debate until India and other non-aligned countries tabled it in the General Assembly again in 1979. This time, however, reform efforts were primarily blocked by the contentious Cold War dynamics. It would take another 14 years and the fall of the Eastern bloc for the issue to resurface.

In 1993, Japan, India and Germany, among others, helped establish a Working Group of the General Assembly tasked with considering Security Council reform.<sup>1</sup> It soon became apparent, however, that discussion about expanding the Council had the instant ability to make regional rivalries flare up. For the most part, large or powerful countries that were not already permanent members of the Council, favored the inclusion of new permanent members - mainly themselves - while their regional rivals preferred adding more non-permanent seats. As a result, the debate in the Working Group quickly grew into a bitter stalemate between especially three main interest groups - Uniting for Consensus (UfC), Group of Four (G4), and the African Group - that would hamper efforts for years to come.<sup>2</sup>

Expansion of the Security Council is, however, only one aspect of reform. With the fall of the Eastern bloc, a group of smaller countries had begun to work - independently of the Working Group - for a reform of the working methods of the Security Council. These smaller nations were more interested in transparent decision-making and easier access to permanent members than in the struggle for seats. And although they have so far failed to formalize the rules of procedure of the Council, they have managed to push the Council to substantially change their procedures in regard to issues dealing with transparency; the Council's relationship with troop-contributing countries; sanctions committees; the overall UN membership; the General Assembly and civil society.<sup>3</sup>

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<sup>1</sup> The working group is open to all Member States and is officially named *the Open-Ended Working Group on the Question of Equitable Representation on and increase in the Membership of the Security Council and Other Matters Related to the Security Council*.

<sup>2</sup> 1. Group of Four (Germany, India, Brazil and Japan) seeks permanent membership. 2. Uniting for Consensus (membership varies, but usually the previous regional rivals, seeking to keep them out of permanent seats: Italy, Pakistan, Argentina, South Korea, Spain and Mexico constitute a core constituency) opposes new permanent seats and instead seeks a solution based on a rotational, regional model. 3. The African group (the African countries) seeks two permanent seats with the right of veto per Ezulwini consensus.

<sup>3</sup> For an in-depth background, please see the Center for UN Reform Education's publication from April 2008 "Managing Change at the United Nations."

## *The 62<sup>nd</sup> Session of the General Assembly*

Until the beginning of the 62<sup>nd</sup> General Assembly session, the debates in the Working Group had centered on the basis on which to conduct negotiations. However, a compromise agreement (A/61/47) reached at the end of the 61<sup>st</sup> session had the potential to infuse momentum into the debate. It mandated the Working Group to continue its work during the 62<sup>nd</sup> session “...so that further concrete results may be achieved, including through intergovernmental negotiations...” The term ‘intergovernmental negotiations’ is critical to understanding the potential importance of this move, as it is a term usually understood at the UN as referring to actual negotiations on the composition of a decision (e.g. in this case the changes to be made in the membership of reformed Security Council). It is often linked to a move away from the traditionally consensus-building Working Group to a plenary of the General Assembly, where decisions can be more easily made by majority vote.

In terms of positions, Brazil, Germany and Japan support a speedy move to intergovernmental negotiations including an option to base these on implementing an intermediary or interim approach, in which a reform would be reviewed by a general conference after an agreed period of time at which time it could be changed.<sup>4</sup> India supports a move to intergovernmental negotiations, but is against an intermediary approach. The Uniting for Consensus (UfC) faction supports an intermediary approach, but demands that framework and modalities for negotiations should be agreed upon in the Working Group before any intergovernmental negotiations can begin. The African group has been fairly muted on the issue of intergovernmental negotiations.

After the opening of the 62<sup>nd</sup> session in September 2007, the official reform talks kicked off in November with a debate in the General Assembly (A/62/PV.47-51), at which well-known positions were reiterated. As a result, the Working Group convened again on 14 December 2007 to discuss how to move the process forward towards intergovernmental negotiations. At this meeting, the President of the General Assembly and Chairman of the Working Group, Sgrjan Kerim announced the formation of a Task Force composed of Ambassadors Ismat Jahan of Bangladesh, Heraldo Muñoz of Chile, João Manuel Guerra Salgueiro of Portugal, Roble Olhaye of Djibouti and Kerim himself. The Task Force was to assist him in producing a status report on the issues facing the Working Group, conducting general mediation as well as drafting a final report of the Working Group to the General Assembly on the proposed future of the Working Group.

Following the December meeting, Germany announced that they had formed a group of Member States as part of an “overarching process.” The process, they said, would take place outside the Working Group and was aimed at producing “...a draft that identifies the ‘negotiables’ in a single draft proposal to enable the Member States to negotiate on that basis.” Since this initiative was intended to break the deadlock and create a text upon which intergovernmental negotiations could be conducted, the draft was not to be a German position paper, but rather an overall text sketching out the many diverging views, it was thought that Member States could then begin negotiations based on it.

The outcome of the “overarching process” was presented by the Cypriote ambassador in the early spring of 2008, and although Germany had played a significant part in the process it was quickly dubbed “the Cypriote proposal.” Apart from listing the positions of the three main interest groups, the text presupposed that any solution would be based on the intermediary approach noted previously; the draft met heavy criticism from the UfC faction, the African group and India. At a later meeting in the Working Group, Italy noted that although they (and the rest of the UfC group) support an intermediary approach, the Working Group should first establish a framework for further

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<sup>4</sup> This model was discussed in-depth in a paper by the Center for UN Reform Education from 24 June 2008.

consultations, based on last year's facilitators' reports (A/61/47, SUP-Annex I and A/61/47, SUP-Annex IV), instead of initiating negotiations on the basis of "the Cypriote proposal," which they dismissed as a unilateralist move. India said that "...the interim solution is not a solution but a problem," while the African group kept a low profile. The debate left the Germans feeling rather deflated, and it appeared the process would be seriously hampered by the UfC demands. Some supporters of "the Cypriote proposal" expressed serious concern over what they perceived as a stalling tactic by the UfC.

Determined to move the process in some sort of direction, the Task Force and Kerim delivered their first report to the Working Group in the early days of summer 2008. Although it was a short and fairly pessimistic text - noting that entrenched positions continue to hamper the process - it did highlight the intermediary approach (called a "timeline perspective" in the report) as a possible way forward. The report explained that such an approach could "...identify what may be achievable in the short term [...], and what would be left to revisit in a number of years through a mandatory review (in 10, 12 or 15 years, for example). [...] That solution would keep avenues open to all preferred options to be reconsidered at an agreed moment in the future." However, the report failed to solve the question of how to actually initiate intergovernmental negotiations, and on what basis to conduct these. At a meeting in the Working Group on 17 June 2008, Member States once more rehashed their well-known views on the issues, leaving the Task Force and Kerim to prepare a status report on the work and future of the Working Group for the upcoming end of the 62<sup>nd</sup> session of the General Assembly.

In the beginning of September, Member States met in the Working Group to discuss the recently published draft of the Task Force report. It included a recommendation to Member States that they begin intergovernmental negotiations during the 63<sup>rd</sup> General Assembly session aimed at a solution based on the *widest possible* agreement, which is typically understood by Member States as a solution reached through a vote. A number of countries with diverging views on reform all challenged the draft report, especially its suggestion on how to proceed during the 63<sup>rd</sup> General Assembly session. Germany, Japan, Brazil and India (G4) expressed outrage over the slow pace of the process and forcefully demanded that Member States abandon the Working Group and instead initiate intergovernmental negotiations in a plenary session of the General Assembly as soon as possible. The Italians and the UfC countered with their old argument that an agreement on the framework and modalities should be worked out in the Working group before any actual negotiations could take place, and those negotiations should preferably take place also in the Working Group. They also noted that a solution should be based on a *general* agreement, which, they said, would translate into consensus.

Hectic negotiations followed as the Task Force and Kerim went back to the drawing table. On Monday, 15 September 2008 - the last day of the 62<sup>nd</sup> GA session - Member States met in a final session to find a compromise solution. The stakes of the outcome were high: if they failed to reach a deal, the mandate of the Working Group would not be renewed and the Working Group would be suspended. Although the G4 seemed to prefer an overall consensus agreement with firm deadlines for initiating intergovernmental negotiations in the Working Group, they were not entirely put off by the prospects of discontinuing the group, as it would enable them to move away from what they called "the never-ending working group" and towards their own private negotiations, with a possible aim of tabling a resolution in the General Assembly. Thus, the G4 could negotiate freely, knowing that from their point of view the "worst outcome" would still be pretty good.

On the other side, the Italians and the rest of the UfC were under considerable pressure as they found themselves with little with which to bargain. Contrary to when they dismissed "the Cypriote proposal," the faction was now suddenly faced with the real threat of dissolution of the Working Group altogether. Since the reform proposal of the UfC currently enjoys little support among the

permanent members of the Security Council (the United States, France, United Kingdom and China all favor adding some permanent members to the Council instead of the regional model of the UfC), the UfC is in no hurry to initiate any form of negotiations that could eventually promote the interests of their regional rivals. Instead, they walk a fine line between working for modest progress in the Working Group, while stalling any proposal that could lead to unwarranted results. And abandoning the Working Group could force the process away from the manageable settings of the slow moving Working Group and into more uncontrollable venues such as the General Assembly.

To save the Working Group, the UfC offered to accept a move to intergovernmental negotiations in a plenary session of the GA, as long as the Working Group had agreed to a general agreement on a framework beforehand. The G4 dismissed the offer, demanding a set deadline for the commencement of intergovernmental negotiations without any preconditions. It led to chaotic scenes in the Working Group as Kerim and his Task Force scrambled to find an acceptable compromise. Finally, and with only hours to go in the 62<sup>nd</sup> session, a resolution was agreed to. The UfC - realizing that they had little to bargain with, and fearing dissolution of the Working Group - grudgingly accepted the demands of the G4. The resolution (62/557), among other, requested Member States to begin intergovernmental negotiations in an informal plenary of the General Assembly no later than 28 February 2009, "...based on proposals by Member States, in good faith, with mutual respect and in an open, inclusive and transparent manner," with the aim of garnering the "widest possible political acceptance" by Member States. The resolution was largely hailed as a victory for the G4.<sup>5</sup>

### ***Other Developments Outside the Working Group***

Concurrent to the dramatic scenes unfolding in the Working Group, the Security Council met for the first time since 1994 to publicly discuss its working methods. The meeting was convened by Belgium, which held the Council presidency for the month of August, following a request by the members of the so-called Small-Five group (S5) - Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland. The meeting was based on Presidential Note S/2006/507, and aimed at addressing issues such as the agenda, access to meetings and briefings, documentation, informal consultations, program of work, resolutions and presidential statements, subsidiary bodies and newly elected members. The meeting did not result in any formal outcome; however, according to a recent paper published by the research organization "Security Council Report"<sup>6</sup> it is likely that the debate could be useful in stimulating further negotiations in the Security Council's Working Group on Documentation and Other Procedural Questions - a group made up by both permanent and non-permanent members of the Council to review the working methods of the Council - potentially generating some kind of outcome before the end of 2008.

### ***63<sup>rd</sup> Session of the General Assembly***

According to the resolution 62/557, Member States will continue to "...address within the Open-ended Working Group the framework and modalities in order to prepare and facilitate intergovernmental negotiations [...] The Chairman of the Open-Ended Working Group will present the results of these consultations to an informal plenary session of the General Assembly no later than February 1, 2008." The resolution finally mandates the membership to commence intergovernmental negotiations in an informal plenary of the General Assembly no later than 28 February. Afghan Ambassador Dr. Zahir Tanin has been appointed facilitator for the upcoming

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<sup>5</sup> Some noted that the replacements of the Pakistani and Italian ambassadors - both seasoned UN diplomats - with more inexperienced ambassadors immediately before the final negotiations seriously undermined UfC efforts to counter the G4.

<sup>6</sup> <http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.4420143/>



process by the President of the General Assembly, Miguel d'Escoto Brockmann, with meetings of the Working Group scheduled to begin on Tuesday, 11 November 2008.

To this observer, the main challenge facing the Working Group at the moment is how to create a constructive dialogue that can engage the different interest groups and produce some sort of framework for the upcoming intergovernmental negotiations in February. The G4 must be convinced that it is in their interest to participate constructively in the work of the Working Group, instead of simply waiting for February. It will also be interesting to see if a new US administration in Washington will bring a fresh approach to the debate.

In any case, an agreement in the Working Group on the framework for intergovernmental negotiations can open for a fruitful dialogue in the New Year. Without it, the process towards Security Council reform risks running into the same roadblocks that have haunted the last 14 years of negotiations in the Working Group, namely the divisive dynamics between the main interest groups. A simple move to another forum will not mean much, if not accompanied by a strong will to compromise by all parties and perhaps look at other options. It will also be important to realistically discuss a solution based on an “intermediary approach,” i.e. how and if that would practically work. It will take concerted and real effort to elicit support from all corners of the membership if an agreement is to be found. For the legitimacy of the reform process and a future reformed Security Council compromise must be the order of the day.

*Unless attributed to a specific source, all expressions of opinion in this analysis are those of the author. The Center for UN Reform Education does not endorse any particular reform proposals.*