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Reforming the Security Council

Step One: Improving Working Methods

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I. Introduction

For a dozen years, the General Assembly has been engaged in an intensive and far-reaching debate on possible reforms in the composition of the Security Council and in how it goes about its important work. Both sets of issues have significant implications for the future of the United Nations and both stir strong passions among the membership. While questions of composition have drawn the most public attention, for most Member States the matter of Council working methods would have the most immediate impact. In an organization of 191 Member States, relatively few would have realistic chances of becoming a permanent or even semi-permanent member of the Council even if its current membership was doubled or tripled. Composition concerns who sits around the table, while working methods address how they relate to and seek to “represent” the much larger membership outside the Council circle. Even an awkwardly large Council would not be representative unless working methods to assure greater transparency, accountability, and inclusiveness were also introduced.

This paper aims to spur further reflection among the Member States by assessing many of the recent proposals for reforming the Council’s working methods against a series of five criteria and by suggesting some possible next steps. It begins by tracing briefly past reform efforts on this front and the evolution of practice within the Security Council. An evaluation of current obstacles and opportunities follows. A “4 + 1” approach to working methods reform, encompassing four reform criteria along with the ultimate standard of Council performance and effectiveness, is then introduced. The core section of the paper identifies seventeen possible modifications of Council working methods, mostly drawn from ideas already put forward in Assembly deliberations or by the High-level panel, that would appear to pass the 4 + 1 test. In

conclusion, the paper considers possible next steps for forwarding those steps that seem most promising in this most ambitious year for UN reform.

II. History and Evolution¹

As the pace and profile of Security Council activities rose during the 1990s, a series of modifications in its working methods were adopted. Among these were the following:

- Under the Arria formula, a member of the Council invites the others to meet with one or more independent experts for a candid exchange of views on a pressing issue before the Council. This innovative practice, which permits more direct input from civil society and encourages Council members to reflect on the complexities of the choices facing them, has proven quite popular, as have more formal meetings with agency heads and others with knowledge of developments in the field.
- The Council has also participated in a number of retreats, away from headquarters, with the Secretary-General, other UN officials, and sometimes leading independent experts.
- The Council members have undertaken a number of missions to visit areas where developments are of particular interest or concern to the Council. This has allowed much more extensive contact with government officials, non-governmental groups, and UN personnel on the ground in regions of crisis. Some of these have been co-sponsored by ECOSOC.
- The Council has met a number of times since the end of the Cold War at either the foreign minister or summit level.
- To assist transparency and accountability, it has become common practice for the President of the Council to brief non-members, and often the press, on the results of informal (private) consultations.
- Tentative monthly forecasts and the provisional agendas for the Council's upcoming work are now provided regularly to non-members, as are provisional draft resolutions.

¹ This section is drawn from Edward C. Luck, "Reforming the United Nations: Lessons from a History in Progress," Occasional Paper Series (New Haven, CT: Academic Council on the United Nations System, 2003), pp. 13-14. This can also be found as a chapter in Jean E. Krasno, ed., *United Nations: Confronting the Challenges of a Global Society* (Boulder, CO: Lynne Rienner Publishers, 2004).

- Consultations among Security Council members and troop contributors, along with key secretariat officials, are now held on a more regular basis.

While acknowledging the progress that has been made on working methods, most Member States contend that it has not gone nearly far enough. For example, the 10 non-permanent members of the Security Council called for the institutionalization of the steps that had been taken, for taking several of them further, and for more public meetings and fewer informal consultations. It is questionable, however, whether all of the transparency and reporting measures called for would result in a more efficient or effective Security Council. The bulk of the negotiations among the members are bound to be carried out in private, and the public sessions of the Council have become highly formal and ritualistic, largely as opportunities for restating official positions and for public rationalizations. Even non-members of the Council frequently complain of the number and repetitiveness of the speeches given in the formal, public sessions. While it would aid accountability to require states to explain why they cast each veto, and the Council could be more forthcoming in its reports to the General Assembly, excessively detailed or frequent reporting could make it that much harder for an already overburdened Council to devote sufficient time and attention to its wide-ranging substantive work.

III. Criteria: The 4 + 1 Approach

Of all the various criteria that have been voiced for reforming the Security Council's working methods, the following four seem particularly persuasive:

- 1) To make the Council more accountable. As Article 24 of the Charter articulates, while the Member States “confer on the Security Council primary responsibility for the maintenance of international peace and security,” it is obligated to “act in accordance with the Purposes and Principles of the United Nations” and to “submit annual and, when necessary, special reports to the General Assembly for its consideration.” While the founders certainly did not intend to make the Council in any way subsidiary to the Assembly, they did understand that the

Council would need to be accountable for its actions and for the implementation of its decisions to the membership as a whole for political if not legal reasons.

- 2) To make the Council deliberations more inclusive. Over the past decade, the Council has found a variety of ways to reach out to a wide range of voices and expertise prior to choosing a course of action. These innovations testify to the prevalence of the feeling within the Council that such input improves the quality of its decisions and deliberative processes.
- 3) To make the Council more representative of the UN membership as a whole. As noted at the outset, representation is more than a matter of where a Member State is situated geographically. It entails an active and ongoing process of exchanging information, ideas, and views concerning the current and prospective work of the Council between those Member States that are serving on the Council at a given point and those that are not. In this context, representation would not imply a legislative or democratic model that would be inappropriate for an inter-governmental body whose Charter makes no reference to representative or democratic procedures. Rather, this is a matter of good practice in a virtually universal organization in which a handful of states have been granted – in this author’s view, rightly – special privileges and responsibilities related to the security of all.
- 4) To make the Council more transparent. If the Council is to act for the membership as a whole, then it should do its best to let other Member States know why it has chosen a particular course of action. Likewise, the Council’s authority and credibility would be enhanced to the extent that citizens, civil society groups, and the media also have a fuller and more accurate understanding of what the Council is seeking to achieve and of why it has selected some tools and rejected others to fulfill its mandates. Council resolutions and statements do not always speak for themselves, given the compromises involved in the negotiating process and the nuances of diplomatic language. Greater clarity could assist those charged with implementing the Council’s will.

In addition to meeting one or more of these criteria, any reform – whether in working methods or composition – should pass the ultimate test: does it promise to improve the Council’s performance and effectiveness in maintaining international peace and security, whether in the short or long-run? At the very least, the effect should be neutral in terms of this fifth and final criterion. Under this 4 + 1 approach, each working method reform measure would need to satisfy this fifth standard plus one of the first four criteria. This approach serves to remind

reformers that, like a surgeon, they should take care to do no harm, especially when operating on such a vital organ.

IV. Possible Reform Steps

A. Accountability

Because the Security Council is powerful, it needs also to be accountable. While all Member States are bound by the Charter to implement Council decisions, the authority and legitimacy of those decisions rests, in part, on the extent to which they are generally perceived to forward the purposes and principles of the Organization. One way to reinforce this perception is for the members of the Council to inform the rest of the membership in a timely, full, and candid manner about why they have decided to take a particular course of action and to reject other options. In turn, the Council needs to be able to assess whether the Member States and other actors have acted to implement its decisions and if not, why not. For a hyperactive Council, regular formal reporting requirements may seem burdensome, but a streamlined and focused process of keeping the general membership informed could pay valuable political dividends.

There have been dozens of suggestions through the years for enhancing the Council's annual report to the General Assembly, the former's sole Charter-based reporting obligation. As a result, the annual report has gained detail and girth, the latest edition reaching 235 pages. True, as a number of delegations have pointed out, the annual report is long on lists of activities and short on analysis or self-assessment. But that could be said about all of the inter-governmental organs. Rather than expecting candid commentary in a written report, the proposal for an annual interactive discussion among members and non-members of the Council could be helpful both

for harried representatives to the Council, who rarely get a chance for strategic thinking about the Council's future path or for reflection on how it is doing, and for the general membership.

- Recommendation 1: When the General Assembly considers the annual report of the Security Council, an informal, interactive discussion of its contents and implications should be arranged among the members of the Council and the UN's larger membership.
- Recommendation 1A: If it proves difficult to arrange the kind of annual interactive discussion in the Assembly suggested in Recommendation 1, then an independent organization with expertise and experience on such matters should be encouraged to organize such a discussion.
- Recommendation 2: The Security Council usually provides the general membership with prompt, descriptive, and analytical reports on its missions to places of concern. However, the quality and timeliness of these reports have varied and the Council should take care to insure that all Member States are kept fully informed of these developments in a timely manner.
- Recommendation 3: As the number of subsidiary bodies of the Council has grown, so too have concerns about the uneven and infrequent reporting on their activities. The Security Council should take steps to improve the quality and frequency of reports on the work of its numerous and varied subsidiary bodies.
- Recommendation 4: To bolster its authority, the Security Council should explore ways in which to assess the extent to which Member States and other relevant actors have taken steps to implement some of its key decisions. One method to do this would be for the Council to engage independent experts or fact-finding groups to make such assessments on a case-by-case basis, and then to report to the Council in an open and transparent manner.
- Recommendation 5: The Secretary-General and the Member States should consider the possibility of establishing a lessons-learned/best practices unit in the Security Council Affairs Division that would be charged with 1) assessing whether key Security Council decisions have been implemented, 2) analyzing why this has or has not occurred, and 3) suggesting mechanisms or measures that seem to have helped in the past and that might be employed in future cases.
- Recommendation 6: Two proposals regarding working methods have been put forward that would enhance accountability in the use of the veto:
 - a) If a veto is used, an explanation of the reasons for the veto should be given to the General Assembly.

- b) According to the High-level Panel, a system of “indicative voting” should be introduced “whereby members of the Security Council could call for a public indication of positions on a proposed action.” In the panel’s view, this would “increase the accountability of the veto function.” (para. 257)

B. Inclusiveness

As the Security Council has become increasingly, and properly, concerned with issues of prevention, post-conflict peace-building, the protection of civilians in armed conflict, and counter-terrorism, its deliberations and decisions have demanded a wider range of expertise and experience. Much of this has entailed substantive inputs from Member States not currently serving on the Council, from UN agencies and field operations, from regional and sub-regional arrangements, and from NGOs and independent experts. Over the past decade, through innovative mechanisms such as the Arria formula, retreats, and fact-finding missions, the Council has found productive ways of tapping wider circles of knowledge and counsel. Nevertheless, inter-institutional barriers within the UN system unfortunately continue to limit opportunities for Council members to gain the insights of other Member States and experts from the secretariat on its daily agenda.

- Recommendation 7: The President of the Security Council, the chairs of its subsidiary bodies, and the members of the Council themselves should seek informal opportunities not only to brief other Member States, but also to employ these occasions as opportunities to gain their substantive input on issues currently on the Council’s agenda.
- Recommendation 8: Rather than trying to institutionalize relations among the Presidents of the General Assembly, ECOSOC, and the Security Council, more informal and substantive exchanges of views among them should be encouraged on a frequent basis as standard operating procedure as each seeks to forward his or her agenda.

C. Representation

In years past, one of the most frequent complaints was that the Security Council did not convene enough formal meetings open to all Member States. Responding to those concerns, the Council began in the early 1990s to schedule more frequent formal meetings, from 53 in 1991 to a peak of 273 in 2002. Over the past four years (2001-04), the Council – for the first time – held more formal than informal sessions each year. This trend has provided greater opportunities for non-members to speak before the Council, but, too often, the result has not been a dialogue on pending issues but a long series of speeches after the Council has already decided informally on a course of action. It has been sensibly suggested that non-members be allowed to speak first, but such a rule would not alter current practice significantly. Instead, farther-reaching reforms should be considered:

- Recommendation 9: In the spirit of Article 44 and as the High-level Panel acknowledged (para. 258), further steps should be taken to enhance consultations between the Security Council and troop-contributing countries (TCCs). Such consultations should take place before and during a troop deployment in order to encompass both the definition of mandates and any reassessments undertaken over the course of a peace operation.
- Recommendation 10: The right of states “confronted with special economic problems” by Security Council-imposed sanctions, as codified in Article 50, should be respected by giving such states the opportunity to consult with the relevant sanctions committee on a timely, efficient, and substantive basis.
- Recommendation 11: As the High-level Panel proposed, “where sanctions involve lists of individuals or entities, sanctions committees should establish procedures to review the cases of those claiming to have been incorrectly placed or retained on such lists.” (para. 182)
- Recommendation 12: Given the proliferation of its subsidiary bodies, the growing breadth of its policy agenda, and the heavy burden carried by both its elected and permanent members, the Security Council might consider on a case-by-case basis the possibility of enlisting Member States not currently on the Council but with strong interest and expertise on the topic to participate in the work of one or more of the subsidiary bodies.

- Recommendation 13: If, as suggested above, making the Council more representative involves its working methods as much as its composition, then the following steps should be considered:
 - a) The Security Council Affairs Division or an independent research center should be tasked with identifying and evaluating different models that have been employed by elected and permanent members of the Council to consult with Member States not on the Council, whether conducted on a regional or other basis.
 - b) The best practices so identified should be incorporated into the Council's Provisional Rules of Procedure or into briefings given to candidates for election to the Council and to newly-elected members of the Council concerning expectations and procedures. Over time, regular and timely consultations between members and non-members of the Council should become part of the standard operating procedures of the Council and of what is expected of every Council member.

D. Transparency

For all manner of human endeavor, effective decision-making and efficient management demand transparency. Neither public organizations nor private enterprises are likely to maximize their potential, to improve their performance, or to adapt to changing conditions without outside scrutiny and assessment. Transparency in its operations and decision-making processes, like the other three criteria already addressed, can bolster the Council's authority, credibility, and legitimacy. It can be a tool that benefits permanent and elected members, as well as the UN's larger membership, in their common pursuit of the Organization's purposes and principles. Yet the members of the Council also need room for quiet consultations, away from the glare of publicity, the formality, and the reading of prepared speeches that characterize the Council's open sessions (and increasingly its "informal" consultations as well). The goal is to find a balance that provides both enough transparency to reassure publics and the larger membership and enough space for groups of Council members to exchange views quietly and privately in the search for common ground.

- Recommendation 14: As the incoming Council President prepares his monthly forecast, he or she should hold consultations open to the larger UN membership in order to brief them on key agenda items and to get their input. This might be done on a regional basis, depending on the nature of the issues and the level of interest among the membership.
- Recommendation 15: The Security Council should explore ways to increase the transparency of the work of its sanctions committees, for instance by making summary records more widely and promptly available. Though confidentiality often needs to be respected in such matters, the role of the 661 committee in overseeing the troubled oil-for-food program illustrates how problems can be exacerbated without external scrutiny.
- Recommendation 16: In order to facilitate the rapid integration of newly-elected members of the Council into its diverse and multi-layered activities, either the UN secretariat or an independent organization should prepare a detailed briefing packet on the procedures, precedents, and work of the Council.
- Recommendation 17: Though there has been considerable resistance to formalizing the Council's Provisional Rules of Procedure, the Council should at least clarify and disseminate to the larger membership current descriptions of procedures governing the interactions between the Council and other principal organs, as well as the larger membership.

V. The Way Ahead

As the High-level Panel has observed, “many informal improvements have been made to the transparency and accountability of the Security Council’s deliberations.” Two features of how this progress came about could usefully inform choices about how to proceed at this point. One, substantial progress has been possible on this front in recent years, even as parallel efforts to enlarge the Council have stalled to date. On the one hand, the two reform clusters are related substantively, in part because deficits in working methods will be even more apparent as the Council grows. Politically, on the other hand, the impetus for working methods reform could well ebb once the Council is expanded, particularly if the number of permanent members is enlarged.

Two, over the past dozen years the Council has decided to implement a number of the proposals for working methods reform voiced in the Assembly's Open-Ended Working Group even though they were not formally adopted in an Assembly resolution. The Council's response, moreover, has come in bits and pieces since the Open-Ended Working Group was launched in 1993, rather than as a single complex package. The two processes have unfolded along parallel, but mutually reinforcing, tracks.

This experience suggests that there are a number of reasonable options at this point for maintaining the existing momentum and for obtaining further refinements in working methods.

- 1) Proposals on expansion and working methods could be linked in a single package. This could be done either a) by incorporating the working methods items into a draft Assembly resolution, much as Assembly President Razali Ismail did in his 20 March 1997 paper to the Open-Ended Working Group, b) by including them as an annex to a draft resolution on expansion, or c) by offering a two-part resolution, with independent votes on the two parts, as was done in the December 1963 resolution on expanding the Security Council and ECOSOC (resolution 1991 (XVIII)).
- 2) Proposals for reforming the Council's membership and working methods could be de-linked. The question then would be whether to proceed along parallel lines or in a sequenced fashion. If the former, then progress would be made on each as expeditiously as possible. If the latter, then it would make sense to move quickly on working methods, as the easier of the two and as the one in which most Member States have the greatest stake.
- 3) While it might be possible to obtain an Assembly resolution on working methods that is widely, if not universally, supported by the Member States prior to the September summit, the less formal route, by which the Council chooses to adopt some of the steps being considered by the Assembly, would be simpler and less divisive. Whether this option is conceivable would depend, of course, on how much further the P-5 are prepared to continue down this road. That, in turn, could be influenced by the course of the broader reform effort and, particularly, by how the expansion drive is faring.

There would seem to be several advantages to de-linking working methods and expansion proposals. One, the former looks more feasible and less politically-charged at this point. Two, it would be regrettable if improvements in the working methods were to be seen as favored by or

associated with one advocacy group or another in the larger Security Council reform debate. Three, working methods are intrinsically important and deserve focused attention, rather than being relegated to an annex in a draft resolution focused on enlargement. Four, a change in working methods requires neither Charter amendment nor an Assembly resolution, while enlargement requires both. Fifth, and finally, a formal resolution in one principal organ telling another principal organ how to organize and conduct its business might exacerbate tensions rather than heal them.

Whichever course is chosen, the key is to proceed in as expeditious and focused a manner as possible. It would be very helpful if the President of the Assembly could include Council working methods in those reform areas that he will highlight in June. If there has been convergence on a cluster of working methods reforms by that point, then hopefully one of the Presidents of the Council this summer could announce which of those steps the Council is prepared to take prior to the September summit. If this scenario could be realized, then, as in several other areas, the summit could prove to be a highly useful decision-forcing event, even if the Secretary-General's earlier hopes for the adoption of a broad-ranging package of radical reforms proves well beyond reach, as seems increasingly likely.