

Security Council Reform: The Dual Risks

SAM DAWS*

Introduction

There is a risk that the United Nations will be weakened by an expansion of the membership of the UN Security Council. There is an equal risk that it will be weakened by the maintenance of the *status quo*. This article evaluates the consequences for developing countries of these two risks in the context of recent Council reform negotiations.

The danger of expansion lies primarily in the risk that it will alter the balance on the Council between power and representation to the point at which powerful countries will seek other avenues and fora for the implementation and legitimation of their foreign policy goals. Proponents of this argument cite existing US skepticism of the value of multilateral organizations, the fact that developing countries already have a majority of seats on the Council and a collective veto by virtue of the voting threshold, and that further expansion weighted toward the G77 would see a decrease in the occasions that the Council would unite with action in response to threats to international peace and security.

Others argue that the maintenance of the *status quo* risks polarizing the UN by ignoring the greater (and likely continued increase in) economic and strategic power now possessed by particular developing countries, and by developing countries as a group. Addressing the North-South imbalance in the permanent membership might give developing countries greater “ownership” of the peace and security agenda, and lead to more diverse and ultimately more efficacious international interventions short of military action.

This article asks what would be the consequences for the UN of an agreement on Security Council expansion along the lines of the three proposals currently being debated in the UN General Assembly, and what would be the result of an impasse, and thus the maintenance of the *status quo*.

* Sam Daws is the Executive Director of the United Nations Association of the UK. He was formerly First Officer in the Executive Office of UN Secretary-General Kofi Annan

A Summary of the Three Main Proposals for Security Council Expansion Currently under Discussion in the UN General Assembly

Uniting for Consensus (Proposed by Argentina, Canada, Costa Rica, Colombia, Malta, Mexico, Pakistan, Republic of Korea, San Marino, Spain and Turkey)

- There would be no change to the number of permanent members.
- The existing 10 non-permanent members will be replaced by 20, to be elected for two years, but the prohibition on immediate re-election in Article 23 of the UN Charter would be lifted by the General Assembly. The total number on the Council would be 25, with a voting majority of 15.

Group of Four (An initiative of Brazil, Germany, India and Japan but also co-sponsored by Belgium, Bhutan, Czech Republic, Denmark, Fiji, France, Georgia, Greece, Haiti, Honduras, Iceland, Kiribati, Latvia, Lithuania, Maldives, Marshall Islands, Nauru, Palau, Paraguay, Poland, Portugal, Solomon Islands, Tuvalu, and Ukraine)

- There would be six new permanent members, without veto power: Brazil, Germany, India, Japan, and two from Africa.
- There would be four additional non-permanent members (one each from Africa, Asia, Eastern Europe, and Latin American and Caribbean States).
- The total number on the Council would be 25.

African Union (agreed at the African Summit in Sirte, Libya in July 2005)

- There would be six new permanent members, with veto power: Brazil, Germany, India, Japan, and two from Africa.
- There would be five additional non-permanent members (two from Africa, one from Asia, one from Eastern Europe, and one from Latin American and Caribbean States).
- The total number on the Council would be 26.

The Consequences of Expansion

The central question, often neglected when the focus is on the political feasibility of particular scenarios for Council expansion, is: will the particular form of expansion agreed upon increase the legitimacy of the collective authority of the UNSC?

It is seen by many as axiomatic that an increase in developing country representation would result in enhanced legitimacy for the Council. There are many positive reasons for enhancing the representation of particular developing countries on the Council, and of developing country representation *en masse*. However, the representative nature of the Security Council does not of itself lead to, or guarantee, the legitimacy and efficiency of the Council. Indeed the political legitimacy of the Council depends primarily on the nature of the decisions it takes. The dilemma for member states and their ambassadors at the UN in New York is that the consequences of reform for the political legitimacy of the Security Council is not a major consideration in their evaluation of reform proposals.

The 191 member states of the UN must consider at least five factors in deciding how to vote on any General Assembly resolution on Council reform:

First and foremost, what is in my country's strategic interest?

Second, which proposal that my government finds acceptable will also secure the required initial 130 votes in the UN General Assembly required under the amendment procedure of the UN Charter?

Third, what would be the reaction of the permanent members (the "P5") to the proposal?

Fourth, should the proposal on the table be rejected in order to allow a better proposal potentially to emerge from negotiations?

Fifth, and lastly, what would likely be the long-term effects on the legitimacy and effectiveness of the SC and the UN as a whole?

We know from experience that countries pay attention primarily to the first two issues --what is in a particular country's interest, and what package can obtain the support of two-thirds of the membership of the General Assembly.

So should other countries take account of the preferences of the P5, and modify their proposals accordingly? Should, if that is the case, the reluctance of China or the US towards the proposals of the Group of Four (G4) or the African Union on Council expansion lead us to put aside for now the issue of new permanent members, or of a Council larger than 21?

The paradox here is that the peculiar nature of the amendment procedure of the UN Charter means that, procedurally, the agreement of the P5 to expansion of the Security Council is not required during an initial vote of the General Assembly. The veto of the P5 comes into effect only at the stage of ratification by national legislatures, often a number of years later. This is illustrated by the process by which the Security Council was expanded in the 1960s. In a vote on a General Assembly resolution to expand the Security Council from 11 to 15 members in 1963, only China (then represented at the UN by the Nationalists) voted in favour of Council expansion. France and the USSR voted against the General Assembly resolution, and the UK and US abstained. But eventually, two years later, all five permanent members had ratified the proposal, and the expansion of the Council came into legal effect in August 1965.

This expansion, although it seemed on the surface a relatively minor change, had a profound effect on the political complexion of the Council. In illustration, almost all vetoes before 1965 were cast by the USSR, whilst almost all vetoes thereafter were cast by the Western permanent members, since they no longer had an inherent majority on the Council to insulate them from having to cast vetoes.

If we examine the three current proposals being discussed at the UN, in the light of public comments by the P5, it is almost certain that at least some of the permanent members would initially vote against the G4 and African Union proposals because of opposition to particular aspirant permanent members, and at least some of the P5 would vote against the "Uniting for Consensus" proposal on the basis of the size of the expanded Council.

Three possible consequences would stem from the passing by a two-thirds majority of an initial General Assembly resolution against the wishes of one or more of the P5:

Sam Daws

First, one or more of the P5 may be so opposed to the provisions and likely consequences of the resolution that they resist ratification for many years, leaving the UN in a limbo whereby the majority of UN member states have agreed that the Council's current size and composition lacks legitimacy, but expansion is prevented solely as a consequence of one or more P5 members. This might undermine the credibility of the Council during the open-ended wait for ratification.

Second, pressure from the rest of the world might eventually lead all P5 members to ratify, even if this takes some time, and the ratification is undertaken reluctantly. Since ratifications are cumulative, it might have to wait for US ratification until perhaps 2008 or 2009 under a new administration --perhaps through a US Congress under President Condoleezza Rice or President Hillary Clinton. Such a change in national position following the Assembly's vote occurred in the 1960s when France and the USSR voted against an initial General Assembly resolution which sought to expand the Council, and then after it passed, sought changes to its provisions. When these attempts to modify the resolution failed, both countries then ratified. The danger with this scenario is in the reluctance of the P5 members to ratify. They may eventually ratify out of loyalty to allies, not wanting to be seen to be blocking a more general consensus *etc.* However, the P5 may perceive that the expansion has the effect of altering the subtle balance between power and representation on the Council to the extent that it no longer serves as a satisfactory forum within which to cooperate on matters of peace and security. One or more of the P5 may then favour other fora, such as an expanded Group of 8, regional organizations such as NATO, or a return to bilateral relations, as the preferred means by which to address peace and security issues. This would have consequences for Council legitimacy as the body mandated under international law with primary responsibility for the maintenance of international peace and security. Thus, while it is not legally necessary for the majority of UN members to pay attention to P5 views in an initial General Assembly vote on Security Council expansion, it may well be considered to be in their long-term interests, and in the interests of the preservation of international law, for them to do so.

Third, it is possible that the P5 will not only eventually accept and ratify a significant expansion in the membership of the Council, but may decide that they are still willing to seek agreement and action on peace and security issues through the vehicle of such a larger Security Council.

The Consequences of the Maintenance of the *Status Quo*

It is important to recognize that there are risks inherent, also, in the maintenance of the *status quo*. Keeping the current composition and size of the Security Council risks polarizing the UN by ignoring the greater economic and strategic power possessed by developing countries individually and as a group. There is also the possibility that commentators are wrong when they assert that adding more developing countries to the Council will inevitably decrease the occasions on which the Council would unite with action in response to threats. Increasing developing country representation may lead to a greater “ownership” of the peace and security agenda by the developing world, and lead to more diverse and ultimately more efficacious international interventions short of military action. Yet it is not enough to rest on the assumption that greater representation will lead to a more legitimate and effective Security Council --this still needs to be proven. If there is no immediate expansion of the Security Council other pressures for change may become more prominent.

First, there may be greater pressure for *de facto* changes to the UN Charter, including additional voluntary commitments by the P5 to constrain their use of the veto in defined circumstances.

Second, aspirant permanent members Japan and Germany, currently the second and third largest contributors to the UN’s regular budget, may seek to reduce the size of their financial obligations to the UN if permanent seats for them are not forthcoming.

Third, there may be renewed pressure for reconfiguration of the existing system of UN regional electoral groups. Dissatisfaction already exists within the membership of each group. Within the *Western European and Others Group* (WEOG), the *Others* (such as Australia) have expressed concern at their possible electoral marginalization as the European Union “core” of the group increases its internal political integration. Caribbean states risk being overshadowed by their larger Latin American neighbours. The *Asian* group covers a highly heterodox region, and with some justification claims that its recent expansion has resulted in insufficient representation for the region in bodies of limited membership in the UN system. Islamic countries have expressed the concern that they are inadequately accommodated by the current system of a “swing seat” for (primarily) Arab countries which rotates between the *African* and *Asian* groups. It should be remembered that the current system of UN electoral groups did not emerge out of a consensual process, but was rather imposed

on the Western permanent members by a coalition of developing countries and the Soviet bloc in the course of the negotiations on elections to the General Committee of the UN General Assembly in December 1957.[†]

Any attempt to adjust the current electoral group system may result in new groupings, or in a new openness to using non-geographic criteria as a determiner of the way the UN's 191 member states are divided into groups. In an earlier contribution to the proceedings of this Conference, Ayatollah Zanjani spoke of the importance of the religious angle to the work of the United Nations. There is indeed great potential for all faiths to contribute to the application of morality --of compassion and generosity-- to the international sphere, and the role of Islam in the UN has been discussed since the founding of the Organization.

An eventual Moslem seat on the Security Council was predicted by the US government during early negotiations to found the UN Charter in 1945. More recently, the Leader of the Islamic Republic of Iran, in his remarks to the opening session of the Islamic Summit held in Tehran in December 1997 proposed that in the Council's expansion, a permanent seat should be accorded to the member states of the Organization of Islamic Conference (OIC), comprising 55 countries across three continents. While there seems no immediate prospect of this proposal being adopted, the recent focus at the UN on building a dialogue among civilizations, at a time of increased globalization, gives particular importance to the contribution of the OIC countries at the UN. If there is a fundamental review of the system of UN electoral groups, there may be merit in revisiting the criteria employed for the election of Judges to the International Court of Justice, for possible wider UN application.

“...the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured”

Article 9, Statute of the International Court of Justice

Since the Security Council has such a central role as the effective judge, jury and executioner in the realm of international peace and security, it may be time to examine whether a system now based primarily on

[†] Sam Daws “The Origins and Development of UN Electoral Groups” in *What is Equitable Geographic Representation in the Twenty-first Century?* Edited by Ramesh Thakur (United Nations University, Tokyo, 1999), pp.11-29.

geographical distribution needs also to ensure that all forms of civilization are represented, so as to faithfully reflect the diversity of humanity and the unique contribution that each can make within a framework of universal values, rights and responsibilities.

Whilst there may be sound arguments for maintaining a system of electoral groups based primarily on geography, precedent is not one of them. The initial composition of the Security Council during its first two decades included a reserved non-permanent seat for British Commonwealth countries, a non-geographical grouping based on perceived shared history and cultural values. The composition of the current *Western European and Others Group* exhibits vestiges of this earlier grouping.

Fourth, retaining the *status quo* in the membership of the Security Council is likely to lead to calls for an increased contribution from permanent members to the maintenance of international peace and security as a *quid pro quo* for their permanent status and veto. The original expectation at the San Francisco conference which founded the UN was that the P5 would provide the personnel and resources to create a UN standing army under the direction of the UN Military Staff Committee. In the absence of such a standing army (since negotiations broke down in the late 1940s amongst the P5 on this issue), peacekeeping developed as an *ad hoc* mechanism. Later, in the course of wider UN budgetary negotiations, the P5 agreed to pay a premium on their regular assessed contributions to the UN for UN peacekeeping operations. This peace and security financial “premium,” plus the contributions of the P5 to UN peacekeeping and peace enforcement operations, became, *de facto*, part of the *quid pro quo* for the rights accrued by the P5 under the UN Charter. In recent years the contribution of troops by the Western members of the P5 to UN peacekeeping has declined, whereas the contribution of those countries to UN Security Council-endorsed peace enforcement operations has increased. Sceptics have argued that such peace enforcement contributions were primarily in support of national strategic interests of the respective permanent members, as opposed to support for peacekeeping operations where a direct national interest was less observable. That issue notwithstanding, if the composition of the Council remains the same, more will likely be expected from the permanent members.

Fifth, there is likely to be growing pressure on the permanent members to pay their assessed financial dues to the UN in full and on time. There is particular sensitivity over the payments of the largest single financial contributor to the UN, the US, following past instances of withholding of its assessed financial dues to the UN. There is growing pressure from Congress

Sam Daws

on the current US administration to withhold part of its financial obligations to the UN if certain reforms are not undertaken at the UN. The US administration has sought to resist this pressure, in part by seeking to give the US President the discretion to determine whether progress toward reform benchmarks has been made. There is growing recognition that the United States actually makes a profit from hosting the UN headquarters on US soil (from tourism, diplomat accommodation, local hiring and procurement advantages) above and beyond what it contributes in dues to the UN system. This fact may result in pressure to strip the US of the financial benefits it receives by hosting the United Nations if it again withholds its UN dues. Since the European Union countries now collectively contribute over 38% of the UN regular budget, there may be parallel calls for the transfer of the UN headquarters to a European Union country. This would risk lessening the involvement of the world's only superpower at a time when the engagement of the US is essential to the success of the UN.

Sixth, in the absence of expansion, the Security Council will face increased pressure to change the way it works in order to maintain its legitimacy. There was progress in the 1990s in the areas of increased Council transparency and consultation with non-members of the Council. Attention would likely turn to the issue of accountability and the relationship of the Council to the General Assembly. Such calls are likely to have only limited impact. In particular, as a consequence of political realities, there will unlikely be an end to the perceived selectivity in the decisions of the Council. Where there is more scope for substantive change is in the "tool box" that the Council has at its disposal. This includes the potential for the Council to work with the Peacebuilding Commission, proposed by UN Secretary-General Kofi Annan, in devising culturally sensitive and long-term responses to conflicts which build bridges between peacekeeping and development. There may be an increased focus on the past negative economic and social effects of well-intended short-term peacekeeping interventions, and an attempt to refine such operations to address these shortcomings. Lastly, there is a need to involve the wonderful diversity of humanity --the voices of minorities and especially the voices of women, who comprise the majority of humanity-- if we are to establish, through the UN, new approaches to peace and security which are long-term and sustainable.