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REFORM OF THE UNITED NATIONS' SECURITY COUNCIL

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A thesis submitted for the degree of
LL.B. Honours
At the University of Otago, Dunedin,
New Zealand.

16 October 1998
ABSTRACT

The intention of this thesis is to examine why the Security Council needs reforming, discuss the basic reform issues and present and assess the major proposals for reform. I propose to determine which of the current reform proposals, if any, are the most sensible in terms of achievability, desirability and acceptability.
ACKNOWLEDGEMENTS

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I extend my thanks to Jennie, without the loan of whose computer I would have been camping out in the University computer labs, and also to Michelle who undertook the onerous task of proofreading this paper for spelling and grammatical errors.
ABBREVIATIONS

The following abbreviations are used in the references to United Nations documents:

A/ General Assembly
GAOR General Assembly Official Records
GA Res. Resolution of the General Assembly
ICJ Rep. Reports of the International Court of Justice
S/ Security Council
S/PV. Provisional record of a meeting of the Security Council
SCOR Security Council Official Records
SC Res. Resolution of the Security Council
# CONTENTS

Acknowledgements ............................................. i
Abstract ..................................................... ii
Abbreviations ................................................ iii
Contents ..................................................... 1

## I. Introduction ................................................... 3

## II. Chapter One

*Historical Problems of the Security Council.* .......................... 5

1. Problems of the Veto ........................................ 6
   1.1 The Double Veto ........................................ 6
   1.2 The Veto on Forced Abstention .......................... 7
   1.3 The Hidden Veto ....................................... 7
   1.4 The Reverse Veto ..................................... 8
   1.5 Role of the President ................................... 8
   1.6 Accountability ......................................... 8

2. Circumventing the Veto ..................................... 9
   2.1 Abstention ........................................... 9
   2.2 Absence .............................................. 10
   2.3 Transferal to the General Assembly ..................... 10

3. Extent of the Problem ....................................... 11

4. Precedents for Reform ....................................... 13

## III. Chapter Two

*The Basics of Reform.* ........................................ 17

1. Barriers to Reform ......................................... 20

2. Overall size of the Security Council. .......................... 20

3. The Veto ................................................. 22

4. The Permanent Members ..................................... 24
   4.1 Extending the veto .................................... 25
   4.2 Criteria ............................................. 26
   4.3 Extent of expansion ................................... 27
   4.4 Distribution of seats .................................. 28
   4.5 Possible candidates ................................... 28
IV. **Chapter Three**

*Proposals for Reform.*

1. Working Group Proposals. ........................... 36
2. The Italian Proposal. ............................... 39
3. Sohn’s Proposal. ................................. 41
4. Proposals for Remodelling the Electoral Groupings. ................................. 42
5. A Binding Triad. ................................. 44
6. The Need to Proceed with Caution. ................................. 45
8. Reform of Some Kind. ............................... 49

V. **Conclusion.**

1. A Binding Triad. ................................. 50
2. Remodelling the Electoral Groupings. ................................. 51
3. Working Group Proposals. ............................... 52
4. The Italian Proposal. ............................... 53
5. Status Quo. ................................. 54

VI **Selected Bibliography.**

1. Texts. ................................. 56
2. Articles. ................................. 57
3. Electronic Sources. ................................. 59
INTRODUCTION

The Security Council, which is the executive organ of the United Nations, currently consists of only fifteen members, yet its decisions impact upon the 185 member states and in fact on all states whether they are members of the United Nations or not. Since 1991 the processes of the Security Council have been subject to scrutiny and many proposals for its reform have been advanced both formally and informally.

The call for reform of the Security Council is currently being considered as part of the proposed reforms to the United Nations in general. The fiftieth anniversary of the United Nations in 1995 provided motivation for reflection and the impetus to consider reforming the United Nations. The movement for reform has increased recently because the Security Council is much more active than it has been in the past. There has been a significant increase in the number of informal consultations, formal Council meetings, resolutions passed and statements made by the Security Council President. In 1992 the General Assembly requested Secretary General Boutros Boutros-Ghali to invite submissions and report on the question of equitable representation on and enlarging the composition of the Security Council.\(^1\) Subsequently in 1993 the General Assembly established a working group to consider this question and other matters related to Security Council reform.\(^2\) The two main focuses of the working group are review of the veto power and expansion of the Security Council membership. Thus proposals for reform focus on a review of the veto power which is traditionally seen as causing the past problems of the Security Council and on bringing the composition of the Security Council into line with present global power dynamics.

The Security Council was created over fifty years ago. The United Nations Charter makes outdated references to the defeated axis powers of World War Two.\(^3\) Since that time there have been major changes not only in the political power of nations, but also in the overall global power balance. Decolonisation and the

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\(^1\) GA Res. 47/62 (11 December 1992).
\(^2\) GA Res. 48/26 (3 December 1993).
\(^3\) Articles 53 and 107 United Nations Charter.
dissolution of states such as the Soviet Union and Yugoslavia have resulted in a huge increase in membership in the United Nations from 51 at its conception to 185 today. The end of the domineering conflict between East and West of the Cold War has given way to a conflict between North and South, that is between developed and lesser-developed countries. This is mirrored in the altered composition of the membership of the United Nations, but this change is not reflected in the current structure of the Security Council.

Ultimately the effect of Security Council decisions will depend on international support, which will be influenced by the extent to which the Security Council is seen to be adequately representative of the United Nations membership and the global power balance. If the Security Council is to reflect the current realities of the international community to maintain support for its decisions, its composition must be changed.

To understand the call for change of the voting procedures of the Security Council, the historical problems and in particular the veto power of the Security Council must be examined. If there is a real defect, this should be amended in any reform, lest it recur again in the future. The admission to the permanent membership of China and Russia and the 1965 expansion of the Security Council deserve attention as precedents for changes to the membership and size of the Security Council. Once the need for reform has been established and the basic reform issues set out, I propose to critically evaluate the major proposals for reform that have been made in order to assess which of them, if any, would be the most achievable and sensible solution to reform the Security Council.
CHAPTER ONE

Historical Problems of the Security Council

"The veto ... is essentially negative. Its effect is not to foster co-operation; it is to prevent action."\(^1\)

The veto power of the permanent members has come to be generally viewed as a critical defect of the United Nations. This right bestowed on the five permanent members by Article 27(3) of the United Nations Charter\(^2\) has been a controversial matter since the establishment of the United Nations in 1945. Member states and commentators have frequently questioned it.

The General Assembly has expressed its concern about the veto by advising the Security Council on the necessity of limiting its use of the veto.\(^3\) Some commentators have criticised the veto as being incompatible with Article 2(1) of the Charter,\(^4\) which affirms the principle of the sovereign equality of states.\(^5\) It is claimed that such a normative contradiction results in a lack of moral legitimacy for the Security Council’s resolutions.\(^6\) The veto is often criticised as being undemocratic: Paul accurately claims that "Reform discussions always come back to the issue of democracy."\(^7\)

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2. Article 27(3) provides that decisions of the Security Council on non-procedural matters require the "... affirmative vote of nine members, including the concurring votes of the permanent members..."


4. Article 2(1) provides that "The Organization is based on the principle of the sovereign equality of all its members."


6. Koechler, supra n. 5 at 239.

Proponents of reform have protested that most of the states which hold the veto have not necessarily been in the past and are now no longer the most powerful of the world’s nations. The finger has been pointed at the history of Chinese representation on the United Nations, the transferral of one seat from the Soviet Union to Russia, the decline of the power of Great Britain and France and the rise of other nations such as Germany and Japan. It is thereby claimed that the permanent members prevent the Security Council from reflecting global political realities.

Why then was the veto given to the five permanent members? It was designed to continue the influence and control of the victors of World War Two. The veto was justified in terms of the responsibilities and duties which were imposed on the Security Council by Article 24.8 Since the responsibility for maintaining international peace and security would fall mainly on the great powers, the veto awarded them the final, decisive vote in determining how this responsibility should be exercised. The unanimity requirement provided that the coercive power of the Security Council would not be abused. The veto also provided a guarantee that any action undertaken by the Security Council would be supported by nations which then controlled the bulk of the world’s economic, military and political power. It therefore acted as a safeguard, preventing the United Nations from undertaking commitments it lacked the power to fulfil.9 The veto was a concession to the existing power configuration of the world in 1945. Furthermore, it ensured the participation of the great powers in the United Nations, something that was lacking in the League of Nations.

Problems of the Veto

The Double Veto

Article 27(2) and (3) of the Charter provide that the veto can only be used in deciding non-procedural matters. However the Charter does not enumerate which matters are procedural and which are not. In some cases the Security Council must therefore determine which category the decision in question comes under. When

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8 Article 24(1) provides that “In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security…”

considering this, the permanent members have relied on the Statement of the Delegations of the Four Sponsoring Powers on Voting Procedure in the Security Council, which declared that such a decision is itself non-procedural. This resulted in what was known as the “double veto.” This occurred when a permanent member first used the veto to determine that the matter was non-procedural and in the subsequent vote on the matter itself cast a second veto, thereby preventing any action from being taken.

Since September 1950 the use of the double veto has been prevented by the Security Council President making a ruling that the matter in question is procedural. Such a ruling will stand unless challenged, and then it will stand if a majority of the Security Council support it.

**The Veto on Forced Abstention**

Article 27(3) stipulates that a permanent member must abstain from voting when it is a party to the dispute in question. This provision has practically never been applied, because the permanent members have reserved to themselves the right to veto the decision on whether the matter in question falls into the category of a “dispute” or merely a “situation.” In effect the permanent members have given themselves the right to decide whether or not to vote in cases where they are directly involved.

**The Hidden Veto**

In practice the permanent members can exercise an effective veto without an actual veto ever being cast. The Security Council currently practises extensive “informal consultation,” where the permanent members hold meetings in secret without making any records. The permanent members may therefore use the threat of a veto to prevent matters from proceeding to the formal meetings of the Security Council. The other situation where a hidden veto may occur is where not enough members vote to pass a resolution. The permanent members may in this case have used the threat of their veto to persuade other Security Council members to abstain.

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10 UNCIO Doc. 852, III/1/37(1) (7 June 1945), Part II, para. 2.


The Reverse Veto

Recently the veto has been used in a different way. Rather than being used to block action, it has been used to prevent the United Nations from backing off from actions which it has already authorised. For example, during the Gulf crisis a number of countries attempted to pursue peace initiatives after the passing and implementation of Resolution 687 authorising member states to use “all necessary means” to uphold and implement the Security Council’s resolutions regarding the Iraqi invasion. However the United States and United Kingdom stated they had the power to maintain the sanctions and continue the use of force necessary for the implementation of Resolution 687 and that alteration of any already implemented resolutions would require a new resolution which they could veto.

Role of the President

The role of the Security Council President may be of crucial importance in determining what matters are to be brought before the Security Council and consequently whether the veto can be exercised. As already discussed, the President is able to make a ruling on whether a matter is procedural or not and therefore on whether the veto power may be exercised. The President also has an important role where decisions are made without a vote. The President may declare that in the absence of objection a decision has been made, or state what he or she interprets the consensus decision to be.

Accountability

By virtue of the non-elected status of the permanent members they are not accountable to the United Nations. They are accountable only to the authorities of their own states. Representatives of other states have voiced concerns that the permanent members place the interests of their own states over the norms of international law and the majority view of the international community.

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16 Paul, supra n. 7.
Circumventing the Veto

Abstention

Article 27(3) of the Charter requires the “concurring votes of the permanent members” for substantive decisions to be passed. The question then arises whether a negative vote need be cast to thwart this requirement. To ameliorate the harsh effect of the veto, the Security Council has adopted the practice that permanent members may abstain rather than casting a negative veto, and so long as no negative veto is cast, then the decision will be valid. Although the Soviet Union insisted that its abstention on the Spanish question on 29 April 1946 did not constitute a precedent, the United States’ representative soon followed suit in connection with the Greek question. Since then the practice of the Security Council has been uniform. The International Court of Justice upheld the practice of abstention as “not constituting a bar to the adoption of resolutions” in the Namibia case. This has become a generally accepted practice which there has been an increasing trend to use. In effect this custom constitutes a de facto amendment to the Charter.

In theory valid non-procedural resolutions could be passed where all the permanent members abstain from using their veto. When this question was raised by Portugal in relation to the validity of the Security Council’s resolution on Rhodesia from which two permanent members abstained, the Secretary-General declined to give an opinion, holding that it was for the Security Council to interpret its own resolutions over its procedures.

Absence

The Security Council has dealt with the intentional absence of a permanent member as equivalent to an abstention and therefore not constituting a veto. This was

17 SCOR (I) 39th meeting, (29 April 1946), 243.
18 SCOR (II) 131st meeting, (18 April 1947), 803.
20 SC Res. 221 (9 April 1966).
provoked by the deliberate absence of the Soviet Union representative during consideration of the Iranian case in 1946, when the Security Council failed to approve the Soviet proposal for postponing the Iranian matter,\(^{22}\) and the Korean Crisis in 1950. While the decisions taken by the Security Council in the first period were not so clearly non-procedural in character, those made during the Korean crisis were indubitably so and set a firm precedent. On 10 January 1950 the Soviet Union’s representative formally absented himself because of the Security Council’s failure to exclude the representatives of Nationalist China from the United Nations. During the time he was absent the Security Council passed six resolutions and four decisions, including a series of non-procedural resolutions declaring that the Northern Korean invasion of South Korea constituted a breach of the peace and calling for withdrawal of the North Korean forces,\(^{23}\) recommending United Nations assistance for the Republic of South Korea\(^{24}\) and pursuant to this establishing a unified military command led by the United States.\(^ {25}\) Although the Soviet Union questioned the validity of these resolutions,\(^ {26}\) the practice of the Security Council allowing that the absence of a state by its own accord does not constitute a veto has become well established.

**Transferral to the General Assembly**

The General Assembly in adopting the “Uniting for Peace” Resolution in 1950\(^ {27}\) developed a way in which to circumvent the potential effect of a veto defeating a proposal relating to the Security Council’s primary function. This resolution asserted the residual right of the General Assembly to pass resolutions necessary to the maintenance of international peace and security where the Security Council fails to take such action because of a veto. The General Assembly asserted its right to consider any threat to the peace, breach of the peace, or act of aggression and to use

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\(^{22}\) SCOR (I), 27\(^{th}\) meeting, (27 March 1946), 58.

\(^{23}\) SC Res. 82 (June 25 1950).

\(^{24}\) SC Res. 83 (June 27 1950).

\(^{25}\) SC Res. 84 (July 7 1950).

\(^{26}\) UN, SCOR (V), (Supplement for June to August 1950), no. 24 pp.3 et seq., S/1517.

\(^{27}\) GA Res. 377(V) (3 November 1950), A/1456.
collective measures, including the use of armed force when necessary. This resolution was sanctioned by the International Court of Justice in the Expenses case of 1962, where the Soviet Union unsuccessfully argued that it should not have to pay dues for UNEF I, on the grounds that it was absent when the resolution authorising that peace-keeping force in the Middle East was passed by the General Assembly.

**Extent of the Problem**

The veto has been attacked as open to abuse and in particular on the grounds that the Soviet Union "unquestionably abused the right of veto." Bailey has extensively analysed the use of the veto from 1946 to 1967. In this period 111 vetoes were cast and 103 of these by the Soviet Union. In examining the use of these vetoes however, "something less than the flagrant abuse of power" is revealed. Leaving aside cases where a veto merely caused delay, such as the 51 vetoes cast over the admission of states to the United Nations, cases where a majority vote had more or less the same result as the formal resolution vetoed and cases taken over by the General Assembly, then only 26 vetoes are left that prevented something from happening. Boyd claims that for the most part even these vetoes only prevented resolutions that were not going to produce any action. Claude’s claim that “the veto has assumed larger proportions in the minds of cynical critics and disillusioned idealists than in the workings of the United Nations” would appear, on this analysis, to have some basis.

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29 GA Res. 1000 (ES-1) (5 November 1956).


33 Boyd, supra n. 30 at 84.

34 Idem.

35 Claude, supra n. 9 at 141.
From 1967 to the present the increased use of abstention has resulted in a decreased need to use the veto. However while the number of vetoes has comparatively decreased, the permanent members other than the Soviet Union have increasingly used the veto. Since 1990, however, use of the veto has all but halted, Russia exercising its veto twice and the United States of America only once.

Out of the total number of vetoes cast by the Security Council from 1946 to the present, 59 were used to prevent the admission of states as members to the United Nations and 43 to prevent nominations for the position of Secretary-General. However vetoes have also been used to prevent substantive resolutions. Thus Koechler is able to claim that the veto rule “has paralysed the Security Council in the accomplishment of its main task of conflict resolution.” Furthermore, as Claude points out, the veto problem cannot be accurately assessed by statistical means. Hidden vetoes as opposed to those formally cast are highly effective, but unaccounted for.

In conclusion, the practice of the Security Council has tended to ameliorate the problem of the veto and not all uses of the veto have been substantive. However despite this the veto has operated as a real block to Security Council action. Furthermore in the future it may be used in a different way to force authorised peacekeeping measures to continue. Consequently whether the veto should continue in the Security Council should be seriously considered in proposals for reform of the Security Council.

**Precedents for Reform**

Article 23(1) names the five permanent members on the Security Council, whose status cannot be altered without amendment to the Charter. However there are

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36 By the end of the first four decades the veto had been used 121 times by the USSR, 57 by the USA, 26 by the UK, 22 by China and 16 by France. Michelle Smith, “Expanding Permanent Membership in the United Nations Security Council: Opening Pandora’s Box or Needed Change?” (1993) 12 Dickinson Journal of International Law 173 at 181.

37 Statistics taken at February 1995, no vetoes have been made since. Paul, supra n. 7.

38 Koechler, supra n. 5 at 240.

39 Claude, supra n. 9 at 141.

40 “The Republic of China, France, The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council.”
historical precedents for the permanent members being changed without formal amendment being made to the Charter.

In 1950 as a result of the successful revolution of the Chinese Communists, there were two Chinese governments. The Nationalist government of Chiang K'ai Shek fled to Taiwan while the Communist government of Mao Tse Tung based itself in Peking. Consequently, the United Nations was faced with the problem of which entity was entitled to represent China. It was generally proposed either that the Communist regime was entitled to China's seat on the Security Council, or alternatively that both regimes had succeeded to the original entity of China and should be accommodated in the United Nations. The Security Council, however, decided not to consider any proposals on this question on 31 January 1955. This problem was not resolved until 1971 when the government of the United States, which previously argued consistently that representation should be denied to the Communist regime, switched its position. As a result the Peoples Republic of China was accepted as China's representative in the United Nations and the representative of Chiang K'ai Shek was expelled. The Peoples Republic of China thereby replaced the Republic of China as a permanent member on the Security Council, although no formal Charter amendment was made.

In 1991 the Union of Soviet Socialist Republics disappeared as an international entity. The Russian Federation continued the membership of the Soviet Union in the United Nations, including its permanent membership in the Security Council as from December 24 1991. This was done informally by the permanent members' acceptance of a letter written by Russian president Yeltsin to the United Nations declaring that Russia would occupy the Soviet Union's seat.

There is also an historical precedent for expansion of the Security Council. From 1950 onwards there was disagreement over elections to the East European seat allocated to the non-permanent members. Furthermore there was increased difficulty in achieving equitable geographical distribution of the non-permanent seats, especially since the growing demand for Asian and African representation increased proportionally with the expanding United Nations' membership of states from these

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regions. In 1963 the United Nations' membership had grown to 112, more than double the original 51 members. At the instigation of the Asian and African states a General Assembly resolution was passed increasing the seats of the non-permanent members by four so that the Security Council was enlarged to fifteen.\textsuperscript{43} This resolution amended the Charter so that nine affirmative votes were required to pass resolutions. The resolution received sufficient ratification by September 27 1965 for the amendments to the Charter to enter into force.

The 1965 amendments to the Charter expanding the Security Council were mainly in response to the growth in United Nations membership. A similar change would seem appropriate in the light of the increase in membership from 112 in 1963 to 185 at the present.

However in 1998 there are several other reasons for change besides enlargement of the United Nations membership.\textsuperscript{44} Since the end of the Cold War the Security Council has become more active and effective. From 1946 to 1989 the Security Council held 2903 meetings and passed 646 resolutions.\textsuperscript{45} Since 1990 it has almost daily consultations. From 1990 to mid 1994 it had 495 formal meetings and passed 288 resolutions.\textsuperscript{46} There has also been a significant increase in peacekeeping operations. Since 1945 the Security Council has been involved in 49 peacekeeping operations; 35 of which were created in the last ten years.\textsuperscript{47} Between 1990 and mid 1994 the number of troops involved in peacekeeping operations increased sevenfold.\textsuperscript{48} The Security Council authorised the use of force for purposes other than self-defence only twice between 1946 and 1989,\textsuperscript{49} but between 1990 and mid 1994 it has done so six times.\textsuperscript{50} This more active role of the Security Council requires the Security

\textsuperscript{43} GA Res. 1991A (XVIII) (17 December 1963).
\textsuperscript{44} Commission on Global Governance, "Reforming the United Nations" Chapter V, Part II Our Global Neighbourhood (November 1994) http://www.cgg.ch/unreform2.htm#security.
\textsuperscript{45} Idem.
\textsuperscript{46} Idem.
\textsuperscript{48} From 10,000 in 1990 to over 70,000 by mid 1994. Commission on Global Governance, supra n. 44.
\textsuperscript{49} The American-led defence of South Korea and the United Nations mission in the Congo.
\textsuperscript{50} Operations in the Persian Gulf, Somalia, Bosnia and Herzegovina, Rwanda, Haiti and Albania.
Council to be perceived as legitimate for its actions to be effective. Its unrepresentative character is currently a cause for dispute and therefore a "crisis of legitimacy."  

Caron sets out some possible instances in which he considers the perception of illegitimacy may work against the effectiveness of the Security Council. He considers it may result in resolutions not being passed, or weaker resolutions being adopted. States may have difficulty in gaining domestic support for action and may move less quickly in financial, military and sanctional support of resolutions. The perception of illegitimacy may, he argues, lead to "actions and strategies" that weaken the Security Council. Not only may the perceived illegitimacy of the Security Council act against its effectiveness in these ways, but the domestic impact of Security Council action is a justification for states' concerns. Member states may be called upon by the Security Council to apply measures which the Security Council has adopted to give effect to its decisions. Compliance can be onerous and costly. Many countries have enacted legislation to implement Security Council resolutions. The courts of some countries may even require administrative decision-makers to take Security Council resolutions into account. The Security Council and its actions therefore have the potential to impact upon member states of the United Nations to a considerable degree. Not only are there precedents for change, but there are also compelling factors demanding reform.

The key argument against reform is that the United Nations is currently working far more effectively than ever before and so does not need to be changed. While it is indeed true that the Security Council is more efficacious, this is dependent on the will of its member states. Leigh-Phippard points out that "A reformed Security Council, with additional or replacement permanent members, could work just as effectively if

51 Commission on Global Governance, supra n. 44.
52 Caron, supra n. 13 at 305.
54 Ibid., at 295.
55 Ibid. at 296.
its membership was committed to its continuing efficacy.”\textsuperscript{56} Conversely, now is the time for reform to take place, because meaningful reform can only take place in an environment, such as the present one, of consensus and agreement. If the opportunity of making the most of these current attitudes is not taken, the chance to implement reform may be lost.

CHAPTER TWO
The Basics of Reform

“It is absolutely clear that the Security Council we have today is yesterday’s Security Council. It cannot do the job we need done today and will certainly need in the future.”¹

Presently the Security Council consists of fifteen members, five of which are permanent and ten non-permanent. China, France, the Russian Federation, the United Kingdom and the United States of America are permanent members. The non-permanent seats are allocated on a regional basis, which effectively allocates two seats to Western Europe (and other states), one seat to Eastern Europe, two seats to South America and five seats to Africa and Asia.²

The current size and composition of the Security Council is a cause for objection by many states. The main concerns voiced are that the Security Council is undemocratic and unrepresentative in terms of geographies, financial and military contributions. Kausikan succinctly summarised the current situation when he stated “…the majority of Member States consider the current composition and working methods of the Security Council archaic and unsatisfactory.”³

The most common complaint about the Security Council’s representation is that it does not reflect the geographies of the United Nations membership. This centres on the concern that the current composition of the Security Council favours Europe in terms of geographical distribution and that the West and the United States have hegemonic control over the Security Council. Representative legitimacy is one of the primary concerns of the Working Group, which found as a result of its consultations that member states support the principle of equitable geographical distribution as

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important in determining reform. This position is supported by the Non-Aligned Movement, which considers that it is "grossly under-represented" in the Security Council and that this should be corrected. Paul substantiates the past as well as ongoing nature of complaints that the Security Council is not representative and is unresponsive to their concerns by reference to the French and United Kingdom block on Security Council action over Suez in 1956, the United States' refusal of action on Vietnam in the 1960s and 1970s, the Soviet Union's block on action on Afghanistan and the United Kingdom's and United States' block on action to impose economic sanctions on South Africa in the 1980s. In his view, the current vocal opposition to the unrepresentative character of the Security Council is due to the fact that rather than failing to act, it is acting in ways which are apparently motivated by the geopolitical interests of the major powers. Even one of the permanent members has criticised the unrepresentative nature of the Security Council. China's Foreign Minister Qian Qichen has stated to the General Assembly that "Actions by the Council should better reflect the collective will and common aspirations of the entire membership."

According to the findings of the Working Group, the importance of adhering to the principle of sovereign equality in determining changes to the size and composition of the Security Council is one of the factors advocated by a large number of member states. The Non-Aligned Movement in particular supports sovereign equality and

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7 Idem.

8 Idem.

9 Jayanama and Breitenstein, supra n. 4.
democratisation in reform. The Working Group also concluded that a vast majority of members consider the veto to be "anachronistic and undemocratic." The Malaysian Prime Minister claims that the United Nations touts democracy as the only acceptable form of government but eschews democracy as applied to itself. Similarly, the Foreign Minister of the Philippines told the General Assembly that "It is ironic that in the midst of the rapid spread of democracy in recent years and the expanding membership of the United Nations, the Security Council remains unrepresentative in its size and the geographic distribution of its membership, and undemocratic in its decision making and working methods."

Some members argue that membership of the Security Council should be adjusted to reflect financial and military considerations. The current membership of the Security Council is criticised for not reflecting contributions to United Nations operations, and peace-keeping activities in particular, on the grounds that some countries are assessed for these purposes more than others and more than some of the permanent members. Japan and Germany, it is argued, make larger budget contributions than the United Kingdom, France and China and on this basis deserve permanent membership status. These larger contributions are, however, to make up for the fact that neither country contributes troops, since this is not allowed by their constitutions. Kausikan points out that if the purpose of Security Council reform is to accurately reflect the post-cold-war world, then the logical but unacceptable result would be that the United States would be the sole permanent member as the only member of the United Nations with the political, economic and military clout on the global scale needed to maintain international peace and security.

10 "Annex XI: Texts Submitted by Egypt on Behalf of the Movement of Non-Aligned Countries" supra n. 5.
11 Jayanama and Breitenstein, supra n. 4.
13 As quoted in Crossette, supra n. 1.
14 Kausikan, supra n. 3.
Barriers to Reform

Article 108 of the United Nations Charter governs the process for amending the Charter. It provides that:

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.

There are two potential blocking coalitions to reform: the permanent members and the Non-Aligned Movement. The Non-Aligned Movement numbers in excess of a hundred out of the 185 member states of the United Nations and therefore its support is needed to get a two-thirds majority in the General Assembly. Any meaningful reform that requires Charter amendment must therefore accommodate both these groups. If the permanent members refuse to accept reforms supported by at least the required majority of the General Assembly, or if the General Assembly is coerced to agree to measures that the permanent members insist on but that do not have two-thirds majority support, then the legitimacy of the entire institution of the United Nations will be undermined.

Overall Size of the Security Council

There is a general consensus that the membership of the Security Council needs to be expanded. Disagreement arises over the extent to which it should be increased. The demands for more equitable representation on the Security Council in effect call for extensive expansion. Sohn considers that to accommodate all the principal contenders for representation, at least ten seats would have to be added to the present fifteen as well as enough seats for other states needed to balance the Security Council between the larger states and the approximately 150 remaining states. On the other hand, many delegates have expressed a concern that the Security Council remains effective, which calls for a limitation on expansion. Opponents of reform have

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16 Jayanama and Breitenstein, supra n. 4.
claimed that expanding the Security Council would "open a Pandora's box" and "lead to chaos and inefficiency." These two aspects therefore need to be balanced to ensure that the Security Council is not only legitimate in terms of equitable representation, but remains able to make decisions swiftly.

The view has been expressed that these two concerns are not necessarily diametrically opposed. Ambassador Mabilangan of the Philippines voiced the opinion to the General Assembly that the effectiveness and efficiency of an enlarged Council would not necessarily be inversely related to its size, since wider membership would give it a more democratic process and would result in more active support for decisions and any resulting operations.

Taking into account the competing demands of representative legitimacy on one hand and efficiency on the other, what figures have been suggested? The Commission on Global Governance has suggested an increase to twenty-three, Razali Ismail in his capacity as chairman of the Working Group proposed an increase to twenty-four and the Bureau of the Working Group suggested an increase to between twenty-four and twenty-six.

The permanent members are rather less generous in their recommendations. The United States has categorically stated on a number of occasions that a Security Council of twenty or twenty-one is "the largest we can accept."

The United Kingdom's representative has recommended to the General Assembly that any

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18 As quoted in Paul, supra n. 6.


increase should be modest, suggesting figures of twenty to twenty-one. In the same vein, France’s Permanent Representative has endorsed a Security Council of “little more than twenty” as the maximum size, while the representative of the Russian Federation has mentioned a “limited increase” to make up a Council of “around twenty members.” China has been the least specific of the permanent members, merely favouring an “appropriate expansion.”

What figures do the majority of member states officially support? In reporting to the Working Group about the consultations, Ambassador Jayanama stated that the majority of states which addressed the issue supported an “overall expansion of twenty-six, while some others preferred expansion to the low twenties.” When Razali addressed the Working Group on 28 April 1997, he described the insistence of some states on a Security Council of only twenty as a “minority position.” Taking into account the submission of the Non-Aligned Movement that an enlargement of “not less than eleven members” was appropriate, then Razali’s controversial statement may well be accurate. Kausikan has suggested that it may in fact be a position held by a minority of four or five countries, namely the permanent members.

The Veto

Proposals calling for the abolition of the veto and replacing it with a qualified majority vote have received little serious attention. The Working Group found that

23 Representative of the United Kingdom to the General Assembly, 30 October 1996.
24 Alain Dejammet, France’s Permanent Representative, to the General Assembly, 29 October 1996.
26 Representative of the Peoples’ Republic of China to the General Assembly, 20 October 1996.
27 Jayanama and Breitenstein, supra n. 4.
28 Kausikan, supra n. 22.
29 “Annex XI: Texts Submitted by Egypt on Behalf of the Movement of Non-Aligned Countries” supra n. 5.
30 Kausikan, supra n. 22.
although the veto was considered "anachronistic and undemocratic" by a vast majority of states, it was generally acknowledged that it was not realistic to expect the veto to be abolished.\textsuperscript{32} Archibuigi argues that to abolish the veto would not in fact enhance the Security Council democratically, because a qualified majority vote would not reflect the international balance of power.\textsuperscript{33} Moreover, Leigh-Phippard argues some advantages to retaining the veto.\textsuperscript{34} The veto guarantees a certain measure of control over the number of operations the United Nations engages in and it redresses the lack of power of the influential member states in the General Assembly where they are subject to voting equality which fails to recognise their effective power. To remove the veto might have the negative effect of causing influential states to lose interest in the United Nations. Thus Leigh-Phippard argues that retention of the veto may in fact be in the interests of the United Nations as a whole.

The Bureau of the Working Group, however, still recommends that the veto should be eliminated in a modernised United Nations.\textsuperscript{35} Many proponents of reform consider that elimination of the veto should be the ultimate goal.\textsuperscript{36} Being realistic and taking into account that the permanent members will not at present accept its abolition, the current focus is upon curtailing the use of the veto in some way with a view to its eventual elimination.\textsuperscript{37}


\textsuperscript{32} Jayanama and Breitenstein, supra n. 4.


\textsuperscript{34} Helen Leigh-Phippard, “Remaking the Security Council: The Options” (1994) 50 The World Today 167 at 169.

\textsuperscript{35} “Annex IX: Conference Room Paper by the Bureau of the Open-ended Working Group” supra n. 21.


\textsuperscript{37} See for example “Annex XI: Texts Submitted by Egypt on Behalf of the Movement of Non-Aligned Countries” supra n. 5.
One suggestion is that the veto should be exercised by a minimum of two permanent members to be valid.\(^{38}\) The individual veto could therefore be invalidated by the unanimous vote of the other members. A more widespread proposal is that the scope of the veto could be restricted. For example, the use of the veto could be restricted to Chapter VII measures.\(^{39}\)

The Charter does not necessarily have to be amended for change to take place. The Commission on Global Governance suggested that a formal concordat between the permanent members could be drawn up in which it is agreed that they would forgo use of the veto except in “circumstances they consider exceptional and overriding in the context of their national security.”\(^{40}\) Alternatively, the permanent members could agree to restrictions on use of the veto and incorporate these into the Security Council’s Rules of Procedure.\(^{41}\) The Bureau of the Working Group also recommended that if the Charter is not going to be changed, then the permanent members should update the annex of decisions that are deemed to be procedural and provide either a legal definition or criteria for what constitutes a procedural matter.\(^{42}\)

**The Permanent Members**

There is disagreement over whether the permanent membership of the Security Council should be expanded in any reform measures. The Working Group determined from the consultation process that an increase in permanent as well as non-permanent membership was supported by “... a very large majority of those interviewed.”\(^{43}\) It concluded that only a few interviewees expressed categorical

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38 See for example Australia’s proposal, supported by Mexico, A/44/PV.30; “Annex IX: Conference Room Paper by the Bureau of the Open-ended Working Group” supra n. 21.


40 Commission on Global Governance, supra n. 19.

41 Recommended by “Annex IX: Conference Room Paper by the Bureau of the Open-ended Working Group” supra n. 21.

42 Idem.

43 Jayanama and Breitenstein, supra n. 4.
opposition to an increase in permanent membership. For example, the Italian proposal is opposed to the addition of any new permanent members and advocates an increase in non-permanent members alone.

**Extending the veto**

Assuming that the permanent membership will be extended in reform measures, the question arises as to whether the veto power should be extended to new permanent members. The veto is one of the characterising elements of the permanent status and to award permanent seats without the veto would be a diminution of that status. The current permanent members have to date avoided expressing any position on whether any new permanent members should be given this power. Bailey proposes that the question which should be asked is whether there are any states in addition to the current permanent members whose interests are such that they should have the right to prevent the Security Council from reaching substantive decisions, or the members from amending the Charter, by casting a negative vote. Considering that a majority of member states are opposed to the veto, it is unlikely that any new permanent members would be given the veto power. The Commission on Global Governance has stated the opinion that “To add more permanent members and give them a veto would be regression, not reform.” Similarly, the Razali Paper recommended that in view of the fact that “... an overwhelming number of member states consider the use of veto in the Security Council anachronistic and undemocratic and have called for its elimination...” any new permanent members of the Security Council should not have the veto power. Consequently, a three-tiered Security Council is likely to be the

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44 Idem.


48 Commission on Global Governance, supra n. 19.

49 Ismail, supra n. 20.
result: (1) the current permanent members with the veto, (2) new permanent members without the veto, and (3) an expanded group of non-permanent members.

**Criteria**

The question arises as to what criteria should be used to determine who should be the new permanent members. On consultation, the Working Group found that in regard to not only the size but also the composition of an expanded Security Council, many of those interviewed “... stressed the importance of adhering to the principles... of equitable geographical distribution and sovereign equality of all Member States....”

At the bottom line the allocation of entitlement for seats and establishment of appropriate rotations are worked out according to formulae which are meant to reinforce equity.

Bills advocates that the key consideration should be the ability to contribute to the maintenance of international peace and security. Thus he argues that the capacity to provide monetary and physical support to the United Nations is just as important, if not more, than considerations of geographic and demographic representation.

During an interview in mid-1998, the permanent representatives of Italy and Germany expressed the opinion that while contributions to the United Nations could not be exclusive criteria for permanent membership, both contributions to the United Nations in general and of troops to peace-keeping operations could be two of the relevant criteria, if not basic recommendations, for states seeking such status. Such contributions do, after all, reflect the active engagement of a member state for the purposes of the United Nations and are essential for the continued existence of the United Nations.

Other requirements with less widespread support have been suggested, such as the proposal by Ambassador Rahman of Bangladesh that a state’s commitment to democratic ideals, its human rights record and its compliance with covenants and resolutions of the United Nations should be a determinative factor. This criterion

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50 Jayanama and Breitenstein, supra n. 4.

51 Bills, supra n. 47 at 120.

52 “Key Delegates Differ on Reforming UN Council” (July/August 1998) http://www.globalpolicy.org/security/reform/intvw.htm

53 Idem.
has been underrated, considering that it would be ridiculous for states which abuse the principles of the United Nations system to be accorded permanent status on its executive body. At the bottom line any reforms implemented should keep faith with the purposes and principles of the United Nations. It is unlikely, however, that China would support such criteria, given its own human rights record.

Renner suggests that criteria for new permanent membership should ensure that the permanent members together would include at least half of the world’s population, economic productivity, military strength and contributions to the United Nations budget. Renner suggests that criteria for new permanent membership should ensure that the permanent members together would include at least half of the world’s population, economic productivity, military strength and contributions to the United Nations budget. More simplistically, Bailey recommends simply asking the question whether there are any states whose contribution to the United Nations are consistently such that their full participation in the work of the Security Council is always needed. Ultimately the critical criterion will be the support of a majority of the General Assembly to elect a proposed permanent member into that position.

**Extent of expansion**

What size increase in permanent membership is generally supported? As a result of the consultative process, the Working Group found that the majority of those states which supported an increase in both categories of membership favoured an enlargement of five non-permanent members and five permanent members. The Conference Room Paper produced by the Bureau of the Working Group recommended that the permanent members be increased by five or six and Razali's Reform Paper also suggested an increase of five permanent members. The Commission on Global Governance recommended that a new class of five “standing” members, that is permanent members without the veto, be nominated by the General Assembly.

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55 Bailey, supra n. 46 at 167.

56 Jayanama and Breitenstein, supra n. 4.


58 Ismail, supra n. 20.

59 Commission on Global Governance, supra n. 19.
Distribution of seats

How should these seats be distributed? The Bureau of the Working Group and the Razali Reform Paper both recommended that if there were to be five permanent seats then two should be allocated to industrialised states, one to the African region, one to the Asian region and one to the Latin American and Caribbean region. The United States has given official support to this formula.

Possible Candidates

What states have been proposed as new permanent members? Concerning the reference to two “industrialised countries,” Germany and Japan have been the most prominent contenders. Their claims are based upon their economic strength and the size of their respective United Nations budget contributions. In monetary terms, both countries contribute more than China, France and the United Kingdom to the United Nations. Until recently Japan was the largest source of investment capital in the world, operating the world’s second largest economy and ranking as the second largest contributor of money to the United Nations budget. It donated more to overseas development aid than any other country. By comparison Germany is the third highest contributor to the United Nations budget.

However, both Germany and Japan are bound by post-war constitutions that limit military activity beyond their borders. This limitation on their ability to play a major role in international crises could be a good reason to refuse them permanent status. However Germany has stated that it would alter its constitution so that it is able to contribute troops to peacekeeping missions. Japan also has taken steps to remedy this impediment. In 1992 it passed legislation allowing Japanese participation

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60 “Annex IX: Conference Room Paper by the Bureau of the Open-ended Working Group” supra n. 21; Ismail, supra n. 20.


62 The top seven contributors to the United Nations are as follows: The United States of America (25%), Japan (17.98%), Germany (9.63%), France (6.49%), Italy (5.39%), the United Kingdom (5.07%) and Russia (2.87%). Combined, these seven states contribute over 72% of the United Nations’ regular budget. United Nations Department of Public Information, “Setting the Record Straight: Some Facts about the United Nations” (April 1998) http://www.un.org/News/facts/setting.htm.

in United Nations peacekeeping operations and re-interpreted its constitution to enable Japanese troops to join United Nations missions in certain circumstances. On the other hand it is arguable that commitment to military contributions does not have to be a criterion for permanent membership, provided that a long-term role in international peace and security is undertaken to the extent permitted by their constitutions. It is due to the limits on military activity that Germany and Japan pay increased contributions to the United Nations budget. Both Germany and Japan face a degree of domestic opposition to their becoming permanent members, due to the increased responsibilities that it is perceived will ensue.

The United States has clearly expressed support for Japan and Germany as permanent members. Johansen argued in 1994 that for Japan not to be a permanent member would be "politically unfair, economically unwise and morally unjustifiable." Either expressly or implicitly, both France and the United Kingdom have also supported the candidature of Germany and Japan.

The most outspoken critic of Japan being awarded permanent membership status is North Korea, which argues that Japan should first repent for its past criminal acts. Italy has opposed the inclusion of Germany as a permanent member. Germany attaining such status would be to the exclusion of Italy, due to the balance in the Security Council in favour of developed countries. The Italian proposal for Security

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65 Idem.


68 Kausikan, supra n. 22.


70 Alain Dejammet to the General Assembly, 29 October 1996.

71 Representative of the United Kingdom to the General Assembly, 20 October 1996.

72 Smith, supra n. 62 at 190.
Council expansion rejects expanding the permanent members and advocates a class of semi-permanent rotating seats.

Although it would enhance the Security Council’s reflection of the world’s economic power, the addition of Germany and Japan would raise concerns over the geo-demographic distribution of the Security Council. Many countries, particularly those in the Non-Aligned Movement, support the view that developing world powers should also have permanent representation. In the view of the Non-Aligned Movement, there should be no enlargement, whether partial or selective, to the detriment of developing countries.73

The United States has expressed support “... in principle to having developing countries sit on the Council as new permanent members.”74 The Chinese representative has explicitly stressed the need for reform to “... focus on redressing imbalanced regional representation, particularly serious inadequacy in the representation of developing countries.”75 While the United Kingdom, France76 and Russia77 have acknowledged the need for an increase in membership of the Security Council which will enhance the representation of developing countries, none of them has indicated whether this representation should be in the permanent or non-permanent category.

The question then is which states would be the candidates for permanent seats representing developing countries from the African, Asian and Latin American regions. India, Brazil and Nigeria are generally considered worthy of permanent membership by virtue of their size and regional status. Argentina, Indonesia, Egypt, Zaire and South Africa have also been mentioned in this connection.

Initially, disagreement will arise over the selection of such permanent representatives because of regional rivalries. India, Nigeria and Brazil all have neighbours who would be “less than thrilled” at the prospect of having them as permanent members.

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73 “Annex XI: Texts Submitted by Egypt on Behalf of the Movement of Non-Aligned Countries” supra n. 5.


75 Ambassador Wang Xuexian to the General Assembly, 30 October 1996.

76 Alain Dejammet to the General Assembly, 29 October 1996.

77 Representative of the Russian Federation to the General Assembly, 29 October 1996.
permanent representatives of their regions. As Ambassador Paolo Fulci of Italy pointed out, it is highly unlikely that Pakistan or Indonesia would accept India or that Argentina or Mexico would accept Brazil as permanent members.

Another commonly mooted suggestion is that existing regional organisations could be eligible for permanent membership. Thus the European Community, the Organisation of American States, the Organisation of African States and the Arab League could be permanent representatives. The problem with this suggestion is that the United Kingdom and France would have to give up their permanent status to share in the European Community seat, so that developed countries do not outweigh the underdeveloped states. Realistically, this is unlikely to happen. Although France has stated that it would consider the idea, the United Kingdom has stated emphatically that it would not.

A good point made by Italy’s permanent representative is that to have rotation introduced for some permanent members but not for others is another form of discrimination. For Japan and Germany to have fixed permanent seats but other regional representatives to merely rotate would reinforce the imbalance favouring northern countries on the Security Council. Moreover, Fulci emphasises that the United Nations should not become the “United Regions.”

The Non-Permanent Members

Whether or not the permanent members on the Security Council are expanded, there is widespread support for expansion of the non-permanent seats. For instance, Don McKinnon, New Zealand’s Minister of Foreign Affairs and Trade, has described such support as “overwhelming.”

As a result of the consultative process, the Working Group found that the majority of states supporting an increase in both categories of membership favoured

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80 “Key Delegates Differ on Reforming UN Council” supra n. 52.

an increase of five permanent members and five non-permanent members. Consequently, the Bureau of the Working Group proposed an increase of four to six non-permanent members. The Razali Reform Paper similarly suggests an increase of four non-permanent members, while the Commission on Global Governance has recommended an increase of three non-permanent members.

How should any increase in non-permanent seats be allocated? Article 23(1) of the Charter sets out the present criteria for the election of non-permanent seats. In the first instance, account is to be taken of the "contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization" and also to equitable geographical distribution. Currently the non-permanent seats are distributed by a formula which gives twenty percent of the states to Western Europe (and other states), ten percent to Eastern Europe, twenty percent to South America and fifty percent to Africa and Asia. The allocation of non-permanent seats is therefore currently made on a regional basis, with representatives from each region being rotated. This formula can be changed at any time by a two-thirds majority vote of the General Assembly.

The Bureau of the Working Group proposed that if an increase of four was to be made, then one seat should be added to each of the African, Asian, Eastern European and Latin American groups of states. The Razali Reform Paper suggested the same formula. The Bureau of the Working Group also recommended that if there was to be an increase of five, then the additional seat should be given to the African states.

The suggestion has been made that the existing regional groupings should be remodelled to take account of contemporary geopolitical realities. Currently there are

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82 Jayanama and Breitenstein, supra n. 4.


84 Ismail, supra n. 20.

85 Commission on Global Governance, supra n. 19.


88 Ismail, supra n. 20.
two states which do not fit into any of the present regional categories, as well as states which now seem anomalously placed in the groups to which they were assigned for political reasons more than half a century ago. For example, the Asian group contains Middle Eastern countries while New Zealand and Australia are grouped with Western European states. The Australian Department of Foreign Affairs has suggested that the new categories could consist of Western Europe, Central and Eastern Europe, the Middle East and Mahgreb, Africa, Central Asia and the Indian Ocean, East Asia and Oceania, and the Americas. O'Brien has devised a recasting of the regional groupings which would make each group smaller and more representative, thereby improving the prospects of election to the Security Council and better democratizing the United Nations. He suggests nine revised groups to replace the current five: Eurasia, the Asia-Pacific, the Mediterranean Gulf, North Europe, South Europe, North Africa, Southern Africa, the Americas and the Caribbean.

Another proposal envisages that a system of participation without voting rights could be applied to the non-permanent members. This would enable the Council to benefit from these states’ experience, rather than starting from scratch each time non-permanent members are elected. Once the representatives’ term expires they could continue to sit on the Council for a further two years, or alternatively the General Assembly could select the representatives in advance and they could sit on the Council for the two years preceding their actual election.


90 Australian Department of Foreign Affairs and Trade, “Possible Models For Enlarging the Security Council” (1994) as quoted in Darrow, supra n. 36 at 300.


92 Ibid. at 19.

A New Category: Semi-Permanent Members?

The idea of a new category of semi-permanent seats has also been proposed. For instance, each region might be awarded two seats on the Security Council, one of which is to be a semi-permanent seat rotated between two representatives.\(^{94}\)

Italy's proposal for reform\(^{95}\) effectively advocates the institution of semi-permanent seats. Rather than adding any further permanent members, Italy proposes the addition of eight to ten non-permanent seats, for each of which there would be three rotating states. Italian Ambassador Paolo Fulci has claimed that Italy has the backing of eighty-one countries for its proposal.\(^{96}\)

The benefits of such a new category would be that it would enable not only major regional powers more frequent participation in the Security Council, but would increase the frequency with which non-permanent members would be elected to the Security Council.

A further variation is that states with this semi-permanent status but not currently serving their term could be allowed to participate without vote in the Security Council.\(^{97}\) To a certain extent such a possibility is already envisioned by Article 31 of the Charter, which provides that “Any Member of the United Nations which is not a Member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council, whenever the latter considers that the interests of that Member are specially affected.”

The last sentence of Article 23(2) of the Charter, which provides that “the non-permanent members of the Security Council shall be elected for a term of two years...” could be removed to enable extended terms of representation. It has been suggested that the regional groupings could be given the ability to decide on the length of term of their representatives. While this could be one means to provide semi-permanent status for particular regional powers, such a practice is more likely to

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\(^{94}\) Sohn suggests that Egypt and Nigeria, India and Japan, Brazil and Mexico, Poland and the Ukraine, Germany and Italy would be appropriate states to achieve this status. Louis B. Sohn, "Important Improvements in the Functioning of the Principal Organs of the United Nations that can be made without Charter Revision" (October 1997) http://www.globalpolicy.org/security/reform/sohn.htm.

\(^{95}\) Venturini, supra n. 45.


\(^{97}\) Idem.
cause dissension, due to regional rivalries. Furthermore, such a scheme would reduce
the number of regional seats available to non-permanent candidates and would restrict
representation for the remaining states.

Temporary Increase in Non-Permanent Members Only

The Working Group found as a result of the consultative process that a number
of delegations expressed readiness to support an increase in the non-permanent seats
only as a first step to reform, provided that an increase in permanent membership
remained under active consideration. Consequently, the Bureau of the Working
Group recommended that if no general agreement is able to be reached on expansion
of both categories of membership of the Security Council, then expansion of the non­
permanent seats alone should be considered. If such a halfway reform measure was to
be made, it should be taken with caution, lest it should take the place of full reforms
and leave the system in an unsatisfactory state.

Status Quo: Stalemate?

The firmly expressed positions of the permanent members and of the majority
of the General Assembly would appear to be opposed on both issues of the veto and
expansion. Germany’s Ambassador Tono Eitel was quoted in November 1997 as
giving Security Council reform “a fifty percent chance in the foreseeable future.”98
Kausikan correctly describes the current situation as an “impasse.”99 For any reform
to take place, some flexibility is required in the present basic positions of the major
reform groupings.


99 Kausikan, supra n. 22.
CHAPTER THREE

Proposals for Reform

"The United Nations is no stronger than the collective will of the nations that support it. Of itself it can do nothing. It is a machinery through which the nations can cooperate. It can be used and developed... or it can be discarded and broken."\(^1\)

Many of the proposals made to reform the Security Council require Charter modification in terms of the procedure of Article 108, which requires that any proposed revision be approved by a vote of two-thirds of the General Assembly and be ratified by two-thirds of the members of the United Nations, including all the permanent members of the Security Council.\(^2\) Any proposals expanding the size of the Security Council will require Charter modification in order to amend at least the voting rules. In order to be instituted, these proposals will therefore require the consensus of the present members of the Security Council as well as the consensus of the developing nations which account for over two-thirds of the United Nations membership. Proposals to modify the Security Council consequently need to be assessed with these two factors in mind.

Working Group Proposals

The recommendations of the Bureau of the Working Group made on May 29, 1997\(^3\) generally follow the recommendations made in the Razali Reform Proposal of 20 March 1997.\(^4\) The Razali Proposal was made in response to the consultation


\(^2\) See p. 16 under Barriers to Reform.


process undertaken by the Working Group. The only differences in these proposals for expansion of the Security Council are that the Bureau of the Working Group recommended an expansion of five or six, as opposed to five, permanent members and of between four and six, as opposed to four, non-permanent members. The core proposal put forward in both papers for an increase of five non-permanent members and four non-permanent members recommends an allocation of seats as set out in the following table. Under this proposal two new permanent seats would be given to industrial states. In light of the fact that this type of framework resolution is advocated by states which have been supporting Germany and Japan as new permanent members, this table counts the two seats to be given to industrialised countries as those of Germany and Japan. This allocation would appear to be consistent with the reference to “industrialised states.”

<table>
<thead>
<tr>
<th>REGION</th>
<th>CURRENT COMPOSITION</th>
<th>PROPOSED INCREASE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>America</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Asia</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Latin America and Caribbean</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Western Europe and other states</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>5</strong></td>
<td><strong>5</strong></td>
<td><strong>10</strong></td>
</tr>
</tbody>
</table>

If the permanent members are to be increased by six, then the Organisation of African States has proposed that the additional seat be allocated to a state from the African region.
The Bureau of the Working Group recommended that if the non-permanent members were to be increased by five, then the additional seat should be awarded to the African states.

One noticeable difference between the proposals is that the Razali Reform Paper proposes that the new permanent members should not have the veto power, whereas the Working Group makes no definite recommendation as regards the veto. Furthermore, the Razali Paper recommends encouraging the current veto holders to limit their use of the veto to enforcement measures taken under Chapter VII of the Charter.

The proposal of the Working Group provides for a periodic review every ten years. In such a review the General Assembly would decide by a two-thirds majority vote whether to affirm or terminate the status of the new permanent members. It is also suggested that such reviews should take into account the question of over-representation or under-representation.

Of the permanent members, the United States has politically endorsed the Working Group’s proposal for expanding the permanent membership. France and the United Kingdom have either explicitly or implicitly supported expansion of the permanent membership to include Germany and Japan. All the permanent members have stressed the need for increased representation of developing countries on the Security Council, although, other than the United States, they have not indicated whether this should be in the permanent or non-permanent category. While the Non-Aligned Movement in theory would oppose the addition of further Western states to the permanent seats, the proposal of the Working Group provides for permanent
representation for developing countries as well as increased representation among the non-permanent members. The potential obstacle to this reform proposal consists of the permanent members' position that the Security Council should be no larger than twenty-one. As the proposal stands, it provides for a minimum of twenty-four.

The Working Group proposals focus mainly on geographical representation. To a certain extent, depending on the criteria by which new permanent representatives are to be chosen, they could also enhance the representation of states which are supportive of the United Nations in terms of monetary and military aid, if permanent seats are to be allocated to two industrialised states.

The Italian Proposal

The latest version of the Italian proposal was resubmitted on 2 July 1997. The proposal opposes the addition of any new permanent seats and recommends that the present category of permanent members remain the same. Rather than changing the permanent membership, it advocates an increase of ten more non-permanent seats, while retaining the present non-permanent seats. For each of these ten new seats, it is suggested that three states rotate. There will therefore be thirty states which rotate more frequently and regularly than other non-permanent members on the Security Council. According to the proposal, these states are to be selected by means of objective criteria to be determined by the General Assembly. However, it is suggested that these states should be subject to regular elections, needing a two-thirds vote in the General Assembly to take up their seat. Should none of the eligible states receive the requisite amount of votes, then the seat would become open to election to all the members of that geographic group. In addition, the proposal encourages periodic revisions of the list of the thirty states, with the possibility of replacements being made.

The Italian proposal makes the following recommendations concerning the allocation of the ten new non-permanent seats:

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In view of the increase in size of the Security Council, the Italian proposal recommends that Article 27 of the Charter be amended so that the Security Council would need an affirmative vote of fifteen members to pass decisions.

By way of example, the Italian proposal also suggests criteria by which the thirty states could be determined. As well as any criteria recommended by the General Assembly, the following factors could also be considered: equitable geographical distribution, the capacity and willingness of states to contribute military personnel, equipment and financial resources to peace-keeping operations, and the ability and willingness of states to participate in voluntary funds for humanitarian activities, economic development and the protection of human rights.

The advantages of the Italian proposal are that it would enhance the equitable geographic distribution and democratic participation of all member states in the Security Council. The proposal suggests that an additional financial burden be placed on the thirty states, thus providing an incentive for the thirty states to increase their commitment to achieving the objectives of the Charter and financially supporting the United Nations in order to keep their status. The present financial burden of the permanent members would therefore be reduced as the burden would be shared around a greater number of states. The smaller countries would have a greater chance of being elected to the non-permanent seats, since the unequal competition with the larger states in each group would be removed. Finally, the main advantage would be held by the thirty states which would receive recognition of their more substantial role supporting the United Nations. Venturini views the main merit and advantage of the Italian proposal as the establishment of clearer and more precise rules for the already

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existing situation that some countries are members more frequently more than others. Italy claims that “more than eighty member states” support its proposal.

While the Italian proposal would preserve the privileged status of the current permanent members, they have been sceptical about the proposal, inclining to support recommendations similar to those advanced by the Working Group. Only Russia has expressed an interest in the proposals to provide representation for more states. Furthermore, because the Italian proposal provides for an expanded Security Council of twenty-five, it would be subject to the veto of the permanent members, unless the number of new non-permanent seats was reduced by at least four. This may well be a possibility, because included at the end of the latest proposal is a statement that in the interests of efficiency and effectiveness, Italy is willing to consider a more limited increase in the number of frequently rotating seats.

The major beneficiaries of the Italian proposal would be the medium-sized states. The latest proposal claims that it aims to “ease rivalries and foster a climate of greater harmony.” Nonetheless Japan’s view is that the rotation system would create difficulty and delay in decision-making and would give small countries power disproportionate to their real strength.

Sohn’s Proposal

Sohn’s suggestion is similar to the Italian proposal, but on a smaller scale. Recognising the problems of Charter revision that are unlikely to be overcome at the present, Sohn considers reforms which do not necessarily involve Charter revision but

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8 Venturini, supra n. 6 at 636.
10 Venturini, supra n. 6 at 637.
that would still provide adequate participation of other major powers in the Security Council on a sufficiently continuous basis.  

Sohn suggests granting each of the regional groups two seats on the Security Council. One of these seats would rotate between two principal states every two years. Thus five "semi-permanent" seats would be created. The other seat would rotate between the other states of the region. Population size, economic power, or both, are identified as possible criteria for determining which states are to be the "semi-permanent" states. He also points out that Article 23(1) of the Charter requires that when electing non-permanent members the General Assembly must in the first instance pay due regard "to the contribution of Members of the United Nations to the maintenance of international peace and security, and also to equitable geographical distribution."  

It must be assumed that Sohn intends such an arrangement to be substituted for the present arrangement of non-permanent membership, a course which the General Assembly can take at any time. Since the allocation of the non-permanent seats is at its discretion, all that is required is a two-thirds majority of the General Assembly to pass a resolution implementing the changes. Sohn's proposal would therefore not require Charter amendment, but only the adoption of resolutions by the General Assembly and Security Council. It would have the further advantage that it could easily be adjusted to changing circumstances in the future.

The two different types of proposal covered so far are the main reform suggestions. There are, however, other reform proposals which may have some merits.

Proposals for Remodelling the Electoral Groupings

Some proposals consider that the electoral groups should be remodelled in the reform process. There are many geopolitical anomalies in the present groupings.

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12 Sohn, "Modernizing the Structure and Procedure of the Security Council" supra n. 11 at 387-388.

13 Ibid. at 388.

14 Sohn, "Important Improvements in the Functioning of the Principal Organs of the United Nations that can be made without Charter Revision" supra n. 11.
Two countries are currently not included in any of the present groups. The Asian group contains Middle Eastern countries, the Western European group includes Australia and New Zealand, and according to O'Brien there are several Eastern European states which would prefer to be included in the Western European group. Comparing the groupings and representation, the African group not only lacks any permanent representation, but also has the same entitlement to non-permanent seats as the West European group although it has twice the number of members in the United Nations.

The Australian Department of Foreign Affairs has made one such proposal, which would recast the five present groups into eight groups. O'Brien also singles out reform of the electoral groupings as a potential catalyst for change. His case for remodelling the electoral groups is that each group would be made smaller and more representative, thereby improving the prospects of each member's election to office and making the United Nations more democratic.

Under O'Brien’s proposal, the United Nations membership would be divided into nine groups, each consisting of roughly twenty countries. However he does acknowledge that eight, or even seven groups would be feasible. He advocates that the current permanent members be retained and each grouping of states be given two non-permanent seats, except for the Caribbean, which as the smallest grouping should only receive one seat. The Charter would therefore have to be amended to allow an extended Security Council of twenty-two. All candidates would have to receive the approval of two-thirds of the General Assembly.

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16 Terence O'Brien, The United Nations: Legacy and Reform (Wellington: Centre for Strategic Studies, 1997) at 15


18 O'Brien's proposed new groupings are Western Europe, Central and Eastern Europe, the Middle East and Mahgreb, Africa, Central Asia and Indian Ocean, East Asia and Oceania, and the Americas, supra n. 16 at 19.

19 Idem.

20 Eurasia (21), Asia-Pacific (25), Mediterranean Gulf (19), North Europe (20), South Europe (19), North Africa (23), Southern Africa (23), Americas (19) and Caribbean (16).
O’Brien also recommends amending Article 23(2) of the Charter, removing the barrier to non-permanent members succeeding themselves so that each group could be given the discretion to decide the length of the tenure of the candidates for their seats. This, he argues, would promote the greater accountability of the representatives to their electoral groups and could lead to the possibility of semi-permanent status. The result would be, he contends, to enhance better governance grounded in representativeness. Realistically, however, such a change is more likely to cause dissension, because of regional rivalries.

Yet other proposals promote wider reform of the United Nations system and favour transferring power from the Security Council to the General Assembly rather than substantially reforming the Security Council. One such proposal is the notion of the “Binding Triad.”

A Binding Triad

The Binding Triad proposal was developed by the Centre for War/Peace Studies. This proposal aims to transform the United Nations into a “limited world federal government” with a variety of checks and balances,21 by making two amendments to the Charter.

Firstly, the Charter would be amended to change the voting system in the General Assembly. The proposed change is that there would be three components within each vote. To pass a resolution, a majority would be required for each component: a two-thirds majority of the member states, of members with two-thirds of the world’s population, and of members providing two-thirds of the contributions to the United Nations budget. The effect of such a system would be to require strong support from most of the states which provide the majority of the world’s population and political, economic and military strength.

This proposal would also amend Article 13 of the Charter. Under this amendment the General Assembly’s powers would be greatly increased, giving its resolutions binding force, enforceable by peacekeeping forces or economic sanctions.

The only area which would remain the sole province of the Security Council would be the employment of military forces.

The Binding Triad involves far too great a change to gain the confidence of the members of the United Nations and therefore would not be politically acceptable. Furthermore, the permanent members would be unlikely to accept the restriction on their powers and transferral of these powers to the General Assembly.

**The Need to Proceed with Caution**

Because it is impossible to foresee the consequences of reform, there is a need for caution in implementing change. For example, those who proposed admitting Japan as a permanent member on the basis that it was an economic power could never have envisaged the present collapse of the Japanese economy. Indonesia, which has from time to time been touted as a potential permanent representative of Asia, is also currently in a state of turmoil.

Most of the proposals focus on increasing the geographic representativeness of the Security Council. However, it should be kept in mind that the Security Council has never been representative geo-demographically. Initially, only eleven out of the fifty-one states were represented on the Security Council: approximately one-fifth of the United Nations membership. Even if the Security Council was to be expanded to twenty, only approximately one-ninth of the United Nations would be represented. From this perspective, perhaps proponents of making the Security Council geographically representative should accept that executive bodies are not meant to be totally representative. Taking this into account, it is perhaps logical that the states which are powerful in terms of economics, politics and military effectiveness should dominate the Security Council.

Some of the other criteria suggested are also open to criticism. The suggestion that states could be eligible on grounds of being the largest and most populous in their regions is not necessarily solid. Firstly, any states which are to be accorded permanent representation in the Security Council should uphold the ideals of the United Nations unless a mockery is to be made of that organisation. On this basis there must be reservations about the eligibility of both Nigeria which, although the most populous African state, is a military dictatorship and currently subject to Commonwealth sanctions, and Indonesia which is presently under censure from the United Nations. Moreover, there is a need for permanent representatives to
participate in and support United Nations action. This might rule out several of the proposed permanent members, such as Egypt which has been largely ineffective in this respect due to its internal political problems. On the other hand Russia, one of the present permanent members, is also in such political and economic shambles that it currently does not participate in world politics.

Another factor which should be taken into account is the dissension which may result from states which are either ineligible, or passed over for permanent, semi-permanent, or even non-permanent status.

In the end reform is just like any legislative process, in that all the currently available material for reform must be assembled and assessed in the light of the reasons behind the suggestions, so that the best possible reform can be implemented in the contemporary context.

Transparency and Working Methods of the Security Council

Informal consultations have been increasingly used by the Security Council to supplement its formal procedures. Some of the factors contributing to this trend are the enlargement of the Security Council, requiring negotiations and compromises to make substantive decisions, the role of media coverage, a trend away from parliamentary democracy towards consensus building, and even potentially the threat of nuclear destruction.22

The current Security Council procedure is as follows.23 Before the full Council convenes, the permanent members meet in consultation in a special room assigned to them for this purpose. Prior to that the United States, United Kingdom and France meet in consultation. All of these meetings take place in private without any minutes being kept. Once the full Security Council has met, consulted and reached a decision, the members adjourn to the Security Council's chamber and cast formal votes before announcing their decision. It would therefore appear that decisions are now in effect being taken by small groups of states meeting in secret.

There are certain advantages to using informal consultations. According to Feuerle, there are two major benefits: facilitation of conflict resolution and aid in

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preparation for formal meetings. Furthermore, they provide a forum for the ongoing discussion of problems which are on the agenda but not under active consideration, or even those which are not on the agenda. On the other hand there are also inherent dangers including delay, deliberate stalling, inaction, less forceful resolutions, secrecy and a lack of outside input.

The fact that the Security Council has become more secretive recently is a cause for disquiet among reformers, resulting in widespread demands that the Security Council operate in a more open manner. Some states argue that they have a right as contributors to peacekeeping operations to be consulted and involved in the decision-making process of the Security Council. For example Razali Ismail, the Malaysian delegate to the United Nations, has stated that it is no longer tenable for Malaysia to supply troops to peacekeeping operations without having the right to participate in peacekeeping decisions. Others argue a claim to be heard because they are heavily influenced by Security Council decisions.

The Working Group intends to rectify the problems of informal consultation by requiring more transparency in the procedures of the Security Council. There is general agreement on the need to improve this aspect of the Security Council’s decision-making process. The President of the General Assembly has stated that “[t]he goal is to increase the transparency of [the Security Council’s] functioning and enable all member states to feel that the council is not indifferent to their concerns.” In this process, there is also the possibility of an increased role for the General Assembly. Reisman claims the main problem with the Security Council’s secrecy is the lack of an appropriate informational loop from the Security Council to the General Assembly.

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24 Feuerle, supra n. 22 at 290.
25 Idem.
28 Reisman, supra n. 23 at 98.
Progress has already been made by the Security Council taking measures to improve the transparency of its working methods and procedures. Observance of the Security Council’s reporting obligations to the General Assembly has been enhanced and the programme of the Security Council’s work is forecast monthly. The Security Council’s agenda is now posted on a daily basis in advance of its meetings. In order to improve documentation, the Security Council has reviewed several times the list of matters of which it is seized and reordered the Council’s documents. Arrangements have been made for regular consultation with troop-contributing countries on peacekeeping matters. The President of the Security Council has made provision for wider and more regular consultations and more open meetings of the Security Council, including an increase in non-member participation. The flow of information in and from decisions of the Sanctions Committee has been augmented. Finally, the Secretary-General has been requested to ensure adequate resources and staffing required for the operation of the Security Council.

Proposals have been made to further enhance transparency in these areas. The Razali Reform Paper makes eighteen recommendations to this effect. The Negotiating Paper submitted by the Non-Aligned Movement includes proposals not only for institutionalising and strengthening measures taken by the Security Council, but also for measures in addition to those already adopted. The Bureau of the

37 Ismail, supra n. 4.
Working Group suggests new measures and improvements to present practice to be considered in its Non-Paper and Conference Room Paper. In addition, the Memorandum on Transparency advanced by the non-permanent members advocates both institutionalising and further strengthening measures already implemented as well as taking additional measures.

Reform of some kind

Even if substantive reform is not possible due to the current stalemate, the debates have generated change of a different kind. The awareness of the need for the Security Council to be more representative and open in its methods has resulted in increased transparency of the Security Council’s working methods and procedures. These are important changes, as recognised in the paper submitted by the Movement of Non-Aligned countries, which emphasised that in considering reform, improvement of the Security Council’s working methods should be given equal importance. Whether these reforms are due to the demand from member states, or to the permanent members becoming more accountable for their actions, the outcome is positive. The role of these reforms has perhaps been underestimated, for if the Security Council is to become more transparent, there may well be less need for substantive overhauling of the Security Council.


40 “Annex IX: Conference Room Paper by the Bureau of the Open-ended Working Group” supra n. 3.


CONCLUSION

"The United Nations will be no less – and can be no better – than its membership makes it in the context of its times."\(^1\)

In assessing reform, what the United Nations was intended to do should be kept in mind. Currently the Charter does reflect the original intentions of its creators and should not be changed so that it ceases to do so. However, in order to be dynamic, the Charter should both reflect the current membership of the United Nations and remain consistent with the relevant purposes and principles of the United Nations.

There are certain obvious standards by which the proposals for reform should be assessed. Firstly, in striking a balance between realism and idealism, the proposal should be appraised in terms of its achievability. To ensure the confidence of the permanent members and the General Assembly, changes will need to be incremental without seriously undermining the current practice and procedure of the Security Council. Secondly, any proposal should be evaluated in terms of its desirability. In this calculation factors such as the representation of geographical distribution and the monetary and military contributions of states can be taken into account. In gauging desirability it should, however, be remembered that an executive body is not designed to be representative of the system as a whole, and to attempt to make it in effect a plenary body would negate its functions. Consideration should also be taken of the relation of the proposal to the purposes and functions of the United Nations. Finally, the acceptability of the proposal and the support it has from the members of the United Nations should be appraised.

Are any of the proposals put forward realistic, sensible solutions, according to the above standards of (1) achievability, (2) desirability, and (3) acceptability?

A Binding Triad

Taking the Binding Triad proposal first, the changes to be implemented are too ambitious to inspire confidence from the members of the United Nations and therefore this proposal would be politically unacceptable.

\(^1\) Adlai Stevenson to the General Assembly, 26 January 1965.
In terms of desirability it would rate much more highly. Rather than restricting the effective decision-makers to one category of members, it would require a majority of the member states which are powerful in terms of economics, military might and representative of the world's population. However, not only are these requirements perhaps a little too broad, but also the seventy-five percent majority required of the General Assembly is fairly large. The question has to be asked whether taking so many factors into account and requiring a seventy-five percent majority would make it too difficult to pass decisions. Just how effective the General Assembly would be with such increased powers is questionable.

As far as acceptability and support are concerned, the permanent members would be unlikely to accept not only a restriction on their powers, but also a transferal of these to the General Assembly. There is little promotion of this type of drastic change from the members of the United Nations. In comparison to the other proposals, the Binding Triad is too idealistic and not pragmatic enough to carry any weight.

Remodelling the Electoral Groupings

These types of proposals certainly have some merit. Without doubt, it would be acceptable, and even desirable, that the geopolitical anomalies in the present informal groupings be corrected. This is perhaps a change which should be instituted whatever the reforms.

Looking specifically at O'Brien's proposal, it is certainly achievable. In effect, it recommends a reallocation and expansion of the non-permanent members only. This would require amendment to the Charter only in terms of numbers, as the General Assembly can reallocate the non-permanent seats on whatever basis it wishes at any time by resolution.

Essentially, this proposal is solely based on criteria of geographical equality and may therefore lack desirability, since it avoids the question whether there are any states which deserve similar status to the current permanent members. Consequently, the proposal does not take real power into account, except in so far as it is already represented on the Security Council. The suggestion that Article 23(2) be amended to enable semi-permanent status for some regionally powerful states would, in all probability, cause more problems than provide benefits of enhanced representation.
By ensuring the permanent members would retain their privileged status it would appeal to that group. The increased size of twenty-two is also close enough to that favoured by the permanent members. However, it might not be so attractive to the Non-Aligned Movement, which would receive an increased allocation of states, but not so much as to redress the perceived imbalance. Furthermore, they would still have no permanent representation. While this type of proposal as a whole has little support from members of the United Nations, it might be worth importing the suggestion of reallocating the electoral groupings, to some extent, into another type of proposal with wider support.

Working Group Proposals

The proposals of the Working Group are precisely the sort of "incremental" changes envisaged that could potentially be found acceptable by a large number of states. They would require amendment of the Charter in numerical terms only, not constituting such a great change to the current practice and procedures of the Security Council as to cause disquiet. Even if some change in the practice of the Security Council was to be required because the new permanent seats were to be allocated on a rotational basis, such change is certainly achievable.

Geographical distribution is the key factor at the heart of this reform, redressing the perceived imbalance in favour of northern countries by extending permanent membership and allocating more non-permanent seats to under-developed regions. At the same time the proposal does account for power realities, if the veto is not to be extended to these new members as the Razali proposal recommends. Then again, the question needs to be asked whether some of these new members deserve the veto power, if their power and contributions to the United Nations are to be on a similar scale to those of the current permanent members. The veto is, after all, an essential characteristic of permanent membership. Although the new permanent members would sit on the Security Council permanently, without the veto their powers would be no more than those of the non-permanent members. Furthermore, by allocating more permanent seats to industrialised countries, the dominance of the northern countries in the Security Council would to a certain extent be maintained. This proposal may not seem so desirable to the Non-Aligned Movement, but keeping in mind that the Security Council is an executive body it may be realistic, enhancing the
Security Council's representation of the United Nations' membership yet retaining power in the hands of those states which are responsible for its exercise.

How acceptable is this type of proposal? The United States has explicitly supported the expansion proposals for both categories. The United Kingdom and France have implicitly supported some enlargement of the permanent membership. The permanent membership generally supports the increased representation of developing countries. The expansion of both categories to include increased representation of developing regions would be supported by the Non-Aligned Movement. Theoretically, this proposal could obtain the support of both the permanent members and Non-Aligned Movement. However if the privilege of the veto was to be restricted to decisions taken under Chapter VII, as the Razali paper recommends, then it would receive less support from the permanent members but commensurately more from the Non-Aligned Movement. The main obstacle to this reform being implemented is the increase in size of the Security Council to twenty-four. At present the permanent members will not support enlargement to this extent.

The Italian Proposal

Essentially the Italian proposal consists of an expansion of the non-permanent seats and their allocation on terms to be decided by the General Assembly. The institution of these new semi-permanent seats would require some adjustment in Security Council practice, but not so drastic that the implementation of this proposal is unachievable.

The major benefit of the semi-permanent category, depending on the criteria by which the states are appointed, could be to acknowledge the more powerful and deserving states with increased representation. At the same time, the permanent members would obtain the advantage of having a substantial part of the financial burden shared around a greater number of states. The non-permanent members would also profit from the new arrangements by having an increased possibility of election to the Security Council. If geographical distribution were to be a criterion for appointment, then there could be a problem with the Security Council becoming in effect a plenary body. Consequently it could be difficult for the Security Council to pass decisions swiftly, as the Security Council was formed to do. However, such a criterion should not in any case be the sole consideration and such a consequence could be avoided.
Under the Italian proposal the permanent members would retain their current privileges. This would be reinforced by the fact that there is to be no addition of further permanent members. However, the Non-Aligned Movement and any states which potentially deserve permanent member status might not be so amenable to this lack of permanent representation. Because potentially regionally powerful states could be the major beneficiaries of the new semi-permanent seats, this proposal could gain the support of the Non-Aligned Movement. The main obstacle to this proposal is the envisaged increase in size of the Security Council to twenty-five. The permanent members would presently oppose such an increase. On the other hand, this proposal could be implemented on a smaller scale, which would accord with the permanent members’ views on size.

Sohn’s proposal, unlike the Italian proposal, is based entirely on a geographical distribution. As such, it would effectively turn the Security Council into a plenary body, which, as already mentioned, must be avoided. Nonetheless, the proportional ratios included in Sohn’s proposal should perhaps be those applied to the Italian proposal. Thus by allocating five semi-permanent seats instead of ten, the Security Council would be increased to twenty, a number which would receive the support of the permanent members. The five non-permanent seats could then be reallocated in favour of developing regions so that the Security Council reflects the contemporary geographical distribution of member states. If adequate representation were given to developing states in the semi-permanent and non-permanent categories, the support of the Non-Aligned Movement could be retained.

**Status Quo**

All the reform proposals start from the realistic premise that the current permanent members will retain their status. From there, the Working Group apparently proceeds from the realisation that “if you can’t beat them, join them,” attempting to democratise the Security Council by redressing the dominance of northern countries through the addition of new permanent members from developing regions. In contrast, the Italian proposal is premised on the notion that rather than increasing permanent membership, the Security Council should be democratised by increasing the number of non-permanent members, especially representatives of developing nations, to check the power of the permanent members.
In terms of acceptability, the Italian proposal would be the most likely to achieve all-round support. However, the permanent members have been rather sceptical about the merits of that initiative, tending rather to support proposals of the type submitted by the Working Group.

While there is general agreement on the need for change, the basic positions on reform are currently still too far apart for reform to take place in the near future. Even so, advantage should be taken of the current climate of agreement to reach consensus on reform. The opinion of Germany’s permanent representative to the United Nations, Tono Eitel, should be heeded: “if we don’t get our act together rather soon, I think the window of opportunity will be closed.”

Perhaps in the end what will count most will be the awareness of the Security Council’s problems generated by the debates on reform. This has resulted in improvements in the Security Council’s procedural transparency and the accountability of its members. After all, whatever reform is made there are sure to be unforeseen pitfalls. In the end, no matter how the Security Council is structured, it is the members of the Security Council and their attitudes, which will determine how efficient and effective that body is to be.

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