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Section IV: UN reform and the Security Council role

By Pham Lan Dung

Lecturer, International Law Faculty – DAV

Introduction

This short paper examines several aspects of the Security Council reform in the context of the overall efforts to reform the UN system. In order to meet the challenges facing the member states and their peoples in the 21st century, the UN establishes new subsidiary organs and departments; the Security Council finds itself dealing with issues traditionally not within its mandate. However, the establishment of new organs and the expansion of the Council's power may have several undesirable consequences and may cause more problems for the UN system in the whole. This paper, then, suggests several options to deal with this dilemma. In addition, the question of the role of non-permanent members is also briefly examined.

I. UN Reform Update

At the 2005 World Summit, Heads of State and Government reaffirmed their commitment to strengthen the United Nations so that it could rise to the new challenges of the 21st century. Since then, there have been some major accomplishments, such as the establishment of the Peacebuilding Commission and the Human Rights Council. However, there is much that remains to be done. During the 62nd Session, the General Assembly will continue efforts to advance mandate review and management reform, improve the coherence of the UN system, revitalize the General Assembly, and reform the Security Council.

Management Reform

At the 2005 World Summit, the Heads of State and Government recognized the importance of improving the management of the United Nations and requested a number of reform measures. Management reform is necessary to improve the effectiveness, efficiency, and accountability of the Secretariat in all areas of the organization's work. Reform is necessary to improve human resource functions, governance and oversight, information and communication technology, procurement and the administration of justice.¹

Mandate Review

An important part of the management reform process concerns the review of all mandates older than five years originating from resolutions of the General Assembly and other organs. The objective of the review is to strengthen and update the program of work of the United Nations.²

System-Wide Coherence

In February 2006, based on paragraph 169 of the World Summit Outcome Document, the Secretary-General created a High Level Panel on UN System-wide Coherence in the areas of development, humanitarian assistance, and the environment. The 15-member panel, co-chaired by the prime ministers of Pakistan, Mozambique, and Norway, carried out a study of the UN's operational activities and assessed how to strengthen UN system works, its comparative advantages, and reduce areas of overlap between UN agencies.³

¹ For more information see the following General Assembly's Resolutions and Secretary-General's Reports:
[Human Resources management](#) (A/RES/61/244)
[Comprehensive Review of Governance and Oversight](#) (A/RES/61/245)
[Procurement reform](#) (A/RES/61/246)
[Administration of justice at the United Nations](#) (A/RES/61/261)
[Comprehensive Review of Governance and Oversight](#) (A/60/883)
[Report of the Redesign Panel on the United Nations system of administration of justice](#) (A/61/205)

² For more information see the Secretary-General Report
[Mandating and delivering: analysis and recommendations to facilitate the review of mandates](#) (A/60/733)

³ For more information see the following documents:
[Report of the Co-Chairs of the 61st session](#) (17 September 2007)
[Report of Secretary-General](#) (3 April 2007)
[Report of the High Level Panel on System-wide Coherence](#) (9 November 2006)

Revitalization of the General Assembly

On revitalization of the General Assembly, the 2005 Outcome Document reaffirmed the central position of the General Assembly as the chief deliberative, policymaking and representative organ of the United Nations, as well as the role of the Assembly in the process of standard-setting and the codification of international law. Over the course of the last 16 years, measures have been adopted by the General Assembly with a view to strengthening its role and authority, and the role and leadership of the President of the Assembly. An ad hoc working group on the revitalization of the General Assembly is to be established during the 62nd session to evaluate and assess the status of implementation of relevant resolutions, to identify ways to further enhance the role, authority, effectiveness and efficiency of the Assembly, inter alia, by building on previous resolutions, and to submit a report thereon to the Assembly.⁴

II. Security Council Reform

Most significant efforts of Security Council Reform have been carried out since 1993-1994 by the establishment of the Open-Ended Working Group (OEWG). The reform has focused on two main areas:

- (i) Question of Equitable Representation and Increase in the Council Membership and
- (ii) Working Methods of the Security Council and Transparency of its Work.

Over more than 10 years, the OEWG has reached provisional agreements on several issues in the second area, but failed in the first. Up to the present, none of many proposals related to the Council expansion has been put to the vote. Even if there is possibility for the Council expansion to succeed, this may be seen as a very modest achievement. In April 2008, General Assembly President Srgjan Kerim announced that "the Security Council reform must be about more than just changing the composition of its membership". According to him, the Council reform must lead to a "new culture of international relations" based on full respect for human rights, human security, responsibility to protect and sustainable development.

⁴ For more information see the following documents:

[Revitalizing the role and the authority of the General Assembly and strengthening its performance, A/RES/61/292](#)
[Report of the Secretary-General A/62/608](#)

In the second area, the improvement of the Council's working methods, though being very modest, may contribute to that "profound meaning". In the 2005 Outcome Document, the World leaders "recommend that the Security Council continue to adapt its working methods so as to increase the involvement of States not members of the Council in its work, as appropriate, enhance its accountability to the membership and increase the transparency of its work". The Security Council's Informal Working Group on Documentation and Other Procedural Matters is the focal point of efforts to improve the Council Working methods. Most recently the Working Group issued a comprehensive Note by the President outlining innovation in procedures and practice (S/2006/507).

More information about reforming Council working methods can be found in the Special Research Report "Efforts to Reform Council Working Methods 1993-2007" available at <http://www.securitycouncilreport.org>⁵. The Report, however, emphasises that much of the working-methods-reform process will depend on who will next assume the chairmanship of the Informal Working Group and also on whether the incoming members will come to the Council with a plan to focus on specific issues relating to working methods. A question is raised about what is then the role of the P5 (five permanent members) and whether they are interested or not in the process? If the answer is negative, then why?

More important is the question of the role of E10 (ten elected members), if any, in this reform process, which will be discussed more in the latter part of the paper.

Is there any area that may be substantial for the Council reform beyond those two main areas? Why does Mr. Kerim believe that the Council reform must have a "profound meaning"?

Many arguments may be raised about what exactly Mr. Kerim means by a "profound meaning" of the Council reform and how to achieve a "new culture of international relations". Does it matter that the veto power,⁶ which has proved to be substantially important in the past and, to a certain extent, also nowadays, stays untouched by

⁵ Security Council Report is an independent non-profit organization based in New York which produces reports and analysis about the work of the Council. A key aim of the organization is to improve the Council's performance by acting as an objective, accurate and timely information resource for the body's ten elected, non-permanent members. Ambassador Colin Keating (a former Permanent Representative of New Zealand to the UN between 1993-1996, serving on the Security Council in 1993 - 1994) became the founding Executive Director of Security Council Report.

⁶ Article 27 of the UN Charter

any reform efforts? Should the UN Charter be amended in order to achieve the so-called “new culture of international relations based on full respect for human rights and human security”? The veto power itself presents one of the main obstacles to many reform ideas.⁷ On one hand, it is necessary that any results of the UN reform (or at least the most important) be stipulated in the UN Charter. On the other hand, the procedure for the Charter to be amended is not simple.

III. The UN Security Council Role

In January 2008, Secretary-General Ban Ki-moon outlined the broad fronts on which the United Nations needs to advance if it is to meet the challenges facing the member states and their peoples in the 21st century. Peace and security is one of the five main areas of the UN Reform under Ban Ki-moon.⁸ As defined in the UN Charter Preamble, maintaining peace and security is the foremost purpose of the UN⁹ and the Security Council is primarily responsible for this task.¹⁰ The Security Council is the only UN body that is empowered to make resolutions legally binding upon all UN members.¹¹ If the Security Council determines the existence of any threat to the peace, breach of the peace, or act of aggression,¹² it can decide to impose sanctions upon the violator under Articles 41 and 42.

Expanding the Security Council Mandate

It is not defined in the UN Charter what exactly “international peace and security” means. Traditionally, international peace means no military world war, and international security means being secure from military threat from other countries. Nowadays, *military security* is no longer the only meaning of the term “international security”, provided for in Article 39 of the UN Charter. Its interpretation has been expanded significantly. The UNSC recently has been involved in issues not falling under the traditional meaning of “international security” such as:

- humanitarian security and human rights¹³
- democratization¹⁴

⁷ Articles 108 and 109 of the UN Charter

⁸ Development, Peace and Security, Human Rights, Humanitarian Actions, Management Reform

⁹ Article 1 of the UN Charter

¹⁰ Article 24 of the UN Charter

¹¹ Article 25 of the UN Charter

¹² Article 39 of the UN Charter

¹³ Eastern DRC

¹⁴ Afghanistan, Haiti, Iraq

- terrorism¹⁵
- weapons of mass destruction¹⁶

Why can those areas be the ground for the Council to take action? Besides, we are now talking a lot about environmental security, energy security and food security. How are we to define which among the above-mentioned types of security and also from the possibly new emerging ones will be under the mandate of the Security Council, of the General Assembly and of the ECOSOS? And what is happening reality is that the UN organs try to be creative in interpreting the Charter to prove that they are empowered to deal with emerging global issues. And this mostly has been done on a case-by-case basis, which ironically leads to the need for *Mandates Reform*, as specified above.

More controversial is the question of whether the traditional meaning of security as inter-state security can be now unarguably replaced by the individual or ethnic security meaning, which makes it possible for the Council to deal with not only inter-state conflicts but also intra-state conflicts.

For the Security Council to meet challenges facing the member states in the 21st century, it is inevitable that "international security" should not have a narrow meaning but rather a broader one. However, the lack of clear criteria for the expansion of the Council power in the UN Charter may have negative consequences.

Firstly, the Council has to function on a case-by-case basis, which means the Council's members, especially the P5, may have quite a wide discretion to act, in some cases not truly for international peace and security but rather for their own interests.

Secondly, the overlap of the Security Council's and the General Assembly's mandates becomes more problematic. Especially with the rising of so-called thematic issues in the Council's agenda such as small arms, HIV/AIDS, women and children in armed conflicts, the Security Council seems to be taking away issues traditionally belonging to the GA and ECOSOS mandates. This, unfortunately, goes against the overall reform efforts for the *System-Wide Coherence* as mentioned above.

¹⁵ CTC, 1267 Committee

¹⁶ 1540 Committee

Thirdly, the expansion of the Security Council power always challenges the principle of respect for state sovereignty. In the era of globalization, state sovereignty is no more an absolute sovereignty. However, the question of state sovereignty will be less sensitive if criteria for the expansion of the Council's power are codified in an international legal instrument.

Reforming the UN Peacekeeping

It is widely recognized, in general, that the stability provided by UN peacekeeping is vital for millions of people all over the world. No other multinational actor deploys comparable numbers of civilian and military personnel; no bilateral partner engages in so many field operations of such scope and complexity. The UN peacekeeping, therefore, also spends most money as compared to any other UN activities.

However, it is well known that in 2007 there was evidence of possible serious financial loss in the UN peacekeeping procurement, which leads to the need for oversight the UN peacekeeping procurement. There was a "Public Debate" in the General Assembly of whether the General Assembly or the Security Council has the power to discuss this question. The increasing role of the UN peacekeeping therefore also creates problems for the *UN Management Reform* and the *UN System-wide Coherence* reform.

In 2008, the General Assembly approved the Secretary-General's proposal to restructure the Department of Peacekeeping Operations, creating a Department of Field Support (DFS) to consolidate the support functions of recruitment for field personnel, including senior appointments, procurement and financial management¹⁷. Whether the DFS' establishment can ensure more effective and accountable management of resources and improved responsiveness to field support requirements as expected is still a question. The same goes for the question of whether the DPKO and the DFS will work as one through the establishment of Integrated Operational Teams (IOTs).

¹⁷ From UN official website on UN Reform

IV. The Role of Non-Permanent Members

Many countries in the world consider being non-permanent members of the Security Council as a prize. However, the E10 are not given much power to make a difference at the Security Council. The E10 as compared to the P5 do not have the veto power. While the P5 are always in the Council, the term of the E10 to serve in the Council is only 2 years.¹⁸ It is even more difficult for the E10 to work as one group and defend a single position since they are elected from different geographical regions of the world. The E10 sometimes find themselves voting in the Council under great pressure from the P5 and other superpowers.

But participating in the Council means both challenges and opportunities for the E10. Candidates for the seats at the Security Council have already been announced for the 2037-2038 term. Besides pursuing own interests, to what extent can the E10 contribute to the advancement of the UNSC role? In principle, the E10 may have a "collective veto" if at least 7 elected members cast a negative vote on a Council's resolution.¹⁹ However, this case has never happened in reality and, due to the above analyses, will likely not happen in the future.

In case the E10 initiate proposals for the Council's reform and needsome kind of pressure upon the P5 to support their efforts, the existence of this theoretical possibility of "collective veto" is the only leverage from the E10. But unfortunately, this is only in theory.

On the other hand, since the Council's working methods are derived from its Provisional Rules of Procedure and largely from its daily practice, it is possible for the E10 to make changes in this field. The idea that the reform of the Security Council working methods depends much upon the efforts of the newly elected members, for some reasons, is quite popular in the Security Council.²⁰

¹⁸ In addition, the "2-year term" of five out of ten elected members begins one year earlier than that of the other five.

¹⁹ Article 27 of the UN Charter

²⁰ For more information see the document "Opportunities for leadership: where and how elected members of the Security Council can make a difference", Session I (pp. 3-6), in *Report of the workshop for newly elected and current Security Council members*, 13-14 November 2003 (S/2004/135).

One possible explanation may be that the P5 are quite familiar with the Council working procedure and have no incentives to reform it, while the E10, who used to look at the Council from the outside, are more likely to understand critiques about the lack of transparency, formal institutional memory and forward-looking strategy in the Council's working methods.

The E10, being unfamiliar with the Council's daily practice, may often find themselves overloaded with the Council's enormous agenda and find it difficult to catch up with the Council's work. Taking this point into consideration, it is arguable that the E10 can make a difference in the Council work during their terms. It would be wiser for the E10 to have a long-term strategy to get involved in the work of the Council. Efforts to reform the Security Council by the E10, therefore, should reach outside the limit of their terms and should last after the two years of serving in the Council.

Needless to say, chances for the E10 are quite limited and depend much on their political will. However, the so-called "S5" draft resolution²¹ proposed by Costa Rica, Jordan, Lichtenstein, Singapore and Switzerland may serve as a good example of how former elected members keep pushing on with reforming the Council and making their voice heard.

Conclusion

It is not clear whether establishing more departments and subsidiary organs like the DFS, IOTs, Peacebuilding Commission, Human Rights Council and many more may make the UN more effective.

It is clear, however, that new organs may need more budget and may cause more problems for the UN management. The expansion of the UNSC power may also create more problems for the UN system as examined earlier.

Would it be more rational then if the UN stays as it is? It may be even better if the organization would narrow its scope of action to some very limited and clearly defined areas or to only one very important area. The UN is the organization of

²¹ A/60/L.49

almost all nations in the world, which may also be one of its disadvantages. To meet new challenges, there is another alternative of creation of totally new organizations, each founded by several states which have strong incentives in and are capable of dealing with one specific issue.

The existence of the single UN, with all of its imperfections, trying to deal with many issues of global concern may be compared to some kind of monopoly while the working of the newly established organizations may create a competitive environment for the "new culture of international relations".

Views expressed in this paper are personal to the author and are not to be taken as representing the full delegation or the Asia New Zealand Foundation