

Saving the UN Security Council – A Challenge for the United States

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I. A Deepening Crisis

There is a lingering problem hovering over the United Nations, and it is one that must be addressed in a new and innovative manner. This problem is the declining credibility and authority of the UN Security Council. It may be convenient, as in the early stages of the Kosovo crisis, for the United States to bypass the Council. But over the longer term, a Council that lacks both legitimacy and authority will cost the United States dearly. That, unfortunately, is the direction the Council is moving.

The United States is always of two minds about the Security Council. When the Security Council passes a resolution the United States likes, e.g., authorizing the Gulf War against Iraq, Americans, and especially the Administration of the day, are quick to beam on the solidarity and effectiveness of the international community's most authoritative body.

When the Council appears to flub its responsibility, in Bosnia or Iraq, the United States is just as quick to condemn the Council as pusillanimous, hypocritical, or at best — as the *New York Times* wrote not long ago — irrelevant.¹

¹ “Security Council Relegated to Sidelines,” *New York Times* of 14 March 1999, 14.

The Council is sometimes one, and sometimes the other. But the real problem is that the truly valuable use of the Council for American foreign policy objectives is fading for reasons that go beyond today's or tomorrow's crisis. For much of the world, the Security Council is seen as unrepresentative, biased, and increasingly ineffective in areas of concern for much of the world. The result is that more and more countries are willing to ignore Council-mandated sanctions, cease-fires, and even the safety and sanctity of UN peace-keepers.

Recent evidence of this growing antipathy was in the UN General Assembly's reaction to the Security Council's decision to undertake a major UN operation in Kosovo, a decision basic to US policy in the province.² Delegates from the G-77 were quick to point out the discrepancy with the Security Council's past actions on conflicts in Africa. This was in reaction to the fact that the United States was asking the UN to undertake in Kosovo, exactly the type of "nation-building" the United States had systematically opposed for the United Nations in every crisis since Somalia, notably those in Africa.³ The United States was also asking for extraordinary increases in the UN budget whereas it had systematically opposed increases in every other crisis over the past seven years. At an open meeting of the Security Council later in the year, several countries accused the Council of a double standard.⁴

The United States was able to garner the necessary support for Kosovo only when it agreed to significant new peace-keeping operations in Sierra Leone and East Timor and indicated a readiness to consider one in the Democratic Republic of the Congo.⁵ The General Assembly, in finally approving the budget for the Kosovo operation, inserted a provision emphasizing that "all future and existing peacekeep-

² S/RES/1244 (1999) of 10 June 1999.

³ For the breadth of this mandate, well beyond anything contemplated even in Somalia, see Report of the Secretary-General to the Security Council, Doc. S/1999/779 of 12 July 1999. African reaction is reported in Press Release GA/AB/3304 of 20 July 1999.

⁴ The debate, which took place November 29-30, 1999, is summarized in Doc. SC/6784 of 18 January 2000.

⁵ A 6,000 person force for Sierra Leone UNAMSIL was approved by the Council in S/RES/1270 (1999) of 22 October 1999-see in this respect also S/RES/1289 (2000) of 7 February 2000-the strength was lifted up to 11,000. The UN mission to East Timor was approved in S/RES/1264 (1999) of 15 September 1999. See also, "More Deployments in UN's Future", *Washington Post* of 13 August 1999; "U.S. to Support Sending U.N. Troops to Congo", *Washington Post* of 28 January 2000, A16.

ing missions shall be given equal and non-discriminatory treatment in respect of financial and administrative arrangements.”⁶

But the problem goes deeper and well beyond the G-77. Evidence was in the broad-based antipathy toward the Council exhibited during the 1998 negotiations in Rome for a new International Criminal Court.⁷ The United States went into those negotiations with an unrealistic if not entirely implausible position that referrals to this Court should come through the Security Council. The proposal had lots of things wrong with it, most notably that it was a rather transparent effort (pushed by the Pentagon) to protect Americans from ever being subjected to the Court’s jurisdiction. But what was striking at Rome was the deep-seated objection to give the Security Council almost any authority *vis-a-vis* the Court. Countries as close to the United States as Canada, as well as almost all others, were pointed in wanting to keep the Court as far from the influence of the Security Council as possible. The treaty that was agreed upon — with the US voting against — goes so far as to give the new Court a share in one of the most important responsibilities granted exclusively to the Council in the UN Charter, i.e. the right to determine an act of aggression. By giving the Court the same right, the vast majority of countries repudiated one of the fundamental articles of faith and confidence in the UN’s security structure.⁸

II. Should the United States Care?

Before bemoaning this developing trend, Americans have to ask whether the United States should care. It is obvious from the current crisis in Kosovo, if not before, that the United States maintains the right to act in defense of its interests, including employing the use of force, whether or not such action has been authorized by the Security Council. That is a sore point with many other countries, including America’s

⁶ A/RES/53/241 of 28 July 1999.

⁷ See overview of relevant literature by M. Cherif Bassiouni (ed.), *The International Criminal Court: Observations and Issues before the 1997-98 Preparatory Committee - and Administrative and Financial Implications*, 1997, 33 et seq.

⁸ R. Wedgwood, “Fiddling in Rome,” *Foreign Aff.* 77 (1998), 20-24; A. Zimmermann, “The Creation of a Permanent International Criminal Court,” *Max Planck UNYB* 2 (1998), 169 et seq.

European allies, who feel much more comfortable with the political cover of a UN mandate even when they agree that force is merited.

Witness the attitude of the United Kingdom toward intensification of the no-fly zone over Iraq and general European desire for such a mandate in Kosovo that delayed NATO resolve for several months.⁹ But the United States will surely maintain this independence. It is an element of its perceived responsibility as the one superpower. It is also a practical recognition that Russia or China could veto such UN approval if the United States had asked for it. In sum, the United States values Security Council authorization for the international legitimization and sometimes material support it sometimes brings, but the United States does not feel beholden to it.

Yet the United States should not be too cavalier about bypassing the Security Council. Opinion polls consistently show the American public has a preference for the U.S. taking military action in consonance with the United Nations. Over the longer term of any military engagement, the legitimacy of UN authorization often becomes even more important to Americans.¹⁰ Nor should the U.S. accept as inevitable the clash of interests with Russia, with the sidelining of the Security Council as a result. The relationship with Russia has enormous ramifications that go beyond this article, but there are more than a few occasions when the Security Council has provided a valuable vehicle for US-Russia cooperation. Russia and China, despite their aversion to sanctions in general, joined the United States in imposing sanctions against the Taliban regime in Afghanistan.¹¹

For other reasons, the value of the Security Council as an instrument of United States policy is too important to be ceded. There are things of

⁹ *The Washington Post* of 24 March 1999, A23. R Hunter, "Maximizing NATO," *Foreign Aff.* 78 (1999), 199-201. J. Tepperman, "Kosovo Dilemma: NATO Alone, Without a UN Backing?" *International Herald Tribune* of 22 March 1999, 10.

¹⁰ See S. Kull (ed.), *Americans on U.N Peace-keeping: A Study of U.S. Public Attitudes*, College Park, MD, Center for the Study of Public Attitudes, 1995 and subsequent polls; J. Rielly (ed.), *Chicago Council on Foreign Relations Poll, 1995, 1999.*

¹¹ S/RES/1267 (1999) of 15 October 1999. The Chinese representative stated "Sanctions must be used only as a last resort..." but it had participated in the negotiations and "requested that the text be limited to the issue of combating international terrorism." News Press Doc. 1999/1015 and Press Release SC/6739.

critical importance to the U.S. that only the Security Council can provide. The Security Council is unique in that it can mandate actions that bind all the UN Member States.¹² It not only can legitimize the use of force, it can mandate sanctions that are worldwide. Sanctions, as the United States has learned from Iran to Cuba, that are not universal are often not very effective.

Furthermore, despite all the criticisms about the Council's failures or obstacles, the United States has in the past ten years won support for nearly every major issue it brought before it. Out of more than 600 resolutions since 1991, the United States has only exercised its veto four times, three to prevent censure of Israel and once to block a second term for then Secretary-General Boutros Boutros Ghali.¹³ The US prevailed in having the United Nations take over Haiti peace-keeping from US troops, despite reservations of other members whether the situation was really a "threat to international peace and security" rather than a threat of immigration to Florida's shores.¹⁴ For six straight years the United States won strong condemnation of Iraq's efforts to flout UNSCOM, until a trio of other permanent members, not a general majority, undermined the policy.¹⁵

¹² J. Delbrück, "On Art. 25", in: B. Simma et al., *The Charter of the United Nations. A Commentary*, 1994, 407 et seq.

¹³ Information provided to the author by the United Kingdom Mission to the United Nations in New York, FCO Research Office.

¹⁴ S/RES/1141(1997) of 28 November 1997 stated that thereafter such assistance should be provided by UN specialized agencies and other non-peace-keeping authorities. When the mission was nevertheless extended the following year, Russia and China abstained, S/RES/1212 (1998) of 25 November 1998. This later resolution affirmed once again that future assistance should be provided outside of peace-keeping. But in 1999, the US was again able to have the UN mission extended, S/RES/1277 (1999) of 30 November 1999.

¹⁵ S/RES/687 (1991) of 3 April 1991 established UNSCOM with one vote against (Cuba) and one abstention (Yemen). S/RES/699 (1991) of 17 June 1991 unanimously confirmed IAEA's inspection authority. S/RES/707 (1991) of 15 August 1991, S/RES/715 (1991) of 11 October 1991, and S/RES/1060 (1996) of 12 June 1996, and S/RES/1115 (1997) of 21 June 1997 all unanimously condemned Iraqi interference with UNSCOM. S/RES/1134 (1997) of 23 October 1997 drew five abstentions: Russia, China, France, Kenya, and Egypt. Opinion on the Council remained divided over the issue until a new inspection regime was approved by

Sanctions applied against Libya for the downing of an American plane over Lockerbie¹⁶ represented the first time the Security Council had sanctioned a country over a criminal offense before the courts. In the wake of the Clinton Administration's own reevaluation of peace-keeping policy after the Bosnia and Somalia disasters, the U.S. was able to reshape United Nations peace-keeping policy for much of the remaining decade, curtailing operations for the most part but obtaining UN peace-keepers for both Bosnia and Haiti. Finally, the 11-3 vote in March 1999 defeating the Russian condemnation of NATO bombing of Kosovo was not, as some described it, an example of the Council's irrelevance, but a resounding vote of support for NATO action.¹⁷

This string of important international victories — mobilizing broad support for United States objectives, isolating rogue regimes, enforcing sanctions, and deploying peace-keepers to places the United States either did not wish to go or to reduce its own involvement — these are the jewels in the crown, if you will, for the U.S. in the Security Council. But it is precisely this value that is threatened by the erosion of the Council's legitimacy.

III. The Erosion of Security Council Credibility

The UN Security Council's failure to maintain the authority, and ultimately even the continued presence of the arms inspection regime it had established in Iraq, UNSCOM,¹⁸ was a vivid example of its eroding capacity. Iraq continues to defy the Council's efforts to establish a successor regime. But there have been many more, less publicized instances.

For ten years, the United States and the United Kingdom had maintained UN mandated sanctions against Libya for not turning over the suspects in the Pan Am explosion over Lockerbie. But support began to erode in 1997 and fall apart in 1998. First the Arab League threatened to stop abiding by these sanctions, then the entire membership of the Organization of African Unity threatened not to continue to respect these

S/RES/1284 (1999) of 17 December 1999 . However, Iraq has yet to accept this resolution.

¹⁶ S/RES/748 (1992) of 31 March 1992. See further R.J. Zedalis, "Dealing with the Weapons Inspection Crisis in Iraq", *ZaōRV* 59 (1999), 37 et seq.

¹⁷ For the Kosovo question see i.a. L. Henkin, R. Wedgwood, T. Franck, C. Chinkin et al. in: *AJIL* 93 (1999), 824 et seq.

¹⁸ S/RES/687 (1991) of 3 April 1991.

sanctions after December 1998 unless the impasse over the Lockerbie incident were negotiated. The Non-Aligned Movement made the same threat in May 1998.¹⁹ Indeed Qadhafi had already been able to break the sanctions against air travel, arriving in full pomp and ceremony in several African capitals.²⁰ That led the United States and the United Kingdom to agree to what they had long opposed, moving the trial of the suspected terrorists to a neutral third country.

Sanctions in general are losing their appeal for many reasons, especially when they remain in place for long periods without seeming to resolve the issue that prompted them.²¹ Arab countries find it harder and harder to support continuing sanctions against Iraq, certainly with regard to the procedures for the Hajj, but also beyond. One former diplomat in New York remarked recently that no country besides the United States believes any more in the value of the sanctions against Iraq, and only America's veto power sustains them. So strong is the resistance to further sanctions, in particular against Arab countries, that Egypt refused to support the United States effort to strengthen sanctions on Sudan for the attack there on Egypt's own President.²² Difficulty in utilizing this important weapon — the most potent short of the use of force — will surely hamper United States objectives in the future.

¹⁹ The OAU decision was announced at the conclusion of the OAU Summit in Ouagadougou in June 1998, *The Guardian (London)* of 10 June 1998, 14; Communiqué, Ministerial Meeting of the Coordinating Bureau of the Non-Aligned Movement, Cartagena de Indias, Colombia, 19-20 May 1998, para. 176, <http://www.nam.gov.za/cartagena98/html>

²⁰ Qadhafi had traveled to Chad and Niger, and sent pilgrims by Libyan plane to the Hajj in both 1997 and 1998. In April 1998 a group of Italians flew to Libya in violation of the sanctions, and on 9 July 1998, Egyptian President Mubarak did so. BBC News, "The Trail to Trial," 5 December 1998, ews.bbc.co.uk/hil/english/special_report/1998/08/lockerbie/newsid_156000/56144.stm

²¹ A. Bos, "United Nations sanctions as a tool of peaceful settlement of disputes", in: *International Law as a Language for International Relations*, 1996, 443 et seq.; D.J. Halliday, "The Impact of the U.N. sanctions on the people of Iraq", *Journal of Palestine Studies* 28 (1999), 29 et seq.; E. Hoskin, "The humanitarian impacts of economic sanctions and war in Iraq", in: T. Weiss, *Political Gain and Civilian Pain*, 1997, 91 et seq.

²² The official Egyptian position was conveyed to the author, then US Assistant Secretary of State, by the Egyptian Permanent Representative to the UN, in New York on 21 February 1998.

The Council is also seeing its writ ignored in one conflict situation after another. In Angola, one of the largest UN peace-keeping forces in recent years (UNAVEM I, II, III), enlisted in support of a UN-brokered peace plan, failed to stem a renewal of civil war. The UN had to withdraw rather than stand by, as in Bosnia, watching helplessly as fighting resumed. Both sides in this war came to the conclusion that they could ignore the repeated Security Council resolutions, which exhorted each of them to adhere to the plan. The rebel side, UNITA, easily circumvented sanctions imposed on it with the clear connivance of both surrounding countries and European and Asian arms dealers.²³

Security Council arms embargoes against Liberia and Sierra Leone were constantly violated, and the Security Council resolutions in the latter situation were often irrelevant to actions on the ground.²⁴ Even with a peace agreement in Sierra Leone put together by neighboring states, the supporting UN peace-keeping operation, deployed in October 1999 (UNAMSIL), is finding it difficult to enforce its mandate against the actions of rebel and government troops.²⁵

UN peace-keepers are no longer sacrosanct when they are deployed. Thus they are no longer able, at modest levels, to provide a symbolic presence to represent international resolve. For years, relatively small UN peace-keeping forces operated in Cyprus, the Middle East, and on the India-Pakistan border with little danger and as a source of stability.²⁶ But now security for UN peace-keepers is a major preoccupation. They have been killed in Lebanon, Georgia, Tajikistan, Bosnia, and Angola, not in most cases by accident but targeted. In Georgia, the United

²³ S/RES/976 (1995) of 8 February 1995; S/RES/1118 (1997) of 30 June 1997. See also *The Humanitarian Times* of 8 April 1999. See also in this respect Report of the Panel of Experts-Doc. S/2000/203 of 10 March 2000.

²⁴ S/RES/1132 (1997) of 8 October 1997, imposed an arms embargo on all parts of Sierra Leone. For an account of the war before and after the Security Council resolution, see J. Cilliers/P. Mason (eds), *Peace, Profit or Plunder*, 1999, 188-195. See also the Reports of the Secretary-General Doc. S/1999/1223 of 6 December 1999 and Doc. S/2000/13 of 11 January 2000.

²⁵ The Secretary-General has been forced to consider increasing the UN force from 6,000 to 11,000, see note 5, this in a country far smaller than the Congo where a far larger crisis is occurring. *The Washington Post* of 22 January 2000, 20.

²⁶ M. Bothe, "Peacekeeping", in: Simma, see note 12, 565 et seq.

Nations contemplated a security contingent for its military observers several times the number of the observer force itself.²⁷

The decline in Security Council credibility affects the UN's capability for conflict resolution more broadly. The Secretary-General's special envoys to Congo (Brazzaville) in 1997 and Sierra Leone throughout 1996-98, backed by supportive Security Council resolutions, were largely powerless diplomats, flying around to capitals and working internally in search of solutions against the tide of strong regional participation, and outside indifference to those civil wars. In the war in the Democratic Republic of the Congo, involving no less than six other African countries as well as a civil uprising, the UN has been almost sidelined. The antipathy toward the United Nations by the current government of Rwanda, because of the UN's failure to stem the genocide of 1994, and by the Congo government of Laurent Kabila as a result of the UN's (unsuccessful) effort to investigate human rights violations in that country, has eroded United Nations effectiveness.

But if the Security Council, the UN forces it deploys, and its negotiating standing are ineffective in these conflict situations, what is the result for the United States? These are for the most part regions to which neither the United States nor European armies are prepared to go. The answer then is more chaos, a scale of human rights violations that easily rival and indeed out distance those in Kosovo, and billions of dollars in humanitarian relief programs that stretch on for years. U.S. humanitarian aid to Angola over the last six years alone approaches US\$ 500 million. For Sierra Leone in the same period, the figure is US\$ 300 million. All international aid in the wake of the Rwanda genocide totaled US\$ 4 billion, eight times the amount spent on a woefully inadequate peace-keeping mission beforehand. The U.S. share of that aid has been more than US\$ 1 billion.²⁸

²⁷ S/RES/858 (1993) of 24 August 1993 authorizes an unarmed observer force (UNOMIG-United Nations Observer Mission in Georgia) of up to 136, but the actual force fell as low as 81 in July 1998 due to security conditions. In response, the UN Department of Peace-keeping Operations considered adding a 294 person armed force to protect the observers, Doc. S/1998/375 of 11 May 1998, paras 26 and 27, and Annex.

²⁸ The Financial Tracking Database for Complex Emergencies, UN Office of the Coordination of Humanitarian Affairs; US Overseas Loans and Grants, Statistical Annex I to the Annual Development Coordination Committee Report to Congress, Fiscal Year 1997; later Angola figures provided by the Agency for International Development, Office of Foreign Disaster Assistance; "Peace in Sierra Leone", *The Washington Post* of 22 January 2000,

IV. The Heart of the Matter

What is at the heart of this loss of credibility and respect for the Security Council? The reasons are many but boil down to these:

It is seen as decidedly unrepresentative. Its membership has only been expanded once, in 1965, from eleven to fifteen members, while the UN has grown from an original 51 in 1945 to 188 (and in case Tuvalu will be admitted even 189, see S/RES/1290 (2000) of 17 February 2000). Major population centers like India, Indonesia, and Brazil are regularly excluded. The Council's five permanent members, with veto power, were supposed to represent the world's power centers. But there are other power centers today not so represented. The permanent members are thus perceived to be there solely by their possession of nuclear weapons, a point cited frequently by India as one (if slightly specious) rationale for crashing into the nuclear club.²⁹

Other countries, like Japan, Germany, Italy and Canada, are keenly aware that they provide more financial support to the United Nations than the permanent members Russia, China or (except for Canada) the United Kingdom. These countries either resent their exclusion from permanent membership (Germany and Japan) or oppose continuation of the veto (Canada). Other allies have also attacked the veto, with Belgium leading a particularly strong attack on it in June 1998.³⁰

The Council is seen as dominated by Western interests, and relatively indifferent to crises elsewhere. Contrast the Security Council's actions, for example in sending peace-keepers to the former Yugoslavia (even post-Dayton) to its reactions to civil war in Liberia, Sierra Leone, the Congo, or the Central African Republic. UN peace-keeping operations since 1995 to help enforce the Dayton peace plan, over and above

22. For Rwanda, see M. Brown/R. Rosecrance, *The Costs of Conflict*, published by the Carnegie Commission on Preventing Deadly Conflict, 1999, 72-73.

²⁹ S. Talbott, "Dealing With the Bomb in South Asia," *Foreign Aff.* 78 (1999), 116.

³⁰ "Proposals on decision-making in the Security Council, including the veto," submitted to the Open-ended Working Group on Matters Related to the Security Council, 25 June 1998. Belgium was joined by Austria, Australia, Bulgaria, the Czech Republic, Estonia, Hungary, Ireland, Portugal and Slovenia. Doc. A/AC.247/1998/CRP.17, Annex XVI to GAOR 52nd Sess. Suppl. No. 47.

the NATO presence, total more than US\$ 600 million. The UN estimates its Kosovo program will cost US\$ 456 million annually.³¹

Peace-keeping in all the African crises mentioned above, by contrast, totaled only US\$ 180 million, largely for unarmed military observers in Liberia and Sierra Leone, until the turnaround on African crises, after Kosovo, mentioned above. No UN peace-keepers or other forceful action has been authorized for the civil war in Sudan. Only in Angola, where the United States and Russia had a large stake, and where the peace negotiations began before the Rwanda and Somalia debacles, did the United Nations dispatch a sizeable force in Africa in the six years after the Somalia debacle.

The United States is seen as particularly responsible for this bias, by pursuing a tight rein on UN peace-keeping (outside of Europe) since the policy reevaluation in 1993. Indeed, Congress refused to fund the U.S. share, just US\$ 12 million, for a small peace-keeping operation in the Central African Republic authorized in 1998.³² But even if the United States now, in the wake of the United Nations General Assembly "revolt" over Kosovo expenditures, demonstrates more sensitivity to African crises, it will not heal the more fundamental problems of the Council. These go to its basically outmoded structure.

V. What Are the Options for Change?

Reform of the Security Council has been debated for decades. There are more studies, working groups, commission reports, and recommendations than one can count. But they all founder on one basis or another. Current efforts are completely deadlocked, despite strong pressure from Germany and Japan, and the efforts of an Open-ended (aptly named) Working Group on the subject in the General Assembly which has been deadlocked for more than six years.³³ It will remain deadlocked unless a wholly new approach is taken.

Reform is difficult because each proposal so far runs up against one or another fundamental interest of some key party or parties. The United States is prepared to support an expansion of the Council, to en-

³¹ Press Release GA/AB/3348 of 6 December 1999.

³² Department of State, Bureau of International Organization Affairs, *Round the World Briefings*, Reports to Congress, June 1998 et seq.

³³ Press Release GA/9693 of 20 December 1999.

able Germany and Japan to become permanent members. The United States recognizes that realistically this would have to be accompanied by adding members from the Third World as well, to avoid the Council becoming in Secretary Albright's words "too industrio-centric." But the United States fears expanding the Council by more than five or six, lest it become a debating society unable to take firm decisions in a timely manner.³⁴ The concern is understandable. Coming to closure on critical resolutions — those dealing with serious crises and moving toward either sanctions or the use of force — is already an agonizingly slow and often tendentious process. Negotiations over resolutions dealing with the Iraq crises of 1997-98 involved in almost every case weeks of negotiations including wordsmithing back and forth among foreign ministers themselves as well as their representatives in New York. The stakes are high.

The United States has had another concern. At present, the United States can count on eight votes in any significant situation (assuming P-5 unity, and thus no veto, plus the votes of the two non-permanent members from the Western Europe and Other Group, and one vote from the non-permanent Eastern Europe group). It thus needs but one vote from Third World countries to secure a majority of nine. Expanding the Council to 21, with the addition of Germany, Japan and presumably a Central European country on one side, and a permanent representative each from Africa, Asia and Latin America, on the other, would preserve the same balance. But moving beyond that, to numbers strongly advocated by Third World members, up to 24 (two each from Asia, Africa and Latin America) or even 26, would result in needing more Third World votes. The U.S. fears being put in a position of defending its interests in the Security Council more by vetoing unfriendly resolutions than by being able to mobilize majority support. The Council would in such a situation become immobilized as in the Cold War period.

However sound the logic behind it, the United States position has come to be seen as the principal obstacle to reform. That is because other regions cannot accommodate their claims within the numbers upon which the United States insists.

³⁴ The U.S. official position was put forward at a meeting of the Open-ended Working Group, 17 July 1997, by United States Permanent Representative Bill Richardson. For a fuller discussion of U.S. views and concerns, see J. Laurenti, *Reforming the Security Council: What American Interests?* UNA-USA, 1997.

Not one of the regions mentioned can agree on one candidate to be its new permanent representative on the Council.³⁵ For Asia, India demands the right by dint of its population, its economy, and now its nuclear weapons. But Pakistan would never agree, nor do Indonesia or Bangladesh readily concede India's leadership. In Latin America, Brazil's ambitions are strongly opposed by Mexico, Venezuela and Argentina. Africa recoils from having to choose between Nigeria, South Africa, Kenya or Egypt. The response therefore from these regions has been to argue for greater enlargement, up to 24 or 26, to meet these competing demands. The American counter-proposal, to allow new "permanent" seats to be rotated among two or three members from each region, has not met with enthusiasm, except in Africa where this is the official position — provided Africa gets two such seats!

Nor is Europe united. Italy has made its opposition to Germany's attaining permanent membership one of its principal foreign policy objectives. Italy has campaigned around the world on this issue. It has mobilized Third World opposition to what came to be called the "quick fix" (Germany, Japan and three or four other new members), skillfully blocked forward movement in the UN General Assembly, and generally kept the issue from resolution in Germany's favor. Italy argues that Germany's ascension would produce three Western European permanent members, excluding Italy which has contributed more peacekeepers than any other country, and which has a larger economy and makes a greater contribution to the United Nations than the United Kingdom. Italy, it is argued, would then, when not serving as a non-permanent member, be relegated to "fourth class" status, behind the present P-5 with their veto power, the new permanent members, and the non-permanent members. This runs contrary to its role and status in Europe and the world.

If agreement cannot be reached on adding new permanent members, the fallback the Non-Aligned (and Italy) advocate is more non-permanent members. This proposal is completely anathema to the United States. It only reinforces the likelihood of the Council becoming an unwieldy debating society. "Heaven forbid," remarked one senior American official, "that the Security Council would become another ECOSOC."

³⁵ For detailed presentations of the various regional and individual country positions on the Security Council reform, see GAOR 51st Sess., Suppl. 47 of 8 August 1997; Press Release GA/9693 of 20 December 1999; Laurenti, see above.

Finally, there is the veto question. Eliminating, or at least greatly reducing the use of, the veto has been a mantra of the majority of countries for a long time. It is in all Non-Aligned Movement positions on the subject, and as noted has been picked by some Western countries as well. But just as firmly, and the one issue on which P-5 unity is rock solid, the present permanent members refuse to concede it. They have offered some self-developed limitations on its use, but these do not get at the heart of the opposition, which at best would want it restricted solely to resolutions authorizing the use of force or sanctions.

The other veto question is whether it should be accorded to new permanent members. Even though the majority of members are on record against the veto, new permanent members might bristle at being accorded second-class states by having it denied to them. The United States has not taken a formal position on this matter. But logic works against it. Increasing the number of vetoes to ten would surely be a prescription for paralysis. And giving the veto to countries like India or Nigeria might scuttle any chances of Senate ratification of a Council reform amendment. Not by chance, this issue has been pushed to the “end game” of most reform plans.

VI. A Way Forward

Not all of the Council's problems lie in the need for reform. Some are inherent in the world's changing power structure, the conflicts that will arise among the P-5, and the reluctance to give the United Nations too much control over sovereign decisions. The United Nations will always be a selective instrument for US policy, with other instruments — unilateral, NATO, ad hoc groupings — being utilized when American interests demand. But the United States, as it recognized in the aftermath of the Kosovo bombing campaign, and earlier in Haiti, will need to look again to the United Nations and particularly to the Security Council, to undertake the complex, long term peace-building tasks following the initial military action. The United States will also need the Council to command the international support needed in those situations where neither unilateral action nor regional institutions suffice, as well as those that fall outside America's own “strategic” focus but which demand action nevertheless.

For these reasons, the United States should have a vision of a future Council that can command respect and exert its authority. There will be no early reform of the Council for reasons that will be explained below.

But the groundwork for eventual reform should begin to be laid now. That groundwork must start from a different premise from those guiding current proposals. It will also require some courageous US statesmanship.

The trouble with the current proposals, aside from the conflict of interests, is that they have little logic or rationale for them, other than satisfying some geographic balance and the political needs of some individual countries. Without an overall logic, they fall prey to competing interests and eventually cancel themselves out.

A European Foreign Minister once quietly put forward a proposal for a more logical framework, but for domestic political reasons he could never carry it forward. In essence he suggested that the Council, to be representative of the modern world, should encompass both the bulk of the world's wealth and power on the one hand, and the majority of its population on the other. In other words, it would include both the G-7 and such countries as China, India, Indonesia, Brazil, etc.

Could such a framework be applied to the special concerns of the United States. In fact one could construct a Council membership along these lines which addressed both major US concerns — effectiveness and voting power.

The Council would have to be larger than the United States presently insists upon, i.e. a maximum of 21. This US position lacks support and credibility across the board. No one believes agreement can be reached at less than 24. France and the United Kingdom have already abandoned the United States on this point, and Russia only barely supports it.³⁶ But at 24, the above criteria can be met.

The new Council could be constructed along the following lines.

There would be the current P-5: United States, Russia, China, France, and the United Kingdom. Added from the G-7 would be Germany and Japan. Italy and Canada would rotate a remaining G-7 seat. There would be two additional permanent seats from each of the other regions: Asia, Africa and Latin America. India would have one of the two Asian seats, or perhaps rotate with one of the other major countries in the region like Indonesia, Bangladesh or Pakistan. The other regions

³⁶ Position paper prepared by the United States, the United Kingdom, France, Germany and Japan, on reform of the Security Council, September 1998. This was the product of six months negotiations beginning in Berlin June 1998, extending to New York in September 1998 and thereafter. The paper was presented as an informal discussion document to Russia and China, the other P-5 members, in late 1998.

could choose to select two such members, or, as Africa prefers, rotate their two seats among three or four major states. Smaller countries would have the benefit of greater access to non-permanent membership as a result of this concentration of major countries on the permanent seats.

The resulting Council would thus constitute, on a continuing basis, representatives of 75 per cent of the world's GDP and the majority of its population. This would be a formidable international body. With India on the Council, the percentage of the world's population represented would run between 57 per cent and 63 per cent, depending on other members selected. Even should India rotate off for a couple of years, the percentage would be around 43 per cent. Compare this to the Council's membership in 2000 which reflects only 35 per cent of the world's population and which omits three of the world's largest industrial economies.

It is true that in this configuration, the votes the United States could normally count on (assuming again P-5 unity) would be 11. To obtain a majority of 13, the US would now need two votes from Third World members, not one. The value of this type of analysis is questionable, however.

The recent history of the Security Council shows that the problem for the United States has not been Non-Aligned members. Of the more than 600 Security Council resolutions passed since 1991, more than 80 per cent have been unanimous, and on the others there were never more than three dissenting votes.³⁷ In practice, once the P-5 agree, it is rare that the Non-Aligned take a stand against them. If the problem is within the P-5, as has been the case with both Iraq and Kosovo, the number of Non-Aligned votes is largely irrelevant. Nor are the Non-Aligned monolithic. Latin American members have supported United States positions on the Council more than two times out of three; Africa, with the worst voting record on issues important to the United States, supports the US nearly half the time.³⁸

If this issue does become paramount for the United States, nevertheless, one could argue for a Council of 25, with an additional seat for Central Europe (as in the present US proposal). Members from this re-

³⁷ Index to Proceedings of the Security Council 1991-1997 ST/LIB/SER.B/S.28-34, United Nations. New York. For 1998 and 1999 data, Department of State, Bureau of International Organization Affairs.

³⁸ Department of State, *United States Participation in the United Nations*, 1998.

gion vote with the United States even more than do its Western European allies. The United States would be back to needing but one Third World vote for a majority.

Effectiveness is a more serious. Here again, some of the worries may be exaggerated. As the above numbers on votes in the Council suggest, most non-permanent members take their responsibilities quite seriously. They have voted in favor of strong resolutions regarding sanctions, the use of force, and condemnations, including against many countries in the Third World. There is no history of these members shirking from the hard decisions.

However, a Council as structured above, with 24 or 25 members, will be a different Council than today's. Its new permanent members will want to demonstrate their influence and undoubtedly shift some of the Council's attention to crises elsewhere than Europe or other areas of greatest concern to the US. No doubt the United States will have to be willing to support more UN efforts in African-like crisis situations, allow the UN to take more risks with them, and not demand retreat from them at the first sign of setbacks or failure. The United States would have to invest more diplomatically in such situations to strengthen the United Nations' effectiveness.³⁹ Reaching agreement on resolutions may well take more time than today, demanding even greater diplomatic skill and balancing of interests. The United States may indeed face some more majority votes against it, with Russia and China occasionally lining up with some Third World members to do so.

But such a more representative Council will at the same time speak with more authority on the issues on which it is agreed. It will be in a better position to enforce its mandates. In the long run, it will be an even stronger instrument for United States objectives, which by and large stand for the kind of peace and security to which the other members, if history is any guide, come to be dedicated.

VII. Adding Responsibility

Nevertheless, no addition of permanent members should take place without some fundamental understandings about the responsibilities such status confers. Countries which aspire to these positions must show themselves prepared to take the hard decisions on peace and war,

³⁹ P. Lyman, "Perspective on Africa: A Special Twist to Peacekeeping", *Los Angeles Times* of 21 January 2000, A17.

on gross human rights violations that merit war crimes prosecution, and on other matters that come before the Council. One way to demonstrate such responsibility is to be prepared to share the cost.

Presently, UN assessments are so skewed to the wealthier countries that a vast majority of members make almost no contribution to the financing of the United Nations. Under the scale of assessments adopted in 1997, the 128 members of the G-77, the UN's organizational body of the Non-Aligned, *together* pay only 7.9 per cent of the UN's budget. By contrast, three countries alone — the United States, Japan, and Germany — pay 53 per cent. An aspirant to permanent status like India pays only 0.31 per cent.⁴⁰ This scale may be equitable for general operations of the UN, but it should not govern those who argue for world power status.

Today, the P-5 pay a premium for peace-keeping operations (e.g. the United States assessed 31 per cent for peace-keeping, over Congress' objections, whereas its general assessment is 25 per cent). New permanent members should be ready to shoulder no less than three per cent of general costs and a premium for peace-keeping. This should apply to Russia and China as well, each of which now pay less than two per cent. Not only will such change symbolize responsibility, it will curtail somewhat the tendency, should it exist, to saddle the wealthier countries with the costs for a plethora of peace-keeping operations of doubtful merit.

There is another even more important indication of responsibility. The Charter says that members of the Security Council should be able to contribute to the maintenance of international peace and security and to other purposes of the UN.⁴¹ Critics point out that states have been elected in the past which not only were in no position to make such contributions but in some cases posed a threat to peace and security. One could make the same argument about some of the P-5. Nevertheless, this criterion becomes even more important when considering new permanent members. No enlargement will pass muster, especially the

⁴⁰ Internal Memorandum from D. Leis, Bureau of International Organization Affairs (IO/S), to J. Sprott (IO/S), *UN Resolutions on Budget and Scales* of 2 January 1998. The memorandum analyzes the new scales approved by the UN at the end of 1997 for the 1998-2000 period; *United Nations Handbook* 1999, New Zealand Ministry of Foreign Affairs & Trade (ed.), 340-342.

⁴¹ Article 23 para.1 UN Charter.

rigors of ratification, if states that flout international norms are on the list.

The issue is most pertinent with regard to India and Pakistan in the wake of their nuclear weapons tests in May 1998. Intensive negotiations with both countries by the United States have produced only limited progress in containing the threat to the non-proliferation regime that these tests posed. India's and Pakistan's missile tests indicate that neither country is yet willing to accept all the demands of the Security Council in its resolution responding to the tests, in particular the call for avoiding weaponization and deployment. The recent fighting over Kashmir increases concern over the situation.

Thus no early movement on Council reform can proceed until these countries have been brought back into some acceptable framework in support of non-proliferation. India, with all its legitimate claims for permanent membership in terms of population, economy, and influence, cannot be allowed to blast its way on to the Council. Contrary to its own claims, the tests have set back not advanced its candidacy for membership.

Nevertheless, precisely when reform is inevitably well in the future, the foundation for such reform should be laid. Otherwise, the Council will drift, its credibility will remain in doubt, and its authority open to challenge. India will continue to lobby for entrance with no framework for adjudicating its claim. Germany and Japan will increasingly resent shouldering so large a share of the UN's costs — Japan's assessment will exceed 20 per cent in the year 2000. The United States will be seen as "profiting" from the deadlock by being able to keep the Council just as it is. This will only harden attitudes against the Council itself and by extension against US interests within it.

The United States has already conceded that the G-7, bringing in Germany and Japan, represents an indispensable partner in any major international undertaking, even in the Council. The G-8 in essence drafted the UN Security Council resolution establishing the UN's post-conflict program in Kosovo. Indeed the G-8 statement is appended to the formal resolution.⁴² But that recognizes only one part of the problem, and as such will only increase resentment from the majority of members.

⁴² S/RES/1244 (1999) of 10 June 1999.

VIII. A Bold but Realistic United States Initiative

The US can instead go the next step and set forward a framework that holds out the promise of reform and greater legitimization. Doing so will encounter opposition from those in the Congress and elsewhere who prefer the present cozy situation and are appalled at the prospect of countries like India being nearly permanently on the Council. But it is precisely this type of bold initiative, looking to the longer term future, that will restore both United States leadership and the legitimacy of the Council.

The framework should be realistic. There will be no change in the formal authority of the veto; no P-5 member will ratify such an amendment. New permanent members will not get the veto. But a proposal for a larger Council, raising the number to 24 or 25, based on a logical framework of representation as described above, would have credibility. Countries like India could see their aspirations supported, even as a final decision must await greater agreement on the nuclear issue. The split within Europe over German membership could likely be healed. Japan's frustrations can be assuaged. A sizable majority could thus likely be put together around such a proposal.

The conditions placed within this proposal would take time to fall into place — the cost-sharing perhaps one of the most difficult. But by setting forth this framework, responsive to the aspirations of many other countries, the United States can remove itself from being seen as the principal obstacle to Security Council reform, with all the opprobrium that attaches to that. Thus even in the interim, the Council as an institution would regain respect, and United States objectives could be pursued within it with greater likelihood of success.