The vast majority of the member states of the United Nations has argued that the exponential increase in the membership of the organisation, the changed political and economic reality plus the challenges facing the world body today in areas like development, protection of the environment as well as the multidimensional character of peace and security (and threats thereto) warrant the reform of the UN, including the Security Council. Consequently, the issue of equitable representation on and increase in membership of the Security Council has been on the agenda of the General Assembly since its 34th Session in 1979, yet with very little progress. Further impetus to the discussions followed the first-ever meeting of the Security Council at the level of heads of state and government in January 1992 and the summit meeting of the Non-Aligned Movement held in Jakarta in September 1992, respectively.

In 2008 one third of the seats in the Security Council is occupied by European states (leaving Russia uncounted): apart from the permanent members France and Great Britain, Belgium, Croatia and Italy are elected members for a two-year period. All these nations belong to the EU except Croatia, which has entered into accession negotiations with Brussels.
Continuous efforts

The spirit of Jakarta continued into the debate of the General Assembly that resulted in the adoption of resolution 47/62 on 11 December 1992 on the ‘Question of equitable representation on and increase in the Membership of the Security Council’. The resolution directed the Secretary-General to invite member states to submit comments on a possible review of the composition of the Council. Member states from all the regions submitted written comments expressing their wishes on how the body should be reformed. The report containing the first 75 statements was submitted to the General Assembly by the Secretary-General in July 1993 (UN document A/48/264); eventually 10 Addenda had to supplement the report, since comments continued to pour in. The process of the reform of the Council was taken a step further with the adoption of resolution 48/26 on 3 December 1993, by which the General Assembly established an ‘Open-ended Working Group to consider all aspects of the question of increase in the membership of the Security Council, and other matters related to the Security Council’. It started its work in the form of informal consultations on 1 March 1994, chaired by the President of the General Assembly. The body, now named ‘Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and other Matters Related to the Security Council’, is continuing its efforts up to now.

Member states did not miss an opportunity to reaffirm their commitment at the highest possible level to expanding the membership of the Security Council. The special commemorative meeting of the General Assembly on the occasion of the 50th anniversary of the UN in October 1995, the Millennium Summit in September 2000 and the World Summit in September 2005 adopted declarations committing member states to comprehensive reform of the Security Council to ensure it becomes more representative. At the same time the body was asked to review its working methods with a view to strengthening its capacity and effectiveness, and improving efficiency and transparency.

From consultations to inter-governmental negotiations?

Member states have been consulting on the reform of the Security Council in the context of the Open-ended Working Group since its establishment in 1993. A consensus is still to emerge among member states not only on the end product - that is, the shape of the reformed Council - but also on the process leading to an agreement.

The President of the 61st Session of the General Assembly decided to inject a sense of urgency into the reform discussion by appointing five ‘facilitators’ to look at five key issues that need to be addressed. These are:

- categories of membership;
- the question of the veto;
- the question of regional representation;
- the size of an enlarged Security Council;
- the working methods of the Council and the relationship between the Council and the General Assembly.

The facilitators sought the views of member states on those issues. It became obvious that there was no consensus among the UN members and that it was not emerging either. In a bid to take the process forward the fa-
cilitators endeavoured to be creative by introducing the notion of an ‘intermediary arrangement’ with an integral component of a mandatory review to be undertaken on a predetermined date. The negotiables would include the content and duration of the intermediary arrangement and the nature of the review. The facilitators in their report of 19 April 2007 (UN document A/61/47, Annex II) put forward variations of a transitional category for consideration by member states. These are:

- Extended seats that could be allocated for the full duration of the intermediary arrangement, including the possibility of recall.
- Extended seats, which would be for a longer period than the regular two-year term, but with the possibility of re-election. The length of the terms as well as the re-election modalities should be decided in negotiations.
- Extended seats, which would be for a longer period than the regular two-year term, but without the possibility of re-election. The length of the term should be decided in the negotiations.
- Non-permanent two-year seats with the possibility of immediate re-election.

The transitional arrangement has not been taken up as an option for consideration by member states. It is merely floating around without formal status. A number of member states are keen to go beyond consultations and to start what is called a result-oriented intergovernmental negotiation on the basis of a text containing concrete elements on all the negotiables.

The President of the 62nd Session of the General Assembly decided to take the process forward. For this purpose he set up a Task Force consisting – apart from himself – of the Ambassadors of Bangladesh, Chile and Portugal. He highlighted seven principles that he deemed indispensable for progress. According to him these ‘pillars’ were widely accepted by member states during consultations that he conducted from mid-November to mid-December 2007. These basic principles are:

- Security Council reform is an integral part of strengthening the United Nations. It must therefore go hand in hand with the transformation of the wider UN system.
- Prudent and principle-oriented guidance by the General Assembly President is required, though it must be based on a joint venture with member states in good faith and mutual respect.
- The way forward ought to be accomplished through an objective and transparent process to first identify the negotiables in order to move to intergovernmental negotiations.
- The Open-ended Working Group should carry out consultations on the framework and the modalities for intergovernmental negotiations.
- Further steps must contain components and notions that will allow the UN membership to reach a general agreement on all aspects of Security Council reform, in particular on both the composition of the Council and its working methods.
- The reform of the Security Council must accommodate the interests and concerns of all sides, especially those who are currently underrepresented.
• Member states should refrain from steps which could serve to undermine the current momentum, and consensus to continue a process with the intention of achieving result-oriented solutions.

So the task facing the President of the General Assembly is to facilitate an agreement on the various elements of the negotiables that could form the basis for intergovernmental negotiations.

**Enlargement unto what end?**

The case for enlargement has been made in order to ensure equitable representation on the Security Council. The Council is said not to be representative primarily for two reasons, one quantitative and the other qualitative.

The quantitative school maintains that representation in the Security Council should reflect the broad membership of the organisation, that is, ‘equitable geographical distribution’ as provided for in Article 23(1) of the United Nations Charter. It is unacceptable that, for instance, the African region, which constitutes more than one quarter of the membership of the organisation, is not represented on the Council in the category of permanent membership. Likewise, Latin America and the Caribbean are represented on the Council only on a non-permanent basis. In this regard Africa has made a forceful case for representation in the permanent membership class.

The qualitative school maintains that the Council should reflect the contribution of countries to the objectives of the UN, in particular, maintenance of international peace and security, promotion of human rights and contribution to social and economic development. According to the report of the five facilitators of 19 April 2007, views were also expressed during their consultations that the ‘level of financial contribution to the United Nations, population, regional role and standing, size of military forces and contributions to peacekeeping operations’ should also be considered in the selection criteria for membership.

If the positions of the two schools were to be taken to the extreme, they would be mutually exclusive. The quantitative argument would maintain that Europe is already over-represented on the Security Council and the addition of a European state will not reflect equitable geographical representation. The contribution of a country to the work of the UN should not necessarily result in special privileges on that account. If one is to make an analogy, citizens who pay more taxes on account of their financial resources do not necessarily enjoy special privileges in society. At the same time, it is important to note that membership of the Security Council could serve as an incentive to get the commitment of resourceful countries to contribute more to the objectives of the UN. A similar argument was made in respect of the current permanent members. This might have been true at the time of the creation of the UN but there is no evidence of correlation between power and privileges on the one hand and commitment on the other.

There are no straightforward criteria for the selection of possible new permanent members of the Security Council. Those who feel a sense of entitlement – be it on account of numbers or their contribution to the work
of the UN - will not satisfy some of the objectives of the reform of the Council. In fact, the aspirations to permanent membership that underlie many of the discussions and debates in the Open-ended Working Group and the General Assembly respectively seem to have become an issue of ‘realpolitik’ as no objective criteria have been established in accordance with which countries will ‘qualify’. It seems as if interested countries would like to present themselves as candidates for elections just as for any other position within the UN. But the Security Council is too important an organ to be left to the regular political contest. Modalities must be worked out to create confidence within the broader membership. The reform of the Council is not for those few countries that are aspiring to membership but should be an element in the democratisation of the world body.

Another issue worth mentioning in this context is the question of the categories of membership. Some member states have advocated enlargement only in the non-permanent category while others including the African group of states have been calling for expansion in both categories. An understanding of the relationship between these two categories in theory and practice will shed light on the desired pattern of reforms of the Council in terms of categories, in order for its decisions to be legitimate and representative.

It has been argued that the five permanent members of the Security Council (P-5) and the 10 elected non-permanent ones (E-10) do not operate on a level playing field. This inequality is historical as the victors of the Second World War dictated the terms of the Charter. In the words of Inis Claude:

"At San Francisco the small states accepted the superiority of the mighty as a fact of life. Their first objective was to ensure that all the great powers would accept their place in the leadership corps of the new organization; in this they were successful, and this fact was perhaps the major basis for the hope that the United Nations would prove more effective than the League. The second objective was to constitutionalize the power of the international oligarchy... Their third objective was to gain assurance that the most powerful members would initiate and support positive collective action within and on behalf of the organization in times of crisis; in this respect there were apprehensions of failure based largely upon the fact that the veto rule foreshadowed the possibility of paralysis of such undertakings. (Quoted in Mahbubani, 2004, p. 255)"

The E-10 are structurally at a disadvantage in the Council deliberations and decision-making procedures. This is not only because of the hanging threat of veto but because of a host of other impediments. By the time that new Council members are elected, the bulk of the agenda, procedures and policies of the Council have already been decided. There tends to be an understanding among Council members, particularly the P-5, about issues to receive attention and the ones that should enjoy priority. There is a widespread belief about the existence of longstanding tradeoffs whereby the Council remains passive on some unresolved issues. Newly elected members take up some of these issues only to realise later that there is a lack of interest in making progress.
The absence of institutional memory in the Council in respect of the proceedings of informal consultations and the implementation or non-implementation of Council decisions inhibits the effectiveness of the E-10. The Secretariat merely manages the logistical arrangement for Council meetings. In contrast the P-5 have a continuous record and memory of the Council work over the years. Elected members are disadvantaged when the Council invokes precedent as a basis for decisions.

A pattern is also discerned where the Council takes decisions only on matters where the P-5 have an interest. A case in point is Afghanistan when the non-permanent members called for action against the Taliban. The P-5 apparently claimed that the imposition of sanctions on the Taliban would make Afghanistan a ‘strategic orphan’. The attitude of the Council or rather the P-5 changed after ‘9/11’, and sanctions were imposed on Afghanistan.

According to Kishore Mahbubani, formerly Singapore’s Permanent Representative to the UN, the Council is characterised by a structural weakness that emanates from a dichotomy whereby the P-5 were given power without responsibility and the E-10 responsibility without power. The entrenchment of the division between P-5 and E-10 raises the issue of the legitimacy of the decisions of the Council. Therefore the Council has to be constituted differently to overcome its structural weaknesses. Increase in membership in the non-permanent category alone will not address these structural deficits. Consideration has to be given to expanding the Council in both categories.

Another factor that sets the P-5 apart from the E-10 is the veto right. Their permanency and accompanying veto power have given the P-5 control over the global institution. The veto was important to lock in the major powers into a system of common security. It has also been argued that it served to ensure the commitment of the major powers to the organisation. The veto has the potential to become the make-or-break issue with regard to the reform of the Council. None of the current veto-wielding powers is prepared to give up that special privilege. Its abolishment would require the concurrent vote of the permanent members. It thus follows that abolition is not on the cards at the moment.

The extension of the veto to new members also appears problematic. Again there are two schools of thought. One maintains that the veto power should not be extended to new members. There are two categories within this school. There are member states that are opposed to the extension of the veto right as a matter of principle. They strongly believe that the veto is anachronistic and has no place in the modern world save for the reason that the current veto-wielding powers are not prepared to give it up. The second category consists, among others, of some of those aspiring to become permanent members and having tactically agreed to accept permanent membership without veto. They are not so much opposed to the extension of veto to new permanent members but are just realistic. For this group extension of the Council (or rather their membership therein) is more important than acquiring the privileges that have thus far accompanied permanent membership. Some of the aspiring members believe that they can fight for the accompanying privileges once they are in the Council. Given the
pace of consultations and negotiations that so far has characterised the work on Security Council reform, one may safely assume that those who harbour the idea of changing the Council from within have to be prepared to wait for another 30 to 50 years.

The introduction of a third category of membership in the Council, whether for reasons of principles or tactics, is bound to complicate the working relations among the different categories. Such a third category may be smart tactics but not smart politics as it will relegate the non-permanent members to third-class membership. It is bad enough to be a non-permanent member in the company of the P-5. It will be worse with a layer on top in addition to the P-5. Rivalries between the two categories of permanent members will further marginalise the non-permanent members. Besides, why should there be second-class permanent members?

The other school of thought maintains that the veto right should also be extended to the new permanent members. James Jonah, a former Under-Secretary-General for Political Affairs, has argued that the right to veto is in fact not in the Charter. ‘Article 27 of the Charter merely calls for the “concurring votes” of the permanent members when the Council makes substantive decisions.’ (Jonah 2006, p. 63) It would be an anomaly that a concurring vote is required from some permanent members and not from others. Herein lies the reason for the demand of, among others, the African group of states for extension of the veto right to new permanent members if this right is not abolished altogether.

The reform of the Council should go beyond the numbers game. History shows that members of the Security Council have used their position to promote their national interest. There is no guarantee that any new member may behave differently. There is a general perception that mutual interests have developed between the P-5, and the same could happen with P-11 (or whatever number might be agreed in the end). In the words of an ambassador from one of the small states, ‘Life is miserable with P-5 and it can only become hell with a P-11’. Furthermore, examples abound where countries (including those aspiring to permanent membership) have relinquished common positions on major international issues in favour of narrow national interests. The question of representation would remain unresolved if countries from the different regions were to be elected to the Security Council without instituting mechanisms for their accountability to the regions.

What the majority of member states desires is to transform the Council in composition and operation from being an exclusive organ of the powerful to an accountable institution serving the interest of the broader membership. The idea is not to increase the number of irreproachable countries but to make them reproachable through true multilateralism.

**The case for regional representation**

Given the history of the Security Council both in terms of permanent and non-permanent members, where national interest overrides common interest, serious consideration should be given to regional representation whereby a country occupying the regional seat would be held accountable to its region. It has been argued that regional representation could negate the principle of the global accountability of members of
the Council. Would global accountability be more compromised if a member were answerable to a region rather than to itself, a sovereign state? Can an individual sovereign state serve the interest of the broader membership better than a regional group? To make such an assertion would seem to defy logic. A regional group is anchored in multilateralism and, in structure and objectives, is designed to serve broader interests than one single sovereign state.

In theory, members of the Security Council are there to serve the general interest of the membership as a whole. Admittedly, some non-permanent members have taken the issue of global accountability seriously and are providing briefings and soliciting advice from the broader membership. This is done on an ad hoc basis, however, and the outreach is limited. One cannot represent a region without some form of accountability. There is no guarantee that once a country has been elected, it will represent the interest of the continent and not its own national interest. This is too important an issue to be left to chance. If history is anything to go by, countries have often used the rotating regional positions to promote their national interest. Whenever there is a contentious issue before the Council, ambassadors solicit advice from their capitals; it is from there that they receive their instructions. How different is the permanent position going to be? This exposes the weakness of an enlargement in isolation from the other aspects of the reform of the UN in general and the Security Council in particular.

Chapter VIII of the United Nations Charter provides for cooperation between ‘regional arrangements’ and the UN. Regional organisations are empowered to deal ‘with such matters relating to the maintenance of international peace and security as are appropriate for regional action’ (Article 52). They are encouraged to settle local disputes before referring them to the Security Council. This could be done on their own initiative or by reference from the Council. The Council is empowered to use regional organisations ‘for enforcement action under its authority’ (Article 53).

In his *Agenda for Peace*, Secretary-General Boutros Boutros-Ghali noted that the role of regional organisations was impaired by the Cold War. The situation has since changed, however, and the UN is now in a position to rely on regional mechanisms for the maintenance of international peace and security as well as in order to attain other objectives of the United Nations. The General Assembly has been passing resolutions on a regular basis on cooperation between the UN and regional organisations, recognising the present level of cooperation and expressing the desire for deepening the relationship.

Furthermore, there has been a resurgence of an active role by regional organisations in the settlement of conflicts and in peacekeeping. Two trends have emerged in this regard. The one consists of action undertaken by regional organisations with the authorisation of the Council but under the command of the Council but under the command of regional arrangements themselves. The other is the use of a regional organisation to execute a UN mandate under the command of the UN.

The action of the Economic Community of West African States (ECOWAS) through the ECOWAS Monitoring Group (ECOMOG) in Liberia, Sierra Leone and Guinea-Bissau
stands out as an example of cooperation between the UN and regional organisations in the maintenance of international peace and security. The deployment of ECOMOG in Liberia was initially taken because of the failure of the Security Council to act. ECOMOG had to take action to contain a conflict that had the potential to spread beyond the borders of Liberia and pose a threat to regional peace and security. The international community was drawn in through the Cotonou Agreement, which paved the way for the deployment of the United Nations Observer Mission in Liberia (UNOMIL). In September 1997, the Secretary-General noted that this was ‘the first United Nations peacekeeping mission undertaken in cooperation with a peacekeeping operation already established by another organization’ (UN document S/1997/712, paragraph 22). The Democratic Republic of Congo (DRC) is another example where the UN joined forces with regional mechanisms, in this case the Southern African Development Community (SADC) and the Organization of African Unity (OAU). The agreement on a hybrid mission between the African Union (AU) and the UN in Darfur in Sudan is another example.

A review of the operation of the various missions will testify to the complexity of cooperation between the UN and regional organisations in undertaking peacekeeping missions. The problems that were encountered should not discourage one from continuing on that path. What is needed is a clear definition of mandates and responsibilities. Shepard Forman and Andrew Grene (2004, pp. 305-306) identified a number of issues that could be addressed so as to create a clear framework for cooperation and coordination. These include:

- Standardisation of the terms of authorisation by the Security Council and detailed clarification of required reporting and coordination arrangements.
- Explicit stipulation that peacekeepers within a Council-authorised operation be subject to international legal parameters, including international humanitarian law and, unless otherwise noted or negotiated, the jurisdiction of the International Criminal Court.
- Requirements that regional organisations maintain an ongoing relationship with the United Nations, including provision of peacekeepers to the UN operations.
- Use of assessed contribution to support complementary peacebuilding activities, as has been the case in East Timor. If the UN’s standing is to be safeguarded, it must not combine high visibility, through presence in the field, with low capacity, authority and resources.
- Training and resources to enhance regional and sub-regional capacity be channelled through the UN, rather than through fragmented bilateral approaches, in order to reinforce the international order envisioned in the Charter.

The situation in Africa makes a compelling case for regional representation. The agenda of the Security Council has concentrated on Africa. The UN has recognised through numerous General Assembly resolutions that Africa has special needs that ought to be addressed by the international community including the UN. There are more than 50 resolutions (mandates) dealing specifically with the special needs of Africa in the areas of peace and security, and political, economic and social development.
These special needs cannot be addressed in a meaningful way without the participation of Africans in decisions affecting them. The current system does not provide for such participation. There is a case for the systematic involvement of Africans in decisions affecting them through some form of regional representation. This could be done through institutionalised consultations with members of the region, links to regional mechanisms such as the AU or the setting-up of a regional secretariat through which countries can pool resources to provide backing to the regional representative.

Regionalism has become an important aspect of international relations – be it in the maintenance of peace and security, or in international trade and development. Regional representation in the Security Council will be more representative than any other form of representation and its possibility should be explored to the fullest.

On working methods

Reform of the working methods is one aspect of the reform of the Security Council that has not enjoyed the attention it deserves. It has been a preoccupation of those countries that do not support the enlargement of the Security Council but that would like to see an improvement in the operations of the Council. In our view, enlargement and reform of the working methods of the Council are not mutually exclusive. Reform in the working methods of the Council will not bring about equitable representation. At the same time, enlargement without reform in the working methods will perpetuate the status quo of dominance relations except that the number of dominant powers prevailing over an unaccountable system would increase. Improvement in the working methods of the Council would institute checks and balances, improve efficiency and effectiveness, transparency, accountability and legitimacy.

Key to ensuring the accountability of the Security Council is its relationship with the General Assembly, which is the representative and principal legislative organ of the United Nations. The interaction between the General Assembly and members of the Security Council leaves much to be desired. The discussion of the annual report of the Security Council in the General Assembly has been superficial. There is a need for greater interaction and exchange. Article 24(3) of the Charter provides for the submission of reports by the Security Council to the General Assembly for its consideration on issues of current international concern such as peacekeeping operations, imposition of sanctions and other enforcement measures and any other matter of interest to the membership as a whole. This provision is not always adhered to. Nothing should be left to chance. Therefore the Security Council should seek the views of member states where a resolution of the Council requires implementation by all UN member states. The ability of member states to implement the resolutions of Council should also be taken into account in the decision-making process.

The Council’s subsidiary bodies should include in their work, on a case-by-case basis, non-members with strong interest and relevant expertise. Member states affected by sanctions should, upon their request, be given the possibility to participate in the meetings of the relevant sanctions committee.

The working methods of the Security Council should also provide for access to information about the work of the Council. Mechanisms should be put in place to
ensure the participation of non-members of the Council in the Council’s work where their interest is directly affected. The regular consultations between the Security Council and the troop contributing countries are a good example of how relationships with interested parties could be handled.

Given the connection between peace and security and economic development, the Security Council should interact in a systematic fashion with the Economic and Social Council (ECOSOC), another main organ of the United Nations. A research project of the World Bank concluded that the level of development, rate of growth and structure of income contribute more to intra-state conflicts than ethnic and religious diversity. Furthermore there are shared responsibilities between the various main organs of the UN in conflict situation. Coordination of activities should thus become a standard operating procedure.

**Conclusions**

The process for the reform of the Council will be protracted but there are no shortcuts to progress. There is a need for a comprehensive approach to reform of the Council. Any enlargement of the Council without reform of its working methods and other aspects will not be satisfactory. By the same token, reform of the working methods without enlargement may improve the efficiency and effectiveness of the Council but will not make it more representative. One has to think out of the box if progress is to be made. The question of regional representation should be explored further than the casual reference to it that one hears in the corridors. Regionalism is anchored in multilateralism and could be the most representative form of representation.

**Literature**


