

## Chapter One

# Procedural Developments in the UN Security Council's Work in the 1990s

### Introduction

This chapter introduces the project to evaluate the UN Security Council (hereafter the Council) after the collapse of the cold war system and the onset of what was then prematurely labeled the “new world order.” The Council continues to be in the news, such as dealing with the escalating conflict in and around the Democratic Republic of the Congo, formerly Zaire, to name just one major case out of the large list of issues with which the Council is seized. The argument about its effectiveness or ineffectiveness or relevance or irrelevance does not seem to end. Many judgments about its place in the system of global governance are based on a superficial reading of its resolutions and decisions lacking a parallel effort to look behind the closed doors of its confidential consultations and to observe its members in businesslike proceedings to deal with a pending conflict or dispute and thereby to facilitate some easing of a dangerous confrontation. Such a perspective on the Council will improve the chances for a balanced assessment of its utility in the turbulent politics of the 1990s. This chapter is the first step in a major effort on the part of this author to delve thoroughly into the massive documentation available and to arrive at meaningful findings about the Council's place in the contemporary international system.<sup>1</sup>

While the international system began to undergo fundamental change already in the period 1986–1987, a result of Gorbachev's radical revision of Soviet policies and his turn toward international cooperation, the effects of that course correction became evident in the successful termination of the long and bloody Iran-Iraq war through the formulation and adoption of a suitable format for a cease-fire eventually ratified by both the Iraqi regime and the Iranian government

under Ayatollah Khomeini. This breakthrough, together with the movement toward the independence of Namibia and the resolution of several other so-called “regional conflicts,” documented persuasively that the paralysis of the Council as the central instrument for the maintenance of international peace and security had come to an end. The immediate response around the world was enthusiastic and full of renewed hope for a more peaceful world. Thus at the onset of the last decade of the twentieth century, the possibilities for a stable global peace suddenly seemed strong and real, and the Council and the international community looked with renewed determination and confidence into the future.<sup>2</sup>

The fact that the euphoric start of the 1990s was brutally disturbed by the Iraqi aggression and annexation of small neighboring Kuwait and finally ruined in the course of the failed intervention in the internecine struggle in Somalia, and that the following years were characterized by a resurgence of tension and antagonism enfeebling the impact of the Council’s actions in an increasingly destabilized political environment, is well known. However, it is more important that one tries to understand why this most regrettable deterioration occurred and how it can be explained on the basis of necessarily incomplete data. While the context of these erratic and grating policy gyrations must be kept in mind as one engages in a minute examination of the intergovernmental decision-making processes in and around the Council, the focus of the present inquiry is restricted to a few separate issues.

Based on the materials available about the Council’s work, the first part deals with the way this organ and its fifteen constituent member governments operated throughout the ten-year period 1989–1999, and how the mesmerizing increase in agenda items, consultations, and meetings, as well as resolutions and presidential statements, has been managed by the diplomats assigned to this prestigious, albeit labor-intensive and time-consuming, function. It also will be attempted to weigh the relative power of the respective fifteen members in shaping the thinking of the membership as a whole and to put this into the context of group representation and changing alignments in the Council’s activity. A major aspect of that perspective is, of course, the standing of the foremost Council member, the powerful and highly ambivalent United States.<sup>3</sup>

On the basis of these two principal arguments, an attempt can be made to explain the largely misunderstood Council in its role as an organ of global governance. The questions raised at the beginning of this book will be reconsidered. As far as effectiveness and relevance are concerned, the preliminary impression will need to be confirmed throughout the much larger study undertaken in what follows.<sup>4</sup> Nevertheless, the initial approach to a huge subject matter should not be underestimated. As the inquiry proceeds, first judgments will be revised and fine-tuned, hopefully arriving at a more factual, evenhanded, and balanced comprehension of the inner workings and political articulations of the Council.

The whole complex of Council reform is not the subject of this chapter. It also deliberately excludes the review of some of the biggest cases taken up by the Council, such as Iraq-Kuwait, Somalia, Rwanda, or the former Yugoslavia. Good case studies and analyses are available on many of these complex crises, and at this point in the pursuit of the given project it appears more useful to maintain the focus on the neglected areas of the Council's involvement.<sup>5</sup> Still, many of the underlying issues and questions will evidently be on the minds of academic observers and practitioners, including this author.

### How the Security Council Worked in the 1990s

The general misperception of the Council's activities is basically due to the fact that the policy making leading to the formal decisions of the organ is for all practical purposes hidden from the public view. Since the height of postwar decolonization, which brought with it many new member states from formerly dependent territories and also led to the increase in the Council's membership from the original eleven to fifteen members, of which ten fell into the category of non-permanent members, it had become clear to the permanent members of the Council that the open conduct of its debates was no longer feasible or effective, and that closed sessions away from the bright light of publicity were required in order to enable the divided and contentious membership to find a common consensus position obviating the need for formal voting that far too often resulted in stalemates and vetoes. The evolving consultation procedure that has been maintained in its basics until this day consists of three phases, a first phase in which the Council president, in office during that particular month, would informally consult with the states' parties, bringing the matter to the Council as well as with individual Council members about the importance of the particular dispute or situation and about ways and means to handle the case. Assuming that the agreement in the first round is in favor of proceeding with the matter, the president would then undertake a second round of informal consultations in which the partners would be groups or blocs within the Council, such as the nonaligned group, the Communist side, and the Western group, plus groups interested in the matter at hand on the outside of the Council. In this phase, the issue under consideration was not only whether or not to place the item on the Council's agenda but also what was feasible in terms of the Council's response to the crisis before it. If joint opinion still favored pursuing the request for Council involvement, the president would then commence the third phase of this elaborate and sometimes lengthy and time-consuming procedure and invite all members and the secretary-general to a consultation of the whole. In this closed session, with the president chairing the deliberations, the request before the Council would be fully aired, and all necessary measures would be discussed and, if a consensus emerged,

decided. That would include the procedural decision to place the item on the Council's agenda, a further procedural decision to invite outside parties and member states to the formal meeting of the Council, and, most importantly, the preparation of a draft decision, in the form of either a resolution or a presidential statement, in blue copy, which would then require adoption or issuance in a formal public meeting of the Council. Due to the given complexity of many of these situations, it happened frequently that the consultation of the whole needed to be suspended or adjourned and then later resumed so that further bilateral and mostly multilateral contacts could be engaged that would help facilitate a full agreement among all fifteen members. The consequence of this lengthy procedure in search of a consensus position has been that the general membership of the organization and the wider public on the outside has been compelled to rely on rumors, allegations, and leaks to find out what was going on behind the closed doors of the Council's chambers.<sup>6</sup>

The practice of these "informals" continues until our time. Council members, permanent and nonpermanent, acknowledge that openness and transparency should characterize the Council's place on the international arena, but they all emphasize that without the prior confidential engagements the Council would not manage to present a united front in response to any of the many disturbances landing on the Council's plate. The crucial nature of the confidential dialogue and interaction of the diplomatic representatives within the high walls of the Council's operations is dramatically confirmed by the fact that despite the tremendous avalanche of critical issues throughout the 1990s, the Council in all these years has not once deviated from the standard recourse to the informal consultation of the whole. It would appear from all that has come out of the Council and its immediate diplomatic environment that the diplomatic actors, big and small, see no alternative to that by now long-standing and fully vetted practice.

This elaborate pattern of the Council's working methods has resulted in impressive statistics for the years under consideration. Culled from the annual reports of the Council to the General Assembly, the following picture emerges:

During the period June 16, 1989–June 15, 1990, the Council held 49 meetings and adopted 22 resolutions. This reflects still a rather inactive posture of the Council.

During the next twelve months, from June 16, 1990, to June 15, 1991, the Council held 65 meetings and adopted 41 resolutions. The main crisis engaging the Council was the Iraqi invasion of Kuwait and the numerous Council measures taken to restore the sovereignty and territorial independence of Kuwait.

During the period June 16, 1991–June 15, 1992, the Council held 92 meetings. It adopted 46 resolutions and issued 50 presidential statements.

The marked increase in meetings, resolutions, and presidential statements is due to the outbreak and rapid escalation of the Yugoslav crisis.

From the period June 16, 1992–June 15, 1993, the Council held 152 meetings, adopted 81 resolutions, and issued 95 presidential statements. The increase in all three categories of Council activity should be noted.

During the period June 16, 1993–June 15, 1994, the Council held 153 meetings, adopted 87 resolutions, and issued 68 presidential statements. Moreover, it held 252 consultations, lasting 353 hours. The Council received and dealt with 120 Secretary-General (SG) reports; additionally, it handled 1,500 other documents.

From the period June 16, 1994–June 15, 1995, the Council held 152 meetings, adopted 70 resolutions, and issued 82 presidential statements. Furthermore, it held 274 consultations lasting 420 hours. The Council received and handled 100 SG reports and about 1,000 other documents.

During the next twelve months, from June 16, 1995, to June 15, 1996, the Council held 132 meetings, adopted 64 resolutions, and issued 62 presidential statements. It held 240 consultations, taking altogether 377 hours, and it handled 70 SG reports, plus about 1,079 other documents.

From the period June 16, 1996–June 15, 1997, the Council held 115 meetings, adopted 52 resolutions, and issued 54 presidential statements. In addition, it held 342 hours of consultations and handled 105 SG reports and 1,214 other documents.

During the period June 16, 1997–June 15, 1998, the Council held 103 meetings, adopted 61 resolutions, and issued 41 presidential statements. It held 215 consultations, totaling 588 hours, and handled 92 SG reports and about 1,079 other documents.

Finally, from June 16, 1998, to June 15, 1999, the Council held 121 meetings, adopted 72 resolutions, and issued 37 presidential statements. It also held 239 consultations, lasting 511 hours, and handled 90 SG reports and 1,437 other documents.

Since the content of the Council reports is exclusively the prerogative of the Council under the Charter and the secretariat has no formal or informal input into format and substance of this annual document submitted to the General Assembly, the figures provided in the ten years of Council practice under review here convey a fascinating picture about what the members themselves see as pertinent and worthy of mentioning to a wider interested public. It is especially remarkable for the observer to see how much time is spent in the crucial consultation phase of the Council. Of course, quantity does not necessarily translate into quality. But there is no denying the fact that the membership on the Council is immensely labor intensive and time consuming. It also offers strong

testimony that while inevitably there have been fluctuations in the number of meetings and formal decisions, one cannot detect any waning of the Council's engagement in seeking to fulfill its significant mandate in the maintenance of international peace and security.

The commitment that is required to make a meaningful and constructive contribution to the Council's work is especially daunting for small member states without the necessary diplomatic staff and substantive support from their foreign ministries back home. In many cases, the diplomatic mission to the UN in New York consists of one or two more junior diplomats in addition to the permanent representative heading the mission. Looking at the hours alone of required meetings and the massive documentation to be read and analyzed, even larger missions will be hard put to bring the necessary capacities to the Council duties while maintaining their usual load of formal and informal business in and around the UN and their constant connection with their governments and foreign ministry colleagues. Even a cursory look at the blue book containing all missions at the New York headquarters of the world organization documents the severity of this problem for many member states.<sup>7</sup>

Trying to match the Council's investment in time and decision output with the rise and decline of the Council's political standing during the 1990s leads to the realization that the alleged decline in the Council's impact on internationally important conflicts and other emergencies at the end of that decade is apparently not reflected in terms of the frequency or relevance of the Council's formal decisions. The upswing in numbers of meetings and hours of consultations indicates a growing immersion in the necessary diplomatic interactions out of which resolutions and presidential statements emerge. This sharp increase in time set aside for consultations of the whole—any other informal talks and inquiries are not counted under this rubric—together with the huge documentation put before the members for their processing reflects a busier and more conscientious intergovernmental body than had existed during the cold war and at the onset of the post-cold war era. Due to this strong evidence of the Council's diligence and sincerity it warrants a much more detailed careful inquiry into particular cases and the string of debates and decisions composing the Council's dealings and deliberations around these agenda items.

Another salient feature of the post-cold war Council that has been noted in recent academic work on the UN is the dramatic rapid decline in the number of vetoes cast by any of the five permanent members. Over a whole decade, the number of substantive vetoes altogether comes to less than ten. Several of these were exercised by the United States, China, and the Russian Federation. The rarity of these veto applications illustrates strikingly the stability and pervasiveness of the basic accord and unanimity that the overwhelming majority of Council members have shown in the acclaim of the fundamental principles of the Char-

ter and in their compliance with these norms in the exercise of their functions as Council members. The political and ideological diversity among the nonpermanent members, as well as among the P-5, as the permanent members are referred to, is still sufficiently large that the adoption of unanimous decisions by show of hands or by prior agreement is not a foregone conclusion. One can surmise that the enormous number of hours spent in consultations of the whole in 1998 and 1999 must have been necessary in order to arrive at a consensus on what to do in a pending matter. It deserves mentioning that consultations of the whole do not serve the purpose of empty rhetoric or unproductive polemics, since the interested public is not there to listen, nor are there open windows through which the speakers would address their own communities. As the proceedings are closed, whatever is said serves the purpose of responding to the colleagues and advancing the search for a generally acceptable consensus that promises to tackle the crisis at hand.

Throughout the period under study and reaching even farther back into the years of the cold war, the call for decisive reforms in the workings of the Council has not stopped. The insistence that a largely secret process at the heart of the Council had to be opened up was a demand by many developing countries in the UN that felt excluded from the policy making of the Council, and was taken up by major states members, including especially France in the 1980s and more recently. The language utilized raised questions of transparency and openness and conveyed the stark impression that the deliberations behind closed doors covered up the illicit efforts at manipulation and coercion by the so-called "Great Powers," in particular the US delegation. Throughout the years since 1984 to the present day, attempts have been made to lift the veil of secrecy and to invite outside parties to share in the debates and informal contacts around the many sessions of the Council in action. Special mention should be made of the evolution of what came to be known as the "Arria" formula involving unofficial and nonbinding contacts of Council members with outside groups and individuals requesting an opportunity for exchange of information and dialogue with interested states members of the Council. Making themselves available for these encounters and briefings provided a significant concession and led to a clear mitigation of the clamor for immediate and extensive change in Council proceedings. This formula also became very helpful in permitting Council members to reach out to engaged forces on humanitarian and human rights issues and on peacekeeping matters and other relevant concerns and in this fashion to promote the political thinking process out of which Council decisions were likely to evolve.<sup>8</sup>

This outreach function was similarly brought to affect the crucial relationship between the Council and the somewhat amorphous but proactive group of the troop-contributing countries (TCC). For many years, troop contributors that

had been able to articulate concerns and publicize their side of the UN peacekeeping arguments within the framework of the UN General Assembly (UNGA) Special Committee on Peacekeeping Operations bitterly complained about lack of access to Council deliberations and binding decisions on the establishment and functioning of these important operations. In the mid-1990s, the Council finally bowed to the unending pressures from the troop contributors and agreed to arrange routinely and periodically for special sessions of the whole Council with the respective troop contributors participating in an ongoing or a planned complex peacekeeping and peace-building operation of the post-cold war era.<sup>9</sup> This fundamental procedural reform was most welcome to the affected troop-contributing states and led to a much smoother and more focused process in connection with the numerous operations undertaken throughout the last ten to fifteen years. The effect of this improvement in understanding and cooperation has been felt in the manner in which the mandates were drafted and in which logistics and troop availability were successfully handled.

Another crucial change in the conduct of Council meetings was the increased frequency of public and open formal meetings. Many of the principal debates in the second half of the 1990s were held in public session and with the active participation of interested non-Council member states in the course of the proceedings. Hereby, a major demand by the wider UN membership has been taken up and elegantly satisfied as the walls around the Council chamber have indeed become more transparent and porous as far as the multilateral dialogue in the UN is concerned. The constant pressure for such opening and transparency was clearly successful in bringing about the shift in the procedural practices of the Council and the commitment of its members to enhance the public image of the Council as the guardian of international peace and security.