Security Council Working Methods in Hard Times

Introduction

In the past few years, some of the most innovative changes in Council working methods in decades have emerged in response to momentous events, reinforcing the importance of working methods as the foundation of Council activity. Members have had to be agile, flexible, and creative in their application of working methods. This report will focus on how the COVID-19 pandemic and the Ukraine crisis have affected the Council's working methods between March 2020 and April 2023. It assesses the role of working methods during challenging times, and the extent to which Council dynamics and geopolitical tensions seep into how Council working methods are used. It also addresses how the Council's efficiency and transparency, and its relationship with the wider members and the General Assembly, have been affected by the events of these three years. Finally, it looks at the role of the elected members in the development of working methods.

Even before the pandemic, relations among the permanent members were fraught. A global pandemic might have been expected to unify Council members in seeking to address its consequences for peace and security, as happened following the terrorist attacks in the US on 11

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September 2001. But the nearly two decades that followed saw major shifts in international relations, and the pandemic, rather than narrowing the differences, deepened cleavages. Diplomats' inability to meet in person did not help improve relationships. Just as the Council was beginning to settle back into its normal working methods, relationships were plunged into deeper acrimony by the invasion of Ukraine in February 2022.

The Security Council's working methods are based on the UN Charter and the Council's provisional rules of procedure. They provide the essential tools to help the Council function in an efficient, transparent and effective manner. Article 30 states that the Council "shall adopt its own rules of procedure", which has allowed the Council, within the constraints of the Charter, latitude to adapt its working methods according to its needs. For example, as Council activity increased significantly during the immediate post-Cold War period, new working methods were developed to keep pace with rapidly unfolding developments. During these years, the broader membership began to take an active interest in the Council's working methods as Council decisions began to affect them more directly. During this period, too, Council working methods began to be codified in presidential notes, which were discussed by the Informal Working Group on Documentation and Other Procedural Matters (IWG).[1]

The COVID-19 pandemic brought about drastic changes in the Council's working methods, almost all of which were rolled back as COVID-19 receded. On 11 March 2020, the World Health Organization (WHO) declared COVID-19 a global pandemic. In the two weeks before the declaration, cases of COVID-19, which was first identified in China in late 2019, had expanded thirteen-fold and the number of affected countries had tripled, with 118,000 cases in 114 countries and over 4,000 deaths, according to the WHO. With New York City becoming a new epicentre of the pandemic, on 16 March 2020 the Secretary-General decided to restrict the UN Headquarters' presence to essential personnel. The Council was faced with a situation where it needed to adapt its working methods to ensure business continuity, striving to take decisions under these extraordinary conditions. This was in line with Article 28 of the UN Charter that states that the Security Council "shall be so organized as to function continuously".

When the COVID-19 pandemic led to restrictions on conducting its business in the Council chamber, the Council had to find new ways to carry out its work. To do so, Council members relied on the provisional rules of procedure, the UN Charter, and Council practice.

After a two-week period of seeming paralysis in mid-March, the Council steadily put in place the working methods that would allow it to operate. These new measures were set out in a letter from the president of the Security Council to its members each month from March 2020 to July 2022, with the exception of July 2021.[2] It was made clear that the measures were "temporary, extraordinary and provisional" and had been put in place "for the duration of the restrictions on movement in New York owing to the COVID-19 pandemic to enable the Council to discharge its mandate, and will not be considered as a precedent in the future".[3] China, as the president in March 2020, was faced with developing the initial provisional measures, which were expanded by the Dominican Republic and Estonia during their subsequent presidencies in April and May 2020, respectively. Starting with remote meetings described as closed videoconferences (VTCs), the Council moved to open VTCs that were webcast, and by May, was holding virtual open debates. By April, subsidiary bodies had established ways of getting their work done, including voting, through virtual meetings and written statements. By the end of June 2020, VTCs had replicated almost all the regular Council formats. These VTC formats were used, in combination with in-person meetings starting in July 2020, until the Council fully resumed meeting in person in June 2021.

Council members could not agree, however, on whether to consider virtual discussions held by the Security Council as formal meetings. As stated in the letter from the president of 2 April 2020, the work of the Council would be conducted "in the spirit" of the Council's

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1   The IWG was established in June 1993 to study and make recommendations for the improvement of the Council's practices and working methods. See Security Council Report's research report "Security Council Working Methods: Provisional Progress", 22 January 2018 for the history and development of the Informal Working Group on Documentation and Other Procedural Matters.

2   In July 2021, France did not produce a letter because it appeared that the Council was moving out of COVID-19 working methods at the time.

3   United Nations Security Council, "Letter dated 27 March 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council: S/2020/253". 31 March 2020.

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Provisional Rules of Procedure,[4] but these VTC discussions were not treated as formal meetings. This meant that while the Council was guided by its provisional rules of procedure during virtual discussions, these meetings could not have official verbatim records; if a new item was discussed, it could not be added to the Secretary-General's list of items the Council is seized of; and procedural votes could not be taken.[5]

The 2022 invasion of Ukraine raised fundamental questions about the viability of an organ that was unable to act in the face of a flagrant violation of the UN Charter by one of its permanent members. The members of the Council turned to the UN Charter in many of the meetings on Ukraine to convey their positions. The inability of the Council to adopt a resolution condemning Russia's invasion of Ukraine led to it using "Uniting for Peace" for the first time in forty years when it referred the situation in Ukraine to the General Assembly. The General Assembly's activation arguably left it more open to adopting the veto initiative a mere two months

later. This mix of Council paralysis and General Assembly activism has brought heightened attention to questions of Security Council reform, including its membership, the use of the veto, and the relationship between the Council and the General Assembly.

In the past two years, the basic work of the Council has continued, but it has been conducted under extraordinary circumstances. This report explores how these two crises have shaped the Council's working methods in the past three years and their impact on the Council's transparency, accountability, and effectiveness. These events have affected many aspects of life in the Council: how it meets, how it votes, whom it invites to participate in its meetings, and whom it hears from. It has presented elected Council members with challenges but also opportunities to make a difference and play a role in writing the history of the Council. The report also covers the work of key groupings that helped shape the Council's working methods during this period, including the IWG and the Accountability, Coherence and Transparency Group (ACT).

Voting

Background

Voting is fundamental to the Council's ability to do its essential work. Article 27 of the UN Charter governs how the Security Council votes. Articles 27(2) states that "decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members". Decisions on these matters are not subject to a veto. Article 27(3) of the UN Charter establishes that "on all other matters"—that is, on substantive decisions—the affirmative vote of nine members, including the "concurring votes of the permanent members", is needed. This Charter article created the veto power of permanent members. Since the UN's early days, the norm has been that "concurring votes" can include both affirmative votes and abstentions. Thus, a permanent member abstaining on a substantive matter cannot prevent a resolution from being adopted.

The use of the veto is a widely discussed and contentious issue both within the Council and among the wider membership. All five permanent members (China, France, Russia, the UK, and the US) have, to varying degrees, used their veto to block non-procedural decisions of the Council under Article 27(3).[6] The USSR/Russia leads on the use of the veto with 150 vetoes cast on draft resolutions, and the US is in second place with 86 vetoes. France and the UK have cast 18 and 32 vetoes, respectively. China has used its veto 19 times.[7]

Vetoes affect the Council's ability to address some of the most serious violations of the UN Charter and international law. Since 2011, the use of the veto on Syria has blocked the Security Council's condemnation of chemical weapons attacks, shut down a chemical weapons investigation mechanism, and prevented a referral to the ICC. On

Ukraine, it has prevented the Council from adopting decisions condemning Russian aggression against Ukraine and referendums there in 2014 and 2022. On "the situation in the Middle East, including the Palestinian question", the veto has for several decades prevented the Council from maintaining consistent pressure against the building of illegal settlements and the use of violence against Palestinians. Recently the veto blocked additional sanctions on the Democratic People's Republic of Korea.

Voting during COVID-19

On 16 March 2020, when the UN suddenly shut down due to the COVID-19 pandemic, one of the most urgent issues the Council faced was how to vote when it was unable to meet in person. With three mandates expiring at the end of that month, establishing a procedure to vote on Council decisions was a priority. By the end of March, Council members had reached agreement on a written voting procedure to adopt resolutions that "would have the same legal status as those voted in the Chamber".[8] China, as Council president in March, set out the agreed procedure in a letter to its members.[9]

The procedure agreed upon was that once a draft was in blue, the president of the Council would circulate a letter announcing that the draft would be put to a vote and requesting Council members to provide their votes in writing within 24 hours. The voting process was posted in the Council's programme of work. Each member sent their vote electronically to the Director of the Security Council Affairs Division (SCAD), together with an explanation of vote, if applicable.

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Within 12 hours of the conclusion of the voting period, the president would announce the outcome of the vote by VTC. The president would then circulate the results of the vote to Council members, the member states concerned, and SCAD. Member states had a further six-hour period to make a written explanation of vote, after which these documents were posted on the Council's website. Using this new procedure, the Council adopted four resolutions in late March—three renewing mandates (UNAMID,[10] DPRK sanctions,[11] and UNSOM[12]) and one on the safety and security of peacekeepers.[13]

Although this electronic voting process was cumbersome and could take up to 36 hours to be completed, it allowed the Council to continue its essential work of renewing peace operations and sanctions committees. There were a few drawbacks: some members felt that a written explanation of vote was a poor substitute for being able to publicly express their views in the Council chamber. This procedure also put a greater burden on the Secretariat, particularly SCAD, which now had additional responsibilities with respect to collecting the electronic votes and conveying them to the president and circulating the documents. All in all, however, given the conditions the Council had to operate under at the time, members accepted the need to vote in this manner.

The Use of the Veto

In 2020, there were five vetoes on three draft resolutions, two of which related to the re-authorisation of the Syria cross-border aid mechanism. The Council's working methods due to the COVID-19 pandemic, with a written voting procedure and lack of in-person meetings, may have made negotiations on Syria more difficult. Russia and China vetoed two resolutions, and two Russian-sponsored texts failed to garner enough votes to pass, before the Council was able to re-authorise a single border crossing for UN humanitarian aid. One of the last bastions of Council unity, counter-terrorism, fell in August when the US vetoed a draft resolution on the prosecution, rehabilitation and reintegration of foreign terrorist fighters (FTFs).

Despite hopes that 2021 would be the first veto-free year since 2013, Russia used its veto on 13 December on a draft resolution on climate and security drafted by Ireland and Niger. Russia and India voted against the resolution, China abstained, and the other 12 Council members voted for it. In addition, 113 members co-sponsored the draft resolution, making this the second-highest number of co-sponsorships from the wider membership. At a joint press stakeout with Niger following the vote, Irish Ambassador Geraldine Byrne Nason said that they were not seeking a veto and had engaged with all delegations in an attempt to find a balanced text. She went on to say. "Let me be clear – the veto is an anachronism. This is a Security Council which sorely needs reform. We regret the use of the veto in all circumstances, and we absolutely regret its use today. Its use is a stain on the legacy of the Council."[14]

The Veto and Ukraine

Given the direct involvement of a permanent member, obtaining agreement on Council products on Ukraine has been difficult. Four of the seven draft resolutions that failed to be adopted in 2022 were related to Ukraine. This includes two draft texts tabled by Albania and the US: one deploring Russia's aggression against Ukraine and the other condemning the referendums that Russia held in its occupied territories in Ukraine in late September. Both were vetoed by Russia. Two draft resolutions tabled for a vote by Russia failed to be adopted because they did not garner enough support: one on the humanitarian situation and the other on military biological activities in Ukraine. Besides the Uniting for Peace resolution, since the start of the war, the Council has issued only one outcome on Ukraine: a presidential statement adopted on 6 May 2022 expressing the Council's support for the Secretary-General's efforts in the search for a peaceful solution. The so-called "hidden veto" or "pocket veto" has also played a role in preventing more decisions on the conflict in Ukraine. For example, in early March 2022, France and Mexico attempted to get agreement on a draft resolution on the humanitarian situation in Ukraine before taking their initiative to the General Assembly.

Russia's veto[15] of the resolution condemning its invasion of Ukraine on 25 February 2022 led to the adoption of a "Uniting for Peace" resolution on 27 February 2022 for the first time in forty years. The resolution referred the situation in Ukraine to the General Assembly and set up the ongoing Emergency Special Session (ESS) on Ukraine in the General Assembly. It met for the first time on 28 February 2022 to adopt a resolution entitled "Aggression against Ukraine", which deplored the invasion and demanded a full withdrawal of Russian forces from Ukraine. By 2 March 2023, it had adopted six resolutions on Ukraine.

Prompted by the gridlock in the Council on Ukraine, a group of member states that had long been interested in curbing the use of the veto pushed for action in the General Assembly, led by Liechtenstein. As a result, resolution A/RES/76/262 was adopted on 26 April 2022. It requires the president of the General Assembly to convene a meeting "within 10 working days of the casting of a veto by one or more permanent members of the Security Council, to hold a debate on the situation as to which the veto was cast, provided that the Assembly does not meet in an emergency special session on the same situation". It also invites the Council, in accordance with Article 24(3) of the UN Charter, to submit a special report on the use of the veto at least 72 hours before the relevant discussion in the General Assembly. Since the adoption of this General Assembly resolution ("the veto initiative"), vetoes have been cast in the Council on DPRK sanctions, the renewal of the cross-border aid mechanism in Syria, and the referendum in four provinces in Ukraine.

It is still unclear what impact this new initiative will have on the use of the veto, if any; at present, some permanent members seem more likely to seek to avoid the attention and pressure associated with providing an explanation of their veto in the General Assembly (note that the General Assembly resolution does not require the member in question to explain their vote, but will give them priority on the speakers' list if they so choose). Still, this initiative has provided the General Assembly with a mechanism to hold permanent members accountable for the use of the veto and has revitalised talk of Council reform.

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10   United Nations Security Council. "Resolution 2515 (2020)." 30 March 2020.
11   United Nations Security Council, "Resolution 2516 (2020)." 30 March 2020.
12   United Nations Security Council, "Resolution 2517 (2020)." 30 March 2020.
13   United Nations Security Council, "Resolution 2518 (2020)." 30 March 2020.
14   Permanent Mission of Ireland to the United Nations, "Stakeout following vote on the Climate and Security resolution." 13 December 2021.
15   United Nations Security Council, "Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136): S/PV.8979". 25 February 2022.

Procedural Votes

Background

In accordance with Article 27(2) of the UN Charter, procedural matters need nine affirmative votes to be adopted and the veto does not apply. Over the years, several issues have become accepted as procedural matters, including whether or not to include an agenda item, to convene or suspend a meeting, to call for an emergency session of the General Assembly, and to extend invitations to participate in Council meetings.

It seems that procedural votes are more common when relations between permanent members are strained and agreement is difficult to obtain. Not surprisingly, procedural votes were used frequently during the Cold War. From 1946 to 1989, 153 procedural votes were recorded. In contrast, between 1990 and 2022, there were 30 procedural votes. Of these, 14 were votes on requests to participate in a meeting, 11 were on whether to adopt an agenda item, one was to postpone a meeting, two were to adjourn a meeting, one was to suspend a meeting, and one was on the sequence of voting. In the 1990s, procedural votes were used almost exclusively in relation to participation in meetings. From 1990 to 1992, there were 11 procedural votes (all of which passed), ten of which pertained to the participation of the Permanent Observer of Palestine in Council proceedings and one of which focused on whether to suspend a meeting on the Occupied Palestinian territories. These votes took place at a time when Israel and the Palestinians were embroiled in the First Intifada.

After 1992, there was no procedural vote in the Council until 2000. There were just five procedural votes in the 2000s, two on participation, two on adding a situation to the list of items of which the Council is seized and one on adjourning a meeting. Between 2014 and 2020, there were 12 procedural votes, primarily on agenda items, a sign of the divisions on certain issues. Three of those votes were on issues related to the situation in Crimea.

Procedural Votes: COVID-19 and Ukraine

One of the drawbacks of the Council operating under COVID-19 pandemic measures was having no voting procedure that allowed for procedural votes. As long as VTC meetings were not regarded as formal meetings, the provisional rules of procedure did not apply. This meant that determining the format of a meeting or a briefer could not be challenged via a procedural vote and had to be decided by consensus. There was only one procedural vote in 2020 (during a rare meeting in person) and none in 2021, a year in which the Council worked remotely until late May. The sole procedural vote in 2020 took place when the Council briefly returned to in-person meetings in October, utilising the Economic and Social Council (ECOSOC) chamber, which permitted greater physical distancing. Russia, as president of the Council that month, invited José Bustani, a former director of the Organization for the Prohibition of Chemical Weapons (OPCW), to brief during the monthly briefing on Syria chemical weapons;[16] some members objected, arguing that he no longer had relevant expertise, having left the OPCW in 2002.[17]

The two procedural votes in 2022 were Ukraine-related: the first over holding a public meeting on Ukraine in January 2022, as Russian troops were gathering on the border of Ukraine and Russia, and the second in August 2022 on having President Volodymyr Zelenskyy brief by VTC.

By late April, there had been one procedural vote in 2023. This was on a briefer proposed by Russia for a meeting on Ukraine. In these tense times, invitations to briefers have become increasingly political, which has led to more frequent use of procedural votes on the choice of briefers.

In the absence of procedural votes during the COVID-19 period, the need for consensus on all procedural aspects of Council meetings may have contributed to discouraging the discussion of at least one issue in a more open setting. Tigray, which was first discussed in the Council on 24 November 2020 under "any other business", continued to be discussed in closed VTCs (rather than open VTCs) until mid-2021. By June 2021, the Council had returned to its pre-pandemic working methods, and members met in person for an informal interactive dialogue on Tigray. The Council held its first open briefing on the issue in July 2021. While there had been strong resistance from the African members to a public discussion, other members backed a more open discussion to shine a spotlight on the deteriorating situation and the Council's efforts to address it. Had the Council not been operating under COVID-19 restrictions in the early months of the Tigray conflict, a procedural vote could have been taken over holding a public formal meeting. It is unclear, however, if this would have attracted sufficient support, given the opposition of the African members at that time.

Abstaining from a Vote

Background

While Article 27(3) of the UN Charter enshrines the veto power of the permanent members, it also includes a less frequently used element: a limitation on the power of the veto through the principle of obligatory abstentions. The Article states that a party to a dispute in the Council (including both permanent and elected members) shall abstain from voting in decisions under Chapter VI of the Charter. In the first six years of the UN— between 1946 and 1952—Council members regularly adhered to the obligatory abstention rule. Members that voluntarily abstained during this period include the UK, France, India, Pakistan, and Egypt. The last time a country abstained from voting under Article 27(3) was in 1960, when Argentina abstained from voting on the Eichmann Question and explicitly cited this Article. Since the early 1990s, member states have rarely called each other out for violating the obligatory abstention rule.

Abstaining from Voting: Ukraine

Following Russia's invasion of Ukraine in February 2022, the issue of whether the obligatory abstention should apply on Chapter VI draft resolutions was privately raised by some Council members

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16   The purpose of these meetings is to review the implementation of resolution 2118 (2013) and the OPCW Executive Council decision of 27 September 2013 on the scheduled destruction of Syria's chemical weapons.

17   The vote was on Russia's proposal to invite José Bustani to brief the Council. The proposal received three votes in favour, six against, and six member States abstained. Having failed to obtain the required nine votes, the proposal was not adopted and, consequently, Bustani was not invited to brief. However, Russia read Bustani's remarks into the record as part of its own statement.

and the wider membership. However, throughout 2022, no member directly referred to Article 27(3) in the Council to suggest that Russia, as a possible party to a dispute, should abstain from voting. Norway alone raised it indirectly, stating that "…in the spirit of the Charter, Russia as a party should have abstained from voting on this draft Resolution."[18] It was finally mentioned directly on 13 January 2023 at an open briefing on Ukraine when Ecuador expressed regret over "the partial application of Article 27, paragraph 3, of the Charter of the United Nations, which established the veto, but also the obligation of the parties to a dispute to abstain from voting".[19]

The conditions under which Article 27(3) can be applied may be one reason why Council members have not pushed Russia to abstain from voting on Ukraine-related drafts. As members are aware, there needs to be a dispute to which the member is a party. Russia, which refers to the invasion as a "special military operation", might argue that this situation is not a dispute. Or, were it to acknowledge that it is a party to the dispute, it might suggest that other Council members are also parties, as they have provided military assistance to Ukraine.

It would be possible to vote on the question of whether a dispute exists between Russia and Ukraine, but the Council would most likely also have to establish whether or not this matter is procedural. Most scholars agree that such a decision would be non-procedural.[20] There is also the question of the type of resolution being voted on. The draft resolution condemning Russia's aggression initially included what appeared to be clear Chapter VII language, such as the determination that the situation in Ukraine constitutes a breach of international peace and security and that Russia had committed acts of aggression against Ukraine, but much of this language was removed, apparently in the hope of securing abstention, rather than a no vote, from China and several other members. Nonetheless, some Chapter VII-type language remained, and some members still felt that it was not an evident Chapter VI resolution. Finally, other members, especially among the Permanent Five who have wide-ranging strategic interests, recognise that calling out Russia could be a double-edged sword. If one of them is involved in a dispute, they may also prefer not to have to abstain.

The non-application of Article 27(3) in this case could fuel arguments that there has been a normative evolution in the practice and that a new customary rule has developed. By remaining silent, Council members may be reinforcing the idea that Article 27(3) is no longer relevant.

Participation and the Powers of the Presidency

Background
Invitations to participate in Council meetings are governed by both Charter articles and the provisional rules of procedure. Under Article 31, any member of the UN may participate, without a right to vote, in a discussion of the Council whenever the Council "considers that the interests of that member are specially affected". This is largely replicated in rule 37 of the provisional rules of procedure, which provides for the participation of non-Council members in discussions "as a result of the decision of the Security Council" when it considers that their interests are specially affected or when a non-Council member brings a matter to the attention of the Security Council under Article 35(1) of the Charter.

Under rule 37, members are invited to participate upon their request. The member state writes to the president of the Council, who then informs Council members that they have received such a request and that, with the consent of the Council, they intend to extend the invitation. If there are no objections, the invitation is extended. If there is an objection, a procedural vote may be needed.

Under Article 32, non-Council members and states which are not a member of the UN, if they are a party to a dispute under consideration of the Council, "shall be invited to participate without vote in the discussion relating to the dispute". Rule 39 does not cover participation by parties to a dispute but focuses on invitations to "members of the Secretariat and other persons, whom it considers competent to supply it with information or give other assistance in examining matters within its competence".

While it is often the presidency that suggests briefers, any Council member may request the invitation of a person under rule 39. Briefers are generally accepted without a vote, but if there are objections, a procedural vote may be called. At the start of the meeting, the invitations are extended by the president, either under "relevant provisions" of the Charter without an explicit reference to a specific Article or rule, or under rule 37 or rule 39 of the provisional rules of the Council.

The working methods around the invitation to non-Council members and individuals providing information to participate in Council meetings took on greater prominence during the COVID-19 pandemic and the Ukraine crisis, as did the role of the Council president in deciding on who would participate in Council meetings.

Rule 37 Participation during the COVID-19 Pandemic
Pandemic working methods restricted non-Council members' participation in Council discussions. Members agreed in April 2020 that member states, members of the Secretariat or individuals who are not members of the Council, may be invited to participate in videoconferences "within the principles of rules 37 and 39".[21] In May 2020, the first open VTC was held, but on the grounds of technical limitations to the platform, the wider membership could only participate through submitting written statements.[22] Although Council members

18   United Nations Security Council, "Letter dated 28 February 2014 from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136): S/PV.8979". 25 February 2022.

19   United Nations Security Council, "Maintenance of peace and security of Ukraine: S/PV.9243". 13 January 2023.

20   Norman Bentwich and Andrew Martin, A Commentary on the Charter of the United Nations. New York: Macmillan Company, 1950. Page 70 suggests that such a vote would be substantive and "as such subject to the veto of the permanent Members, including the Member who is alleged to be a party to the dispute." L. Sievers and S. Daws, The Procedure of the UN Security Council (Oxford University Press, 4th edn, 2014), on pp 318 -321 provides an explanation of the preliminary question and the double veto.

21   United Nations Security Council, "Letter dated 2 April from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council: S/2020/273." 6 April 2020.

22   United Nations Security Council, "Letter dated 7 May 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council: S/2020/372." 7 May 2020.

began to use a mix of in-person and VTC meetings between July and December 2020, pandemic protocols meant that participation continued to be restricted to Council members. Stricter pandemic restrictions required Council members to move back to a largely VTC format in the first half of 2021.

From May 2021, in-person meetings in the Security Council Chamber resumed. However, even then, participation by non-Council member states did not immediately resume. Among the reasons given was the need to comply with New York's health and safety protocols, which included limits on the number of participants in the room, the wearing of masks, and social distancing. Open debates, which can involve as many as 80 member states, proved particularly problematic. This led to rising frustration from the wider membership. It seems that Council members discussed possible options to enable participation from the wider membership, including sequencing the presence of non-Council members based on their speaking slots or having them deliver their statement via VTC; however, there was a sense that some members preferred restricting in-person participation to Council members in order to have shorter meetings, and these options did not gain traction.

Non-Council members' frustration with their inability to interact directly with the Council was evident during the open VTC debates on working methods in May 2020 and June 2021. The May 2020 meeting was held as the Council was still grappling with its new way of working. Among the issues member states raised was the effect on transparency and inclusivity of the Council's COVID-19 working methods with the wider membership not being able to interact directly with the Council and having to provide statements in a written form. Switzerland, on behalf of the Accountability, Coherence and Transparency Group (ACT), comprising 27 member states, reminded members of the purpose of open debates, noting that these were an opportunity to inform Council deliberations rather than to "merely accompany the adoption of pre-defined Council products".[23]

The discontent members expressed at the 2020 meeting had increased by the time of the open debate in June 2021 at which non-Council members could still participate only via written statements. The theme of the June open debate was "Agility and Innovation: lessons for the future from the coronavirus (COVID-19) pandemic". Speaking on behalf of the E10 members, the Kenyan ambassador noted, "One of the greatest challenges to operational continuity of work is the technological capacity of the Secretariat, and the political will to ensure that virtual open debates can include the participation of the wider membership of the UN".[24] He added that written contributions by non-Council Member States were not "an appropriate substitution for their participation in such debates".[25] Non-Council members expressed their discontent as well. Liechtenstein suggested that the two-tier system for participation that had been

created defeated the purpose of an open debate.[26]

With the high-level segment of the 76th General Assembly in September 2021 being held in person[27], demand grew from the wider membership to once again be allowed to participate in Council open debates. In October 2021, the ACT Group wrote to the president of the Council expressing their concern about the "prolonged lack of engagement between the Council and the wider UN membership". Non-Council members were able to provide written remarks, but the ACT Group noted that while this had served as a "temporary mitigating measure against the backdrop of the exceptional and unprecedented circumstances brought about by the pandemic", greater interaction between wider membership and the Council needed to be allowed now.[28]

The first step towards reinstating in-person participation by non-Council members was taken during Ireland's presidency in September 2021. On 9 September, Afghanistan, Iran, Kazakhstan, Pakistan, and Turkey participated in a debate on Afghanistan. This was the largest number of participants under rule 37 since the Council began meeting regularly in person on 25 May 2021.[29] On 21 October 2021, during its presidency, Kenya held the first in-person open debate since 12 February 2020, including in-person participation of the wider UN membership. At this ministerial-level open debate on investing in women peacekeepers and peacebuilders, 35 non-Council members spoke, with another 24 members submitting written statements.[30]

Rule 37 Invitations and the Presidency

During the period of working under COVID-19 pandemic protocols, the Council regularly discussed the issue of invitations to member states whose interests are "specifically affected" under rule 37. Overall, Council members appear to have allowed the presidency to decide whom to invite. This is not strictly in line with the language of the provisional rules of procedure, which indicates that this is a decision of the Council, but appears to have become the accepted practice. There were several cases where presidency decisions caused some unhappiness among non-Council members.

Ahead of an 8 July 2021 meeting on Haiti in connection with the recent assassination of President Jovenel Moïse, the Dominican Republic wrote to France as Council president expressing its "most profound disagreement" with the Council's decision to convene in private format.[31] The Dominican Republic should have been invited to participate, it said, given that it would be one of the countries most affected if the crisis in Haiti spilled over its borders. The letter annexed the Dominican Republic's position on the situation in Haiti.

In the same vein, St Kitts and Nevis, as the chair of the Caribbean Community (CARICOM) caucus of permanent representatives to the UN, wrote to the president of the Council expressing on behalf of CARICOM "profound disappointment at the decision

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23   United Nations Security Council, "Letter dated 19 May 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council: S/2020/418." 19 May 2020.
24   Kenya was an elected member of the Security Council from 2021-2022.
25   United Nations Security Council, "Implementation of the note by President of the Security Council (S/2017/507): S/PV.8798*." 16 June 2021.
26   United Nations Security Council, Letter dated 18 June 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, S/2021/572
27   COVID-19 restrictions still means that attendance was limited to four persons per member state.
28   14 October 2021 letter from the ACT Group.
29   United Nations Security Council Affairs Division, "Repertoire of the Practice of the Security Council, 24th Supplement, Part II. Provisional rules of procedure and related procedural developments. (Advanced version)."
30   United Nations Security Council Affairs Division "Repertoire of the Practice of the Security Council, 24th Supplement, Part II. Provisional rules of procedure and related procedural developments. (Advanced version)."
31   United Nations Security Council, "Letter dated 8 July from the Permanent Representative of the Dominican Republic to the United Nations to the President of the Security Council: S/2021/637." 9 July 2021

Participation and the Powers of the Presidency

of the Presidency of the Council" to exclude CARICOM from the meeting. [32] The letter cited rule 37 in the context of the participation of members whose interests are specifically affected and noted CARICOM's interest and potential role in facilitating national dialogue and negotiation in Haiti. The letter contained an annex with the statement that the CARICOM chair would have delivered at the meeting.

This incident was followed by another controversial presidency decision on rule 37 participants in August 2021 during India's presidency. The situation in Afghanistan was changing rapidly as the Taliban seized control of large parts of the country. By 16 August, Afghan President Ashraf Ghani had fled the country following the Taliban's capture of Kabul. The Council met on the 6 and 16 August to discuss these developments. It seems that Pakistan's request to participate in both meetings was denied. In a letter of 9 August to the president of the Council, Pakistan expressed regret that Afghanistan's immediate neighbours were not given an opportunity to participate. [33] The letter noted Pakistan's stake in peace and stability in Afghanistan and its involvement in facilitating the peace process. The annex to the letter contained Pakistan's views on the situation in Afghanistan and the role it had played in advancing a political settlement. The Pakistan permanent representative's subsequent letter of 15 August 2021 conveyed Pakistan's desire to participate in the meeting as an immediate neighbour of Afghanistan. Neighbouring countries, including Pakistan, Iran, Turkey, and Uzbekistan, have regularly participated under rule 37 in the Council's quarterly debates on Afghanistan. It seems that in the context of Afghanistan's volatile situation in August 2021, members expected several of these non-Council members also to request to participate under rule 37. Although a few members felt that Pakistan should be allowed to participate, given the sensitivity of the situation, members accepted the president's decision that both the August meetings on Afghanistan meeting should be limited to the UN briefer and Afghanistan.

Rule 37 and the Ukraine Crisis

Disagreements over procedural issues became amplified in the context of the Russian invasion of Ukraine in February 2022. Rule 37 featured prominently with successive Council presidencies appearing to exercise a strong say in which members would be able to participate under this rule in meetings pertaining to Ukraine. At the meeting on the situation on the border between Ukraine and Russia on 31 January 2022, during Norway's presidency, Belarus, Lithuania, Poland, and Ukraine participated under rule 37. However, during the Ukraine-related meetings under Russia's presidency the following month, only Germany and Ukraine participated under rule 37. It seems that Latvia and Poland wrote to Russia, as the Council president, asking to participate, but were turned down. The United Arab Emirates (UAE) presidency in March 2022 saw participation only from Ukraine under rule 37, except for one humanitarian meeting where Poland participated. It seems that several Baltic countries had also wanted to participate in meetings in March. The UK and the US presidencies in April and May appear to have allowed for more members to participate under rule 37 who felt their interests were affected, including the EU, Germany, Greece, Italy, Latvia, Poland, and Slovakia. Over the months, the range of issues discussed expanded to include humanitarian impact, nuclear safety, and the Nord Stream gas leak. There continued to be inconsistency with participation under rule 37, however, with the decision often dependent on the preferences of the presidency that month. Almost all of the Ukraine meetings have been open briefings, so having member states participate, other than the country that is being discussed, is in itself unusual.

Some members questioned the growing power of the presidency to determine participation which, according to rule 37, is to be "a result of the decision of the Security Council". In most instances, Council members chose not to challenge the president's decision on participation of non-Council members such as when, in October 2022, Council president Gabon appears to have reversed its decision to allow Lithuania to participate in an open briefing on the humanitarian crisis in Ukraine in which Germany, Greece, Poland, Slovakia, and Ukraine were allowed to participate. [34]

Participation under Rule 37 in Ukraine Meetings in 2022

MONTH/PRESIDENCY	NUMBER OF FORMAL MEETINGS (NOT INCLUDING ADOPTIONS)	NUMBER OF RULE 37 PARTICIPANTS
January (Norway)	1	4
February (Russia)	4	7
March (UAE)	6	7
April (UK)	3	12
May (US)	3	13
June (Albania)	3	13
July (Brazil)	1	8
August (China)	3	4
September (France)	5	17
October (Gabon)	4	12
November (Ghana)	2	8
December (India)	2	6

The participation of Ukrainian President Volodymyr Zelenskyy by VTC was a highly charged issue. The first instance was an open briefing on Ukraine on 5 April 2022 during the UK's presidency. Following that meeting, Russia sent a letter to the president of the Council expressing its view that Zelenskyy's participation ran "contrary to established practice" and that it "ignored the principle that all member states invited to address the Council in accordance with rule 37 should do this in person". [35]

Zelenskyy also spoke to the Council by VTC during Albania's presidency at a 28 June 2022 open briefing on Ukraine. In a letter to

32   United Nations Security Council, "Letter dated 12 July from the Permanent Representative of Saint Kitts and Nevis to the United Nations addressed to the President of the Security Counci: S/2021/660." 3 August 2021.
33   United Nations Security Council, "Letter dated 6 August 2021 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council: S/2021/715." 9 August 2021.
34   United Nations Security Council, "Letter dated 21 October 2022 from the Permanent Representative of Lithuania to the United Nations addressed to the President of the Security Council: S/2-22/790." 24 October 2022
35   United Nations Security Council, "Letter dated 5 April 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council: S/2022/292." 6 April 2022.

the president on 29 June 2022, Russia accused Albania of abusing its prerogative as Council president and ignoring "established practice and the principle that all member states invited to address the Council in accordance with rule 37 should do this in person" by permitting Zelenskyy's virtual participation during the meeting.[36]

Divisions over this issue came to a head at a Ukraine meeting on 24 August 2022 during China's presidency. The meeting was requested by the US and European members in order to obtain a comprehensive update on the political and humanitarian aspects of the war in Ukraine, six months after the Russian invasion on 24 February 2022. Zelenskyy was again scheduled to participate by VTC. Russia requested a procedural vote, accusing members of having contributed to the erosion of the Council's foundations and practices and reiterating its position that a representative of a member state participating under rule 37 must attend in person. Albania countered that virtual participation under rule 37 should be allowed on an exceptional basis when extraordinary circumstances, such as those faced by Ukraine, prevent a representative of a member state from participating in person. A vote was taken on the proposal to extend an invitation to Zelenskyy to participate in the meeting via VTC under rule 37. It was adopted with 13 votes in favour, one against (Russia) and one abstention (China), allowing Zelenskyy to brief at that meeting by VTC.[37]

Rule 39 Invitations during COVID and the Ukraine Crisis

In 2020, a combination of technical limitations of VTC participation and the health and safety restrictions to in-person participation led to a decrease in the participation of those who could supply the Council "with information or give other assistance in examining matters" within the Council's competence under rule 39. Invitations under rule 39 dropped by 21.45 percent, from 387 in 2019 to 304 in 2020 (rising by 14 percent to 354 in 2021. Invitations to male briefers dropped by15.61 percent, to 200 in 2020 from 237 in 2019. Invitations to female briefers fell by 30.6 percent, from 150 in 2019 to 104 in 2020. That year, the number of public meetings or open VTCs fell by 8.6 percent.[38]

Invitations to non-governmental organisations and civil society fell from 67 in 2020 to 51 in 2021. As early as April 2020, civil society groups had begun to raise concerns about the obstacles COVID-19 restrictions posed to participation by civil society. Representation by female civil society briefers appears to have been most affected, with this group decreasing twice as much as male briefers. Some women's groups were particularly concerned that the drop in numbers signalled a negative trend. The Executive Director of the NGO Working Group on Women, Peace and Security, Kaavya Asoka, expressed concern that this was a sign of a lack of political will and a "deprioritization of the voices of independent civil society despite

Council members' claims of women's critical role in ensuring peace and security".[39] (Meanwhile, a parallel development of rising concerns about the safety of female civil society briefers may also be contributing to a reduction in their number.)

In 2021, this trend appeared to reverse itself as the proportion of female civil society briefers rose to 44 percent from 34 percent in 2020.[40] This was partly due to the Council beginning to move back to more regular working methods but also a result of the concerted efforts of Council members who had chosen to focus on women, peace and security (WPS) issues through two creative initiatives. Ireland, Kenya, and Mexico spearheaded the WPS Presidency Trio Initiative pledging during their presidencies in September, October, and November 2021 to make WPS "a top priority".[41] Between December 2021 and December 2022, eight more countries—Albania, Brazil, France, Gabon, Niger, Norway, the UAE, and the UK—signed on to a 1 December 2021 Statement of Shared Commitments on WPS, which built on the presidency trio initiative and committed these members to making WPS a "top priority" during their presidencies.[42] The implementation of the commitment to gender balance, and "striving towards gender parity", among invited Security Council briefers led to an exceptional number of women civil society representatives addressing the Council in some months. Between September 2021 and September 2022, participating members hosted 78 women out of a total of 96 civil society briefers. This figure includes Ireland setting a record of 16 women civil society briefers during its September 2021 presidency, while Albania, with 13 in June 2022, and Norway, with 11 in January 2022, also contributed significantly. By comparison, the Council had invited 41 women civil society briefers for the whole of 2019.[43]

The choice of briefers has become increasingly political on some Council files. In 2020, as we saw in the section on procedural votes above, a procedural vote was taken over having José Bustani brief during a Syria chemical weapons meeting. In early 2023, Council members quietly questioned the credibility and expertise of a number of briefers in Ukraine meetings chosen by Russia. In March 2023, the US requested a procedural vote on the participation of Daria Morozova, the ombudsperson of the self-proclaimed Donetsk region, as the proposed briefer. Russia had asked that she brief in her personal capacity at a meeting on the humanitarian situation in Ukraine. The Council voted against allowing Morozova to brief. There were eight against, four in favour and three abstentions, reflecting the divisions in the Council on this matter.[44] Those against the briefer cited legal and political reasons pointing to the General Assembly resolution (A/RES/ES-11/4)[45], which called on all states and international organisations not to recognise any alteration of the status of the Donetsk region.[46]

36 United Nations Security Council, "Letter dated 29 June 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council: S/2022/528." 30 June 2022.

37 United Nations Security Council, "Maintenance of peace and security of Ukraine: S/PV.9115." 24 August 2022.

38 United Nations Security Council Affairs Division, "Highlights of Security Council Practice 2019", "Highlights of Security Council Practice 2020", "Highlights of Security Council Practice 2021."

39 Kaavya Asoka, "Support Civil Society at the UN Security Council". 1 July 2020. https://www.womenpeacesecurity.org/support-civil-society-security-council/

40 United Nations Security Council Affairs Division, ", "Highlights of Security Council Practice 2020", "Highlights of Security Council Practice 2021."

41 "Statement of Shared Commitments" 31 August 2021.

42 "Statement of Shared Commitments" 1 December 2021.

43 NGO Working Group on WPS, "Mapping Women, Peace and Security in the UN Security Council: 2019" (2020) 15. https://www.womenpeacesecurity.org/wp-content/uploads/NGOWG-Mapping-WPS-in-UNSC-2019.pdf

44 United Nations Security Council, "Maintenance of peace and security of Ukraine: S/PV.9286." 17 March 2023.

45 United Nations General Assembly, "Resolution A/RES/ES-11/4 (2022)". The resolution was adopted with 143 voting for it, five against and 35 abstaining.

46 Russia invited Daria Morozova to brief at an Arria-formula meeting on Children and Armed Conflict: Ukrainian Crisis. Evacuating Children From Conflict Zone" on 5 April. As an informal meeting of the Security Council approval is not needed for briefers or on the topic of the meeting.

Notwithstanding this example, procedural votes on briefers are used sparingly, with that of March 2023 being only the fourth specifically on a briefer (more frequently, the vote is on the agenda item). Members appear generally to have accepted the merits of hearing from a range of briefers, especially when briefers are suggested by the presidency. In these tense times, members appear to also have chosen, in the main, not to make briefers a battleground.

Meeting Formats: The Balance between Efficiency and Transparency

Background

During different periods of the Council's existence, the pendulum has swung between the need for more open meetings in the spirit of greater transparency and the wish for closed-door consultations which, it is argued, may yield more effective decision-making. The evolution of Council meeting formats is linked to the changes that were taking place in the world. Starting in the early 1990s, member states' increased interest in the Council's work and in presenting their views in open debates on issues of concern to them, such as apartheid in South Africa or the Balkan wars, prompted them to request meetings on these matters and to press for more meetings to be held in public.

The end of the Cold War sparked a period of intense activity in the Council as relations between the permanent members improved, paving the way for significant decisions on international peace and security issues. After a long period of paralysis, Council members found ways of working together to generate effective action.

Meeting in a private space allowed for frank briefings and discussions. Between 1989 and 1994, the Council authorised 20 peace operations requiring the organ's oversight and regular renewal. The Cold War era had been marked by public meetings marred by procedural disputes. Not surprisingly, the early 1990s saw a rapid rise in informal consultations, where differences could be worked out in private. By 1995 this informal format had overtaken public meetings in popularity.

This development was initially welcomed. Council members linked the confidentiality of informal meetings to greater efficiency. However, by 1994, there were also growing calls for a different balance between privacy and transparency. The secretiveness of consultations was criticised. The wider membership had become increasingly discontented over the fact that interested third parties could not provide information to the Council in informal consultations, where participation is strictly limited. Even Council members felt the need for a different type of discussion. French Foreign Minister Alain Juppé said that the Security Council needed to increase its reliance on public debate in reaching its decisions.[47]

At France's initiative, in December 1994, the Council held its first working methods debate, which focused on the balance between official meetings and informal consultations. France had earlier circulated a letter containing an aide-memoire that highlighted the development of this issue.[48] Following the debate, the Council adopted a presidential statement calling for "an increased recourse to open meetings, in particular at an early stage in its consideration of a subject" in order to improve the exchange of ideas and information between Council members and other member states. The issue of the most appropriate format for the Council's discussions and the balance between open and closed meetings has continued to be a key topic of working methods debates over the years.

Starting in 2001, the balance shifted decisively towards public meetings. Between 2001 and 2019, the Council consistently held more public meetings than consultations. Since 2014, the gap between the number of public meetings and informal consultations has continued to widen, peaking in the pre-pandemic period in 2018 with 275 public meetings, the second-highest level since the UN was created, and with informal consultations at their lowest level since 2001 (120). The reasons were largely due to Council members who during these years pushed for public meetings, and the demands of the wider membership for greater transparency.

Meeting Formats During COVID-19

The Council had to develop a completely new manner of working (including meeting classifications) in order to continue functioning during the pandemic. It also needed to develop procedures for the participation of other member states and briefers. Open VTC meetings filled the need for a virtual version of public meetings that allowed for participation of non-Council members "within the principles of rule 37 and rule 39".[49] It was agreed that the interventions of the briefers, Council members and non-Council members would be circulated 48 hours after an open VTC. Closed VTCs were held in lieu of closed consultations, private meetings and informal interactive dialogues.

The proportion of open and closed meetings in 2020 shows the impact of the move to a virtual platform. In 2020, there were 79 public meetings and 143 open VTCs, making a total of 222 open format meetings compared to 243 in 2019 and 275 in 2018. The almost two-week period in March 2020 of no Council activity, followed by more limited activities and only closed VTCs for a short period, partly accounts for the drop in open meetings. The first open VTC was held on 14 April 2020, about a month after the Council held its last meeting in person. There were 67 closed meetings and 57 closed VTCs, making a total of 171 meetings held in a closed format. While this number is higher than before the pandemic, it is deceptive: besides the few weeks of only closed VTCs, this category also includes consultations, private meetings, and informal interactive dialogues. As a result of these factors, the gap between open and closed meetings in 2020 was unusually small. In 2021, the ratio between public and closed meetings began to return to the pattern more typical of the years leading up to the COVID-19 pandemic. There were 116 more open meetings

47 United Nations Security Council, "Letter dated 9 November 1994 from the Permanent Representative of France to the United Nations addressed to the Secretary-General: A/49/667 – S/1994/1279." 11 November 1994.
48 Ibid.
49 United Nations Security Council, "Letter dated 2 April from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council: S/2020/273." 6 April 2020.

(public and open VTCs) than closed (consultations and closed VTCs) in 2021.

The lack of agreement over considering these meetings as official meetings of the Council had an impact on the work of the Council. As elaborated in the earlier section on Article 27, as the provisional rules of procedure did not apply to VTC meetings, it was not possible to hold procedural votes. It was also not possible to issue verbatim records, nor could the issues be included in the Secretary-General's summary statement of items of which the Security Council is seized. A new issue discussed at an open VTC meeting, therefore, would not become a part of the Council's formal agenda. The UK's permanent representative raised this point during the open debate on working methods in June 2021. She said that due to the objections from one Council member, the Council has not held formal meetings via VTC and that without the "procedural mechanisms for the resolution of disagreements' the Council at times has been unable to discuss new or existing agenda items "more substantively or bring visibility and attention to them more openly, as there were no "procedural mechanisms for the resolution of disagreements".[50]

Members saw the advantage of VTC meetings allowing for participation at ministerial, head of state and head of government level at a time when travel restrictions and quarantine guidelines made it difficult for officials to travel to New York. In May 2020, Estonia organised a high-level open VTC on protection of civilians. The meeting was chaired by Estonia's president, with four Council members represented at ministerial level. During Niger's presidency in September, it held a summit-level open VTC on global governance post-COVID that included five heads of state and government and nine ministers.

Even after in-person meetings resumed in the Council Chamber in May 2021, several presidencies chose to hold high-level open VTC meetings. Estonia again organised a ministerial-level open VTC during their June 2021 presidency on children and armed conflict. During its August 2021 presidency, India held a high-level open debate via VTC on maritime security, which was chaired by Prime Minister Narendra Modi. Similarly, during its October 2021 presidency, Kenyan President Uhuru Kenyatta chaired a high-level open debate via VTC on the cooperation between the UN and regional and sub-regional organisations.[51]

Another positive aspect of VTC meetings was that they made it easier to invite a wider variety of briefers. At the open debate on working methods in June 2021,[52] several members commented on how the technology had allowed them to hear from more diverse voices.

One criticism of the Council's working methods during the pandemic was its reduced transparency. Member states and the media had been used to readily obtaining information when the Council held in-person meetings. Council members attempted to address this issue by more consistently issuing press remarks following closed meetings and initiated a new practice of publishing press remarks on their websites following closed VTCs. The wider membership welcomed this practice, but it soon faltered once the Council moved back to in-person meetings.

Meeting Formats During the Ukraine Crisis

In 2022, the Council held 276 public meetings, an increase of about 12.2 percent over 2021. This can be largely attributed to the number of meetings held on Ukraine and the Council discussing the conflict almost exclusively in a public setting. In 2022, there were 50 meetings on Ukraine—including 36 open briefings, six adoptions, four Arria-formula meetings, two discussions under "any other business", one meeting in closed consultations, and one private meeting. Ukraine accounted for over 15 percent of the Council's public meetings.[53] On the one hand, the public nature of meetings on the Ukraine conflict has allowed the Council to show that it has kept a constant focus on the issue. On the other hand, it has led to criticism that these meetings are largely diplomatic theatre and have not resulted in outcomes seriously addressing the situation. So far, there have been only two outcomes: the "Uniting for Peace" resolution and a presidential statement expressing strong support for the Secretary-General's efforts to find a peaceful solution to the Ukraine conflict. The acrimonious relationships among some members over this conflict may make it difficult for truly useful discussions in any Council format, but a closed meeting could allow the Secretary-General or other appropriate briefers to speak more frankly and possibly provide confidential information.

One format that has been used more regularly in recent years is the private meeting. This is a formal, closed meeting that allows for the participation of non-Council members. In 2022, the Council held a private meeting on Russia's accusations that Ukraine was planning to use a "dirty bomb" (an explosive device laced with radioactive material); that year, the private meeting format was also a prevalent tool for discussing Myanmar, as the Council held three meetings on this issue. This trend began in 2021, when four private meetings on Myanmar were held. The Council needed a format that allowed the ASEAN Special Envoy to brief and also took into account some members' opposition to a public briefing.

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50 United Nations Security Council, "Implementation of the note by President of the Security Council (S/2017/507): S/PV.8798*." 16 June 2021.
51 United Nations Security Council Affairs Division, "Repertoire of the Practice of the Security Council, 23rd Supplement, Part II. Provisional rules of procedure and related procedural developments." and "Repertoire of the Practice of the Security Council, 24th Supplement, Part II. Provisional rules of procedure and related procedural developments. (Advanced version)."
52 United Nations Security Council, "Implementation of the note by President of the Security Council (S/2017/507): S/PV.8798*." 16 June 2021.
53 United Nations Security Council Affairs Division, "Highlights of the Security Council Practice 2022." 42 out of 276 public meetings.

The Rise and Fall of the Arria-Formula Format

Background

Arria-formula meetings are considered one of the most flexible meeting formats available to Council members. They have been used since 1992 when then-Permanent Representative of Venezuela Ambassador Diego Arria brought together Council members in the UN Delegates Lounge to meet with Fra Jozo Zovko, a Bosnian Croat priest offering a first-hand account of the violence in Bosnia and Herzegovina.

In order to retain its flexibility, Council members have chosen not to define this format too precisely. The twelfth Supplement to the Repertoire of the Practice of the Security Council covering the years 1993-1995 provides an early understanding, describing these as meetings "convened at the initiative of a member or members of the Security Council in order to hear the views of individuals, organizations or institutions on matters within the competence of the Security Council".[54] In 2006, Note 507 provided more details of the Arria-formula meetings, stating that members intended to utilise them "as a flexible and informal forum for enhancing their deliberations".

This format has evolved over the thirty years of its existence. In the 1990s, the meetings were primarily with high-level government and UN officials, and representatives of international organisations. It became more common for non-governmental organisations to brief at Arria-formula meetings in the 2000s[55], and they have become a key component of this format. These meetings are usually convened by a Council member or group of Council members, but starting in 2017, non-Council members have occasionally been co-organisers.

By the end of 2022, the Council had convened 347 Arria-formula meetings.[56] The frequency of Arria-formula meetings has fluctuated over the years. In the 1990s, there were an average of eight meetings per year, although 1996 was an outlier, with 20 Arria-formula meetings. Arria-formula meetings were less frequent between 2003 and 2011, with an average of over five such meetings per year, falling to just one meeting in 2011. In the last ten years, the number of Arria-formula meetings has risen steadily. Since 2018, there have been around 21 or 22 Arria-formula meetings annually, hitting an all-time high of 32 in 2021.

In recent years as divisions in the Council deepened, this format became increasingly popular as a way of discussing more controversial issues and of amplifying partisan views. Elected members also began to use Arria-formula meetings to highlight priority issues or to test a new issue they wanted to bring into the Council. As the number of Arria-formula meetings increased, members questioned how they were being used. In the 2022 annual Working Methods debate, China said that there was a need for better management of Arria-formula meetings, suggesting that these were no longer achieving the original purpose of information sharing and were instead "a breeding ground for quarrels".[57] The additional time spent in these meetings was becoming a burden. At the 2021 annual Working Methods debate[58], France expressed support of the format but said that "such meetings should not add to the work programme at the expense of the time needed to deal with crises."[59] This use of the Arria-formula meeting has also been a topic of discussion at the annual Hitting the Ground Running workshop for incoming members. In 2021, one participant suggested the increasing number of these meetings "may indicate that Council members were seeking opportunities to explore additional issues that the Council could not address through its formal meetings".[60] There was also criticism of the use of this format for "finger-pointing and unhelpfully, to raise politically sensitive issues."[61]

Another change has been the move from the original closed format to open Arria-formula meetings. In the first twenty years, almost all Arria-formula meetings were closed; in other words, with participation only of Council members and specific invitees. This started to change in 2012 and the trend accelerated following the first broadcast of an Arria-formula meeting on 8 August 2016, which was a discussion on the humanitarian situation in Aleppo. Anyone could now watch these meetings live and in the form of a recording following the meeting. Having Arria-formula meetings broadcast and preserved significantly expanded their reach and visibility, and also boosted their popularity with members, who saw their positions reaching a wider audience through this informal format.

One criticism of open Arria-formula meetings is that they do not allow for the confidential briefings of the closed format. Some members also felt that they were being used to showcase a member's priority interests rather than provide a forum for topics that might otherwise not be discussed. This has generated nascent interest in reverting to the original, closed format of these meetings. Kenya, together with the Office on Genocide Protection and the Responsibility to Protect, in November 2021 organised a closed Arria-formula meeting on "Addressing and countering hate speech and preventing incitement to discrimination, hostility, and violence on social media". In October 2022, Norway convened a closed Arria-formula meeting titled "Engaging Afghanistan" with a focus on the political situation in Afghanistan. This closed Arria-formula meeting was, unusually, held in the Norwegian Permanent Mission in New York. Participation was restricted to the briefers, Council members and the five incoming members, who were already observing Council meetings.

Objections to webcasting of Arria-formula meetings in early 2023 may encourage greater use of closed meetings. On 17 March, China blocked the webcasting of an Arria-formula meeting on the human rights situation in the Democratic People's Republic of Korea. The meeting was convened by Albania and the US. On 4 April, the UK raised an objection to webcasting an Arria-formula meeting convened by Russia on children and armed conflict in Ukraine. The webcasting of Arria-formula meetings via UN TV requires the consent of all Council members; they can therefore be blocked by a single Council member. Albania webcast the DPRK meeting live on the Facebook page of its permanent mission in New York, and Russia used their mission's Facebook page to webcast the Ukraine meeting live.

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54   United Nations Security Council Affairs Division, "Repertoire of the Practice of the Security Council, 12th Supplement, Part I. Meetings (rules 1-5)."
55   There were three Arria meetings with civil society from 1993 to 2000. In 2001, six out of the 13 meetings involved NGO representatives, as did nine of the 14 held in 2002. Security Council Report, "Arria-Formula Meetings."
56   Security Council Report and the UN's Security Council Affairs Division's Security Council Practices and Charter Research Branch maintain a list of 'Arria-formula' meetings.
57   United Nations Security Council, "Implementation of the note of the President of the Security Council (S/2017/507): S/PV.9097*." 28 June 2022.
58   United Nations Security Council, "Implementation of the note by President of the Security Council (S/2017/507): S/PV.8798*." 16 June 2021.
59   Ibid.
60   United Nations Security Council, "Letter dated 16 February 2022 from the Permanent Representative of Finland to the United Nations addressed to the President of the Security Council: S/2022/128." 17 February 2022.
61   Ibid.

The Rise and Fall of the Arria-Formula Format

Arria-Formula Meetings during COVID-19

During the pandemic, the use of a virtual platform for Arria-formula meetings proved very popular. The accelerated use of technology to communicate and convey information also opened up the possibility of broadcasting this informal meeting on other channels such as YouTube and Facebook. The constraints that the Council was operating under during the pandemic appear to have spurred greater use of this format, with some members seemingly choosing to hold Arria-formula meetings rather than Council VTCs so that the wider membership could take the floor. It also led to the first high-level Arria-formula meeting. In May 2020, Estonia convened a VTC Arria-formula meeting on the commemoration of the 75th anniversary of the end of World War II on European soil, and 45 out of 76 participating members were represented at foreign minister level or above.

The topics of Arria-formula meetings in 2020 and 2021 showed members' preoccupation during these years and their priority areas. Not surprisingly, members used this format to discuss the impact of the COVID-19 pandemic, including on children, on the prevention of terrorism and violent extremism, and on the Myanmar crisis. These meetings supplemented VTC meetings of the Council on the consequences of the pandemic.

The high number of Arria-formula meetings on the use of technology is an indication that this format continued to be used to focus greater attention on an emerging issue even when members were not able to meet in person. Seven such meetings[62] were held in the period 2020-2021, with three of those focused on cyber-related issues. Other Arria-formula meetings on technology covered emerging technologies, addressing and countering hate speech, harnessing technology to deliver justice for war crimes, crimes against humanity and genocide, and the role of digital connectivity in access to education in conflict and post-conflict situations.

Members also continued to use this format to foreshadow discussions they intended to initiate in the Council. In this context, Mexico convened an Arria-formula meeting on 10 September 2021 on small arms and light weapons ahead of the ministerial-level meeting they foresaw on the issue during their November 2021 presidency. The format was also used to follow up initiatives. Niger and Norway used the Arria-formula format in December 2021 to build on their resolution on protection of education adopted in October 2021. In addition, during the pandemic, the Arria-formula was used to hold a public meeting on issues where it might be difficult to get agreement to convene an open VTC meeting: there were three Arria-formula meetings on Belarus, one in 2020 and two in 2021.

During this period, Russia began using Arria-formula meetings more frequently. The change was sudden and dramatic. Until January 2020, Russia had held only four Arria-formula meetings, one in 1996 and three in 1998. Between January 2020 and December 2022, Russia held 18 meetings either by itself or with other members, making up nearly 22 percent of all the Arria-formula meetings during that period. China, too, has shown more interest in using this format. It co-organised six Arria-formula meetings between 2020 and 2022.[63]

Ukraine and Arria-Formula Meetings as a Battleground

Arria-formula meetings as a battleground for competing narratives is most clearly illustrated by the meetings on Ukraine. Western countries and Russia alike have used Arria-formula meetings to present vastly different narratives of the war. Since 2014, Council members whose positions are closely aligned with that of Ukraine have used the Arria-formula format to highlight their views on different aspects of the situation in Crimea. These members—usually European Security Council members and the US, in cooperation with Ukraine—have convened meetings each March on the anniversary of the 2014 Russian annexation of Crimea. Albania and Poland also held an Arria-formula meeting on "The destruction of cultural heritage as a consequence of Russian aggression against Ukraine" in July 2022.

Russia in turn has convened several Arria-formula meetings to counter criticism of its invasion of, and actions in, Ukraine both in 2014 and 2022. In May 2020, Russia organized its first Arria-formula meeting on the situation in Crimea. That year it also organised an Arria-formula meeting on the implementation of the Minsk package of measures. In 2021, Russia again held a meeting on Crimea as a direct response to other members holding an Arria-formula meeting titled "Crimea: 7 years of violations of Ukraine`s sovereignty and territorial integrity". It went on to convene four more Arria-formula meetings in 2021, three of them Ukraine-related.[64] Following its invasion in February 2022, Russia convened four Arria-formula meetings that provided its perspective on the situation in Ukraine.

62   Security Council Report, "Arria-formula Meeting on "Preventing Civilian Impact of Malicious Cyber Activities (20 December 2021)", "Arria-formula Meeting on Hate Speech and Social Media (28 October 2021)", "Arria-formula Meeting on the Impact of Emerging Technologies on Peace and Security (17 May 2021)", "Arria-formula Meeting: Delivering Accountability through Innovation and Partnership: Harnessing Technology to deliver justice for war crimes, crimes against humanity and genocide (12 May 2021)", "Arria-formula Meeting: Access to education in conflict and post conflict contexts: Role of digital technology and connectivity (2 October 2021)", "Arria-formula Meeting on Cyber-Attacks Against Critical Infrastructure (26 August 2020)", "Arria-formula Meeting: Cyber Stability, Conflict Prevention and Capacity Building (22 May 2020)".
63   "Arria-Formula Meetings: UN Security Council Working Methods." Security Council Report, https://www.securitycouncilreport.org/un-security-council-working-methods/arria-formula-meetings.php.
64   17 March 2021: Folllow-up to the Arria-formula discussion of 12 March 2021 on the situation in Crimea; 5 May 2021, Odessa seven years after: Neo-nazism and violent nationalism as drivers of conflict in Ukraine; 2 June, The Circumstances of Maidan and its after effects in Donbas; 22 December 2021, Situation with national minorities and glorification of Nazism in Baltic and Black Sea regions.

Council Outcomes in Difficult Times

Background

The Council has been able to conduct its necessary business during these difficult years. Most resolutions are on mandate renewals of peace operations or sanctions regimes, and these numbers have remained relatively stable. More significant are the non-unanimous resolutions[65], which tell the story of the difficult dynamics among members.

As Council divisions increased over the past dozen years with contentious issues such as Libya, Syria and Ukraine coming on to the agenda, the number of non-unanimous resolutions began to rise. In 2011, unanimous Council resolutions were the overwhelming norm, and non-unanimous resolutions were fewer than five percent. By 2019, about 15 percent of resolutions were adopted without unanimity.

Differences in agreement on the utility of sanctions and language on human rights, gender issues, and climate change have become increasingly pronounced in recent years. These differences would have existed without the pandemic and the Russian invasion of Ukraine, although these two crises may have had an effect on voting patterns. In 2020, the percentage of non-unanimous resolutions jumped to some 23 percent.[66] There was a dip in the percentage of non-unanimous resolutions in 2021 to 16 percent, perhaps reflecting a slight easing of tensions in the Council with the change in the US government and an apparent increased willingness among members to try to find agreement as they began to negotiate face-to-face again.[67] In 2022, 33.3 percent of resolutions were adopted non-unanimously, all of them following Russia's invasion of Ukraine in late February.[68] That year, the difficulty in obtaining agreement also contributed to the low number of presidential statements, which fell from 24 in 2021 to just seven in 2022—the lowest number of presidential statements adopted since the Council started using this format.

Council Outcomes during the Pandemic and the Ukraine Crisis

While the Council was able to continue performing many of its regular functions during the pandemic, the deepened pre-existing divisions among Council members led to difficult negotiations on several issues. Conducting negotiations using a virtual platform may have exacerbated the problem. Members missed the informal corridor conversations that allowed them to work out possible compromises during a difficult negotiation. Some members found the VTC negotiations more efficient as virtual meetings could be shorter, but these meetings may have led to less-than-optimal outcomes.

It is difficult to distinguish the impact of COVID-19 measures and the Ukraine crisis on the Council's outcomes. In 2020, when most of the Council's work was done under COVID-19 provisional measures, the Council adopted 57 resolutions, five more than in 2019.

Presidential statements dropped slightly from 15 to 13. After working largely virtually in the first half of the year, in 2021, the Council returned to in-person meetings. That year it adopted the same number of resolutions as in 2020, but presidential statements saw a marked increase from 13 to 24. In 2023, the year that the Ukraine conflict came into the Council, it adopted 54 resolutions, only three fewer than in 2021 and 2020. The numbers themselves are only part of the story. The compromises needed to obtain these resolutions indicate the effect of a divided Council on the substance of outcomes.

While adopting a similar number of resolutions between 2020 and 2022, members' difficult negotiations often required compromises and short rollovers of UN peace operations. In 2020, some of these rollovers were meant to buy time, as the Council came to grips with operating in a new environment. This was the case with the renewal of the UN/AU Hybrid Operation in Darfur at the end of March 2020[69] and the March and June 2020 adoptions of resolutions[70] on the UN Mission in Somalia. Difficult dynamics yielding short rollovers continued in 2021 with the UN Support Mission in Libya[71] and the AU Mission in Somalia, both of which had short extensions twice. On 17 September 2021, after the Taliban seized power in Afghanistan, the Council renewed the UNAMA mandate[72] for six months (until 17 March 2022) rather than the customary 12 months, giving the Council more time to consider the evolving situation before determining the future configuration or responsibilities of the mission.[73]

The difficulty in getting agreement on a product on COVID-19 reflected the dynamics at play. The Council faced increasing criticism for its silence on the global health crisis. Estonia proposed a Council press statement as early as 18 March 2020, but some members were not convinced that COVID-19 was a matter of international peace and security. At about the same time, France began discussions of a draft resolution that would express support for the Secretary-General's ceasefire appeal during the pandemic. This quickly stalled due to US-China divisions over the origins and even the name of the virus. Tunisia circulated a separate draft resolution to the elected members at the end of March, which also focused on the call for a ceasefire. The US withdrawal from the WHO in June 2020 further complicated the negotiations. Eventually France and Tunisia merged their drafts and worked with members to find compromise language between April and June 2020. Finally, on 1 July, the Council adopted a resolution supporting the Secretary-General's appeal for a global ceasefire to tackle the COVID-19 pandemic.[74] Although it took four months for the Council to agree on a formal product on the pandemic, in meetings, it regularly discussed the impact of COVID-19, on both country-specific and thematic issues. Press elements posted on members' websites showed that the Council had discussed different

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65   Non-unanimous resolutions are those that are adopted with fewer than 15 positive votes.

66   In 2020, the 13 resolutions which did not garner unanimous support covered sanctions renewals (Central African Republic, Libya, Somalia, South Sudan, and Yemen), mission mandate renewals (Democratic Republic of the Congo, Western Sahara, Haiti, and Libya), criminal tribunals, and the Syria humanitarian situation.

67   In 2021, the nine resolution which did not garner unanimous support covered sanctions renewals (Central African Republic, Somalia, South Sudan, and Yemen); mission mandate renewals (Central African Republic and Western Sahara); Central African Republic (increase in force structure); Afghanistan (on the Taliban's seizure of power and the 26 August attack at Kabul airport), and Small Arms and Light Weapons.

68   In 2022, the 18 resolutions which did not garner unanimous support covered sanctions renewals (Central African Republic, Democratic Republic of Congo, Libya, Somalia, South Sudan, and Yemen); mission mandate renewals (Central African Republic, Libya, Mali, Somalia, South Sudan, and Western Sahara); the Syria humanitarian situation; "General issues relating to sanctions"; the International Residual Mechanism for Criminal Tribunals (IRMCT); and "Uniting for Peace" (Ukraine).

69   United Nations Security Council, "Resolution 2517 (2020)".

70   United Nations Security Council, "Resolution 2516 (2020)", and "Resolution 2527 (2020)".

71   Resolution 2595 of 15 September extended UNSMIL's mandate for two weeks until 30 September 2021 and resolution 2599 extended it for four months until 31 January 2022. Members disagreed over how the draft text should address the withdrawal of foreign fighters and mercenaries from Libya and the implementation of the recommendations of an independent strategic review of UNSMIL.

72   United Nations Security Council, "Resolution 2596 (2021)".

73   Security Council Report, "In Hindsight: When Does the Security Council use Technical Rollovers?" 29 October 2021.

74   United Nations Security Council, "Resolution 2532 (2020)".

Council Outcomes in Difficult Times

dimensions of the pandemic, including its impact on peace operations. In 2021, the Council adopted a resolution on COVID-19 vaccinations, following the change in the US administration.

The Ukraine Crisis and Consensus

The rise in tensions following the invasion of Ukraine was the backdrop to the increase in non-unanimous resolutions, as well as 2022's sudden drop in presidential statements. As discussed above, 18 of the 54 resolutions that year, or one-third, were not unanimous, the highest proportion of non-unanimous resolutions in the last ten years. Obtaining agreement on resolutions was often difficult and time-consuming, and even after obtaining significant compromises, some members abstained for a variety of reasons. It is difficult to determine the extent to which bitterness over Ukraine seeped into negotiations on other files, but the environment in the Council was certainly not conducive to compromise. Resolutions on sanctions continued to be particularly problematic, with several members abstaining on the renewal of sanctions in the Central African Republic (CAR), Democratic Republic of the Congo (DRC), Libya, Somalia, and South Sudan. So, too, was the case of the renewal of the residual mechanism of the international criminal tribunals. Several peace operations mandates were contentious. For the first time since it was established in 2013, the mandate of the UN mission in Mali, MINUSMA, was not renewed unanimously. Russia and China abstained, citing as a concern, among other things, the prominence of human rights issues in the mandate. Other non-unanimous mandate renewals included the missions in the CAR, Libya, Somalia, and Western Sahara.

The low number of presidential statements testifies to the difficulty of consensual decision-making in 2022. There was a 70.8 percent decrease from 24 in 2021 to seven in 2022. The seven presidential statements covered the relationship with the League of Arab States, the International Residual Mechanism for Criminal Tribunals, Ukraine, DRC peacekeeping, capacity-building support to African countries, and counter-terrorism.

The Council has often used presidential statements to respond to a changed situation on its agenda, but in 2022 the only such example was the presidential statement on the DRC, highlighting the resurgence of the M23 group in the east of the country. Reaching agreement on language referring to climate and security, as well as to human rights, has proven problematic. Draft presidential statements following the UNOWAS and UNOCA briefings, and a debate on AU-UN relations, failed to be adopted due to objections from some members to language on climate and security.

Council Visiting Missions

Background

The Security Council's first visiting mission was to Cambodia and Viet Nam in 1964. Over the years this working method has been used for preventive diplomacy, to gather information, support peace processes, and mediation. Although the Council went on fewer than a dozen missions during the Cold War, in the decades since, this has become a more frequently used working methods tool. Between January 2009 and April 2023, there were 28 missions.

Early visiting missions were often made up of a small number of Council members deployed quickly at critical moments to address specific challenges. This allowed for flexibility when a crisis broke out and was less costly. The last time such a "mini-mission" was deployed was in 2012, when six Council members were dispatched to Timor-Leste to underscore the international community's commitment to the country's peace and development as the UN mission withdrew. An earlier "mini-mission" to Timor-Leste, in 1999, is also a good example. A five-member delegation (Malaysia, Namibia, the Netherlands, Slovenia, and the UK) was dispatched to East Timor and Indonesia after the violence that followed the Council-authorised referendum in which East Timor overwhelmingly opted for independence from Indonesia. Whereas visiting missions now are usually planned months in advance, that delegation departed within 24 hours of obtaining Indonesia's agreement. High-level engagement during the visit and a resolution upon the delegation's return authorising an enforcement operation with Indonesia's consent had significant impact on the situation and illustrated the Council's ability to use a visiting mission for conflict resolution and prevention.

Some members have tried to revive the practice of smaller missions as a way of promoting greater efficiency and flexibility, but most currently believe that visits should be undertaken by all 15 members.

The Council has made a point of visiting situations of high concern repeatedly. Such was the case with its eight trips to Burundi and to Rwanda, five trips to Mali, and four trips apiece to East Timor/Timor-Leste, Kosovo, Liberia, Haiti, and Sierra Leone. Consistent with the Council's work in recent decades having focused on hot spots in Africa, the continent accounts for the large majority of visiting missions. The leading destination has been the DRC, which the Council visited every year between 2000 and 2010, then returned to in 2013, 2016, 2018, and most recently in March 2023. It has been difficult, however, to get agreement to visit countries where there are strong divisions among members, such as Syria or Ukraine; in any case, a visit for which Council members lack an agreed message is unlikely to have a positive impact on the situation.

While the impact of a Council visiting mission is hard to measure, the deeper understanding of the political climate and security challenges that comes with first-hand exposure can influence the Council's actions. These visits also provide a unique opportunity for Council members to interact with the wider UN mission and country team. Following the visit to Mali in March 2016, Council members provided a more robust mandate for the mission in June, influenced by what they had heard from Malian stakeholders. The Lake Chad Basin visit in March 2017 resulted in a resolution that addressed the complexity of the situation, notably the link with root causes of the conflict, including development and climate change. Such a resolution, which was the first to focus on the armed group Boko Haram, was largely possible because members had heard the same messages from stakeholders in all four countries. During the visit to South Sudan in September 2016, the Council agreed on a joint

Council Visiting Missions

communiqué with the Transitional Government of National Unity in which the government consented to the deployment of the Regional Protection Force as a part of the UN Mission in South Sudan.

The Effect of the COVID-19 Pandemic and the Ukraine Crisis on Visiting Missions

Due to the restrictions on travel during the COVID-19 pandemic, Council members did not go on any visiting missions in 2020. In 2021, as COVID-19 travel restrictions were gradually lifted, there was one visiting mission to Mali and Niger in October 2021. Although COVID-19 travel restrictions had receded by 2022, there were no visiting missions that year, seemingly due to a lack of consensus on potential destinations and the Council's preoccupation with (and tensions generated by) the conflict in Ukraine.

The travel restrictions of the COVID-19 pandemic period prompted members to explore the use of new technologies in relation to visiting missions in the IWG and at an Arria-formula meeting. While not a substitute for in-person visits, new technologies could provide members with a textured view of developments in the field. In 2022, Council members heard the perspective of various civil society actors involved in the peace process in Colombia and saw the damage from the war in Yemen through the use of VR headsets. Although the Council appears to have restarted visiting missions with the March 2023 visit to the DRC, more frequent use of virtual tools like this would be a cost-effective way for the Council to step up engagement with the field.

Visiting missions have long been one of the Council's more useful and versatile tools. It appears that without regular visiting missions, there may have been a lack of institutional memory of their benefits. With the most recent visit to DRC, members are more cognizant of how visiting missions can help them understand complexities of the situations they are dealing with. It may also have shown members the importance of engaging directly with key stakeholders and unified messaging. As members re-acquaint themselves with this working method, there may be interest in improving the efficiency and effectiveness of visiting missions.

"Fair Burden-sharing" and the Equitable Distribution of Work

Background

Penholding is the "informal arrangement whereby one or more Council members […] initiate and chair the informal drafting process" of outcomes, according to the most recent compendium of the Council's working methods.[75] The penholding role extends beyond the drafting of Council outcomes, however, and includes taking the initiative on Council activities concerning that particular agenda item, such as requesting emergency meetings and organising visiting missions. The P3 (France, the UK and the US) have largely dominated this system for at least the past decade.[76] Note 507 observes that this system "aims to facilitate timely initiatives to ensure Council action while preserving an element of continuity, with a view to enhancing the efficiency of the Council's work". At the same time, it states that "[a]ny member of the Security Council may be a penholder", and that all Council members "should be allowed to participate fully in the preparation" of outcomes.[77]

Co-penholderships between permanent and elected members became a reality when Germany joined the UK as co-penholder on issues concerning Libya sanctions and Sudan in 2019. This seemed an anomaly rather than a new beginning, however, as no new penholding partnerships between permanent and elected members followed in 2021 after Germany left the Council. It appears that while a few incoming members in 2021 expressed interest in co-penholding with a permanent member, this was rebuffed.

In contrast with penholderships, subsidiary bodies established by the Council have, in recent years, been chaired exclusively by elected members. The process of selecting chairs was opaque and completely controlled by the permanent members for many years. In 2016, the date of the election of Council members by the UN General Assembly was brought forward from October to June, making it possible to address the selection of chairs at an earlier date within the Informal Working Group on Documentation and Other Procedural Questions (IWG), led at the time by Japan. While the appointment process is now more transparent and collaborative, facilitated by a permanent and an elected member, it remains difficult for members to agree on the chairs and on an equitable distribution of work.

Penholdership Developments

Note 507 asserts that "more than one Council member may act as co-penholders, when it is deemed to add value, taking into account as appropriate the expertise and/or contributions of Council members on the subjects". Elected members have been making the argument that co-penholdership arrangements among elected members and permanent member penholders would promote transparency and the fair and equitable distribution of work. This issue was raised in the E10 statement in the 2021 Working Methods debate and by several members at an Arria-formula meeting on penholdership arrangements organised by Russia in August 2022.[78] Among the issues some speakers raised at this Arria-formula meeting was a need for a more structured practice on selecting penholders and co-penholders, regular review of inclusivity and timeliness for drafting practices, and the adoption of a code of conduct for penholders. A number of countries also suggested that countries in the region were best placed to be penholders on situations from that region. Ghana suggested adopting an informal set of commitments or code of conduct for penholders. Brazil suggested that the IWG include the issue of penholderships as a regular agenda item to discuss these issues. As a result, the IWG has had a standing item on penholderships since November 2022.

An important development is the increase in co-penholding among elected members. Besides the traditional elected member

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75   United Nations Security Council, "Note by the President of the Security Council: S/2017/507." 30 August 2017.
76   For the evolution of the penholder system, please see Security Council Report's 28 December 2018 Research Report on The Penholder System.
77   United Nations Security Council, "Note by the President of the Security Council: S/2017/507." 30 August 2017.Note 507, paragraphs 78 and 79.
78   United Nations Web TV, "Arria-Formula Meeting on Penholdership." 11 August 2022.

"Fair Burden-sharing" and the Equitable Distribution of Work

files—Afghanistan[79], the Syria humanitarian file[80], and Guinea Bissau—cross-regional groups of elected members have successfully worked together on thematic issues such as hunger and conflict and attacks on hospitals and health care workers. Since 2019, the UNOWAS file has had a West African member and European member as co-penholders.[81] Elected members also joined forces on resolutions on attacks on education (Norway and Niger in 2021) and the Gulf of Guinea piracy (Ghana and Norway in 2021). The co-penholding between Ireland and Niger on a draft climate and security resolution in 2021 did not lead to the resolution being adopted due to a Russian veto, but it may have encouraged the strong support shown by 13 positive votes and an abstention from China. Mexico and Norway drew on their shared interest in conflict prevention to lead on the presidential statement on the Secretary-General's diplomatic efforts on Ukraine and worked together on a potential outcome on the grain deal negotiated by the UN. Ireland held the pen on Tigray, Ethiopia in 2021 and worked closely with the A3 on outcomes. (While the A3, together with Norway, initiated draft press remarks on Tigray in October 2021, these were not released due to opposition from China and Russia.)

2022 saw a surge in co-penholding among permanent and elected members. The Ukraine crisis created new penholding needs and the P3 were rather unusually willing to share the pen with elected members on this issue: Albania and the US were penholders on the political aspects,[82] and France and Mexico on the humanitarian aspects, of the Ukraine war. In 2022, Mexico also was co-penholder with the US on Haiti and the UK on Colombia. Mexico chaired the 2374 Sanctions Committee in 2021-2022 and served as co-penholder with France on the resolution renewing the Mali sanctions regime in August 2022. This trend appears to have continued into 2023, with Ecuador co-penholding on Haiti with the US and on Ukraine humanitarian issues with France.

Several factors have contributed to these shifts in penholding patterns. Elected members' focus on this issue for several years may have finally nudged open the door to co-penholding with the permanent members. Elected members joining the Council in recent years have come in wanting to make a difference, particularly on issues of importance to them. They viewed being a penholder as an avenue for such influence, and actively pursued co-penholderships, or simply drafted outcomes as needed, as Norway and Mexico did. Some elected members, such as Kenya, have been influential as "silent penholders" on regional issues, preferring to work behind the scenes. Other informal penholder collaborations have included the A3 and France on the Great Lakes. The UK, in 2022, began co-penholding on UNOCA with Gabon. Additionally, permanent members appear to see an advantage to broadening regional representation in penholding, especially on files that have become difficult due to host country opposition.

China and Russia have shown support for expanding the circle of penholders and for multiple members to serve as co-penholders in the context of a more even distribution of responsibilities in the Council. Russia recently revived a suggestion made in a June 2018 draft presidential note that all Council members should serve as penholders or co-penholders and proposed that the process of designating penholders should be similar to that of appointing chairs of Council subsidiary bodies. China has suggested that there should be two or three penholders per topic to be shared between the permanent members and elected members. The P3 have stated that any member can produce a text, while also pointing out the advantages of continuity and institutional memory that come with a P3 member as penholder. These members have also spoken of the importance of penholders working with the host governments and all stakeholders.

Informal Working Group on Documentation and Other Procedural Questions

Background

The Informal Working Group on Documentation and Other Procedural Questions (IWG) was established in 1993. The IWG's first two years were active, with six Notes by the President adopted and three presidential statements. Activity in the IWG slowed down considerably in the next ten years. In late January 2006, when the Council decided to revitalise the IWG, one of the key changes was moving towards greater continuity in its chairing; as a result, Japan chaired the IWG from February to December 2006 and as of 2007, IWG chairs have held the position for at least one year and have been elected members.

Presidential Notes

Starting in 1993, the development of working methods has been captured in presidential notes. Early presidential notes on working methods covered the annual report, documentation, and the sharing of information with the wider membership. During its time as chair in 2006, Japan focused on bringing together all the existing working methods documents into a single document, which became known as Note 507 (S/507/2006). New versions of Note 507 were released, also under Japan's chairmanship of the IWG, during its subsequent terms on the Council. Note 507 today is the title of the agenda item under which Council working methods meetings are held.[83]

Since the last revision of Note 507 on 30 August 2017, the Council has issued 13 Notes by the President: eight under the chairmanship of Kuwait (2018-2019) and five under the chairmanship of Saint Vincent and the Grenadines (2020-2021). The notes covered:
• Security Council missions (S/2019/990);

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79 While elected members have led and drafted outcomes on Afghanistan since at least 2011, other members have also drafted outcomes, for example, the US in March 2020 and France, the UK, and the US in August 2021.
80 Since 2014 when Australia and Luxembourg led on a draft resolution that created a cross-border aid delivery mechanism.
81 African members have been penholders on UNOWAS since 2016, when UNOWA became UNOWAS.
82 This co-penholderhsip has continued into 2023.
83 For more details on the development of the IWG over the years, please refer to Security Council Report's research report Working Methods: Provisional Progress (2018).

- selection of Chairs of subsidiary bodies (S/2019/991);
- Provisional programme of work (S/2019/992);
- participation of incoming elected members (S/2019/993);
- wrap-up sessions (S/2019/994);
- reports of the Secretary-General in connection with consultations with troop- and police-contributing countries (S/2019/995);
- the gender pronoun used in the Provisional Rules of Procedure (S/2019/996);
- the timeline for the adoption of the Annual Report to the General Assembly (S/2019/997);
- preparation and training opportunities for incoming elected members (S/2021/645);
- the role of coordinators in permanent missions with respect to the implementation of the Council's working methods (S/2021/646);
- monthly working methods commitments of Council presidencies (S/2021/647);
- multilingualism (S/2021/648); and
- working methods during extraordinary circumstances (S/2021/1074).

Informal Working Group on Documentation and Other Procedural Questions: 2020-2021

Under the chairmanship of Saint Vincent and the Grenadines, the IWG held six formal meetings in 2020 and seven in 2021. Together with the 2018–2019 chair, Kuwait, it also organised a retreat for Council members in Kingstown in January 2020 to discuss the IWG's programme of work for that year.[84] The IWG's activities in these two years were shaped by the COVID-19 pandemic and "agility" was added as an area of focus besides the more traditional issues of transparency, efficiency and effectiveness in the work on the Council. Topics included the impact of COVID-19 on the existing practice and procedures of the Council, and in-person participation of invitees under rule 37 in open debates of the Council during the COVID-19 pandemic. Also discussed were burden-sharing and penholdership, engagement with other principal organs of the UN, the annual report to the General Assembly, the process of selecting of chairs of subsidiary bodies, finding a balance between open and closed meetings, enhancing Council visiting missions (including through the use of technology), and the order of speakers in Council meetings.

During Saint Vincent and the Grenadine's tenure as chair, a key consideration was the implementation of Note 507 (2017) and all subsequent notes. In line with this, the IWG's agenda included a standing agenda item entitled "Implementation of note 507: reflections from past presidencies and proposals for future action". This allowed recent presidencies to reflect on the working methods used and the challenges they may have faced. In this context, Council presidents were encouraged to prepare and circulate monthly working methods commitments. This practice was captured in the presidential note issued on 12 July 2021.[85] Although these commitments are generally not made public, it

appears that in 2021 and 2022, almost all presidencies circulated monthly working methods commitments. In addition, some presidencies undertook joint commitments.[86]

As mentioned earlier, five notes by the president on working methods were adopted between 2020 and 2021. Although consensus was reached on these notes, some of the negotiations were difficult, particularly on the note on working methods during extraordinary circumstances. Rather than using more specific language that would have provided a guide for future emergencies, the note simply expressed a commitment to "maintaining its state of readiness in all circumstances" in order to "function continuously".

An additional five draft notes were discussed but were not agreed on by the end of 2021. These draft notes were on the order of speakers, penholderships, capacity building to facilitate the process of appointment of subsidiary body chairs, Security Council visiting missions, and the selection process of chairs and vice-chairs of subsidiary bodies. It had been particularly difficult to get agreement on the draft note on penholderships: Kuwait had also tried and failed to obtain consensus on this topic in 2019. It seems that some permanent members were not comfortable with language suggesting the involvement of chairs of subsidiary bodies in the drafting of outcome documents.

Together with IWG chair Saint Vincent and the Grenadines, Estonia organised the annual working methods meeting during its presidencies in May 2020 and June 2021. The meeting in May 2020, which was held as an open VTC, was on "Ensuring transparency, efficiency and effectiveness". The aim of the debate was to prompt discussion on how the Council can function effectively in both ordinary and extraordinary circumstances. In the concept note, members were asked to reflect on the working methods that allowed continuous functioning of the Council during the COVID-19 pandemic. The June 2021 annual open debate was entitled "Agility and Innovation: lessons for the future from the coronavirus disease (COVID-19) pandemic". The concept note invited participants to consider ways the Council could incorporate some of the temporary, extraordinary and provisional measures into its work during ordinary functioning. Other areas that were covered included how meeting formats affected the efficiency, effectiveness and transparency of the Council and how Arria-formula meetings were being used. [87]

Informal Working Group on Documentation and Other Procedural Questions: 2022

In 2022, Albania took over as chair of the IWG. It held five meetings over the year in March, May, July, November, and December. The IWG continued to have "Strengthening and advancing the implementation of the Note by the President of 30 August 2017" as a standing agenda item. This gave recent presidencies an opportunity to brief the IWG on their working methods commitments during their presidency. At the initiative of Albania, the IWG also discussed the idea of an annual report and monitoring mechanism to track the implementation of Note 507 and subsequent Notes by the President on working methods. At the end of 2022, the IWG published its first

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84   United Nations Security Council, "Letter dated 3 march 2020 from the Permanent Representatives of Kuwait and Saint Vincent and the Grenadines to the United Nations addresssed to the President of the Security Council: S/2020/172." 3 March 2020.

85   United Nations Security Council, "Note by the President of the Security Council: S/2021/647." 12 July 2021.

86   For example, the A3 agreed on joint working methods commitments in 2021.

87   United Nations Security Council, "Letter dated 25 January 2022 from the Permanent Representative of Saint Vincent and the Grenadines to the United Nations addressed to the President of the Security Council: S/2022/88." 2 February 2022. Saint Vincent and the Grenadines published "Note 507 Plus, Guide to the Working Methods of the Security Council" in February 2022.

annual report, which contained an annex with selected indicators on the implementation of Note 507 and subsequent notes.[88]

Among the draft presidential notes negotiated in 2022 were additional measures to maintain the state of readiness in extraordinary circumstances, to ensure it can function continuously and mainstreaming gender into the working methods of the Council. It was, however, not possible to reach consensus on these two presidential notes. Other issues discussed were penholderships, the selection process of the chairs and vice-chairs of subsidiary bodies, documentation and distribution of the list of speakers. A new standing item was added to the agenda on "penholdership, penholders and co-penholders on Council resolutions, presidential statements" at the November 2022 IWG meeting, following up Brazil's suggestion at Russia's Arria-formula meeting.

Albania organised the annual Working Methods debate during its presidency in June 2022. The concept note for the debate suggested members consider which working methods used during the COVID-19 pandemic should be retained and whether the Council should develop a preparedness plan for emergencies. Other proposed topics included the participation of high-level representatives, leveraging technology to enhance the efficiency and effectiveness of the Council's work, the monthly assessments of Council presidents, wrap-up sessions, implementation of Note 507, and the selection of subsidiary body chairs. Besides the suggested topics, areas highlighted during the debate were the need to increase the effectiveness of UN sanctions, the veto, and the balance between open and closed meetings. A number of speakers also suggested that the new working methods could be used to develop contingency plans for future extraordinary circumstances.

Albania organised a retreat on working methods in Tirana in October 2022, at which Council members discussed the main proposals from the annual open debate on working methods and the division of labour in subsidiary bodies and penholderships, cooperation with other UN principal organs as well as the implementation of Note 507.

The Wider UN Membership and their Concerns

During the years of extraordinary working methods due to the COVID-19 pandemic, there were a number of issues that concerned the wider membership. Paramount among these was the reduced transparency in the work of the Council. As noted in the earlier section on meeting formats, non-Council members were not able to speak in open VTCs and could only deliver written statements. This led to rising frustration among member states, who have often spoken on the importance of transparency and accountability of the Security Council. Two other issues that continued to be of interest to the wider membership were the annual report of the Security Council and wrap-up sessions.

In the ten years of its existence, the ACT Group, which has 27 members,[89] has spoken out about many of the issues of interest to the wider UN membership. The aim of the group is to promote a more transparent, effective, and efficient UN. It has advocated for Council working methods that meet higher standards of efficiency, and has argued strongly for greater inclusivity, and accountability towards the wider membership.

During the COVID-19 pandemic, the ACT Group made its voice heard on several issues. At the end of March 2020, it raised its concerns about the lack of transparency of the early VTC meetings. At the time, these meetings were not officially announced anywhere, included in the programme of work, or webcast.[90] In February 2021, Switzerland and New Zealand wrote to the president of the Security Council, encouraging the Council to continue to improve on the adaptations made to its working methods. Among the suggestions were to consider virtual meetings as formal meetings of the Council, listing the meetings in the programme of work and the UN Journal, allowing virtual voting, enabling participation of the wider membership in open VTCs, enhancing participation of civil society briefers, having press elements, and better record-keeping of documents. It also suggested retaining certain practices such as virtual participation by briefers and member states, using technology for visiting missions, compiling and circulating statements from meetings, and Council presidents issuing letters on working methods.[91]

In October 2021, the permanent representatives of New Zealand and Switzerland again wrote to the president of the Security Council, following up on the recommendations in their February 2021 letter. They singled out the urgent need to allow non-Council members to participate in person in open debates. The ACT Group members, together with a few elected members, appear to have been instrumental in reinstating the participation of non-Council members in open debates of the Council later that month.

An issue that has gained momentum as a result of the Ukraine crisis is the 2015 Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes, proposed by the ACT Group. Signatories to the Code of Conduct pledge "to not vote against a credible draft resolution before the Security Council on timely and decisive action to end the commission of genocide, crimes against humanity or war crimes, or to prevent such crimes". By April 2023, the Code of Conduct had 124 supporters.[92]

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88   United Nations Security Council, "Letter dated 30 December 2022 from the Chair of the Informal Working Group on Documentation and other Procedural Questions addressed to the President of the Security Council: S/2022/1032." 3 January 2023.
89   Austria, Chile, Costa Rica, Denmark, Ecuador, Estonia, Finland, Gabon, Ghana, Hungary, Ireland, Jordan, Latvia, Liechtenstein, Luxembourg, Maldives, New Zealand, Norway, Papua New Guinea, Peru, Portugal, Rwanda, Saudi Arabia, Slovenia, Sweden, Uruguay, and Switzerland.
90   United Nations Security Council, "Letter dated 30 March 2020 from the Permanent Representative of Switzerland to the United Nations addressed to the President of the Security Council: S/2020/252." 31 March 2020.
91   United Nations Security Council, "Letter dated 8 February 2021 from the Permanent Representatives of New Zealand and Switzerland to the United Nations addressed to the President of the Security Council: S/2021/121." 8 February 2021.
92   122 member states and two non-member observer states have signed the Code of Conduct. See Global Center for the Responsibility to Protect, https://www.globalr2p.org/resources/code-of-conduct-regarding-security-council-action-against-genocide-crimes-against-humanity-or-war-crimes/

Annual Report and Monthly Assessments

Background

Under Article 24(3) of the UN Charter, the Security Council must submit an annual report to the General Assembly for its consideration—the Council's one clear obligation to the General Assembly under the Charter.

Over the years, the UN membership has been critical of the lack of analysis in, and late adoption of, the Council's annual report and has pushed for improvements.

As outlined in various presidential notes since 1993, the working methods around the Council's annual report have improved. The latest presidential note on the annual report, adopted in 2019, tightened the timeline for the completion and adoption the annual report. Starting with the report for 2020, the Council is expected to complete the introduction no later than 31 January and adopt the report by 30 May, "in time for its consideration by the General Assembly immediately thereafter".[93] Neither the COVID-19 pandemic nor the Ukraine crisis affected the Council's ability to keep to this deadline.

Recent Developments

The wider membership has continued to raise concerns about its annual report, including its largely descriptive approach and lack of analysis in the introduction. In its joint statement at the open VTC held to discuss the Council's annual report in 2020, the ACT Group, possibly reacting to issues that had arisen during the COVID-19 pandemic, suggested that the introduction could address trends in the area of international peace and security and provide more information on contributions by briefers. Another suggestion was to add failed draft resolutions to the report. The turn-out for the discussion of the annual report has often been low. The VTC format used in 2020 may have encouraged greater participation, as 37 members spoke that year, falling to 28 members in 2021 and 26 in 2022.

Monthly assessments still come very late or are not submitted at all.[94] These were first suggested by presidential note S/1997/415 as an addendum to the annual report, which describes them as "brief assessments on the work of the Security Council, which representatives who have completed their functions as President of the Security Council may wish to prepare, under their own responsibility and following consultations with members of the Council for the month during which they presided and which should not be considered as representing the views of the Council".

However, for a number of years now, monthly assessments have been subject to a more formal approval process and an understanding that consensus is needed,[95] which has, in turn, made them harder to publish in a timely manner, particularly in 2022. Apparently, references to the meetings on Ukraine have been problematic. In addition, there has been pushback on including informal meetings in assessments, although this had been the practice in the past. In recent years, the divisiveness of the Council has, at times, made agreeing on the introduction more difficult and time-consuming, as well. This could be an issue with the 2022 annual report's introduction, which is being negotiated.

Council and Wider Dynamics

The COVID-19 pandemic exacerbated existing tensions and exposed the deep cleavages among some permanent members. Russia's invasion of Ukraine has led to a further deterioration of P5 relations, and at times, created rifts among the elected members, as permanent members courted others for their votes. There has been talk of needing to build trust, but there is currently little appetite to hold the informal discussions that might help do this. The informal format created in 2019, known as "sofa talks", to allow for a frank discussion of sensitive issues among the permanent representatives, has all but disappeared. Council visiting missions which have helped Council members bond in the past are just coming back.

During the COVID-19 pandemic period, members were able to agree on extraordinary provisional measures to ensure continuity of the Council's basic work. Elected members held seven of the nine presidencies between April and December 2020, and several were at the forefront of developing COVID-19-adjusted working methods. The Dominican Republic and Estonia held the Council presidencies in the two months following the March 2020 shut-down of the UN and were instrumental in creating the working methods that provided a variety of virtual formats and expanded briefers' participation.

Working methods have often been a divisive and politically sensitive area for Council members, with differences seen particularly between the elected and permanent members. Trying to capture in a presidential note the working methods used during the COVID-19 pandemic, together with suggesting improvements, has been difficult. Among the other areas of disagreement have been whether VTC meetings can be considered as official meetings: Russia has continued to hold the position that they cannot. And while briefings via VTC have opened up participation, Russia has made clear its position that VTC briefings are no longer acceptable for member states now that the Council is holding in-person meetings again. While Council members have generally accepted this, some are open to having heads of government or heads of state brief by VTC, and especially so when circumstances make it difficult for them to travel, as in the case of President Zelenskyy.

Documenting and seeking to retain good practices gleaned during COVID-19, Albania, the IWG chair, sought agreement on a presidential note in 2022 on additional measures to maintain the state of readiness in extraordinary circumstances. This followed the issuance of a weakened presidential note on agility in 2021. Some permanent members saw no need to put in writing the practices developed during the COVID-19 pandemic and felt that the letters from Council presidents to the Security Council during that period provided enough information. Perhaps in response to the failure of a

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93   United Nations Security Council, "Note by the President of the Security Council: S/2019/997." 27 December 2019.
94   Ten assessments have been submitted by the 2021 presidencies and eight assessments so far in 2022.
95   Loraine Sievers, Director of SCProcedure and co-author of The Procedure of the UN Security Council, in briefing the Council during the Working Methods debate in 2022, traced this change to 2015 when some Council members, "apparently unaware of the presidential note, contended that assessments must be agreed by consensus".

Council and Wider Dynamics

comprehensive presidential note on the COVID-19 pandemic working methods, the Council members departing at the end of 2022—India, Ireland, Kenya, Mexico, and Norway— transmitted a note in their personal capacities to the president of the Security Council that they hoped would "serve as a reference of some of the lived challenges and limitations of this period, and inspire changes should there be a future disruption of the Council's ability to undertake in-person meetings". The note focuses on the challenges such as not being able to apply the provisional rules of procedure and use procedural votes, the drawbacks of written procedures for voting, restrictions on the broader memberships and record keeping, among others. It also offers recommendations to address some of the limitations of the COVID-19 working methods: considering virtual meetings as formal meetings, applying provisional rules to virtual meetings and using real-time voting.[96]

Working methods is an area that the E10 have been able to agree on even during years when the composition of the group has made it difficult to come together on other issues. Members have used working methods during these years to be able to deliver on their priorities and have helped push for greater transparency during a period when it has not been business as usual for the Council. The IWG chair has been a highly sought-after position among elected members, which has led to delays in agreeing on subsidiary body chairs in recent years.[97]

During these difficult years, elected members generally maintained their unity over working methods. They delivered their fourth joint statement at the 2022 working methods open debate, albeit with a small crack in the unity: although a part of the E10 statement, Brazil and India also delivered a separate joint statement highlighting the need for Council reform, having failed to secure agreement on incorporating the reform issue into the E10 statement.

The need for a more equitable distribution of work and greater burden sharing continued to be a shared objective for elected members. The E10 members have become increasingly vocal on this topic and have generally spoken with one voice. As more elected members become penholders, there may be new dynamics and divisions around this issue in the coming years. Capacity constraints and political sensitivities may mean that some elected members are more likely than others to take on this role.

While sub-groups of elected members, such as the A3 and the European members, have been able to work well together in the last few years, some differences have emerged. In 2022, as permanent members' positions diverged sharply, some elected members found that there was increasing demand for their votes. This has at times led to divisions within sub-groups, such as among the African members.

The issue of working methods is one of great interest to the wider membership, and after feeling excluded from Council activity during the COVID-19 years, many member states have been vocal about the need for greater transparency of the Council. The annual report and wrap-up sessions, as well as the veto, are likely to continue to be issues of significance for these members and the ACT Group.

Observations

The last three years have been extraordinary ones for the Council. Having just emerged from the unusual working methods of the COVID-19 crisis, the Council was confronted with the challenge of a conflict that has raised existential questions about the state of the Council. The importance of working methods to the functioning of the Council in crises has never been clearer. Despite a moment when it was unable to operate at the very start of the COVID-19 pandemic, the Council has not otherwise been paralysed; nor was it left paralysed, as some commentators were quick to predict, by its inability to prevent or reverse the invasion of Ukraine. The Council turning to the General Assembly via its first invocation of the Uniting for Peace procedure in forty years, the stepped-up engagement of member states at large over the use of the veto, and reform questions have raised expectations of significant structural reform.

It is not business as usual, but the basic business of the Council continues nonetheless. The concept of agility has been added to transparency, accountability, and effectiveness as a key component of working methods.

At times there appears to have been a loss of muscle memory of how the Council used to function. The impact of COVID-19, with an overlay of growing political tensions—subsequently exacerbated in 2022—meant that Council visiting missions all but disappeared, meetings rarely deepened constructively beyond the reading of statements, and face-to-face negotiations were no longer the norm. Almost all decisions had to be made by consensus under the COVID-19 pandemic working methods. This appears to have become the default mode of operating for most Council members.

At the same time, not being able to use the provisional rules of procedure for a period may have ushered in a degree of inconsistency in their use, for example, in giving the Council presidency greater power than envisaged in the Charter or the provisional rules of procedure over the participation of member states and choice of briefers.

Elected members who began their term during this period did not experience the normal functioning of the Council. But these difficulties also created opportunities for them. The chairs of the IWG in these years have brought the key working methods issues confronting the Council into the heart of the work of the IWG. Elected members have often driven the changes that were needed as the Council moved to a virtual work environment. And at a time when the permanent members' relationships are strained, elected members have created spaces to work together on thorny issues. They have also found strength in cross-regional partnerships.[98]

96   29 December 2022 letter from outgoing elected members.
97   In 2021 both Albania and Brazil were interested in the IWG chair position. In 2022, a footnote on Japan filling the IWG chair position in 2023 held up final agreement on the subsidiary body chairs for 2022 until the end of January 2022. It seems the objection was over having a footnote on a future position rather than having Japan as chair of the IWG.
98   For example, as seen between Norway and Ghana on Gulf of Guinea piracy (2022), Germany and Niger on climate and security (2020) and Norway and Mexico on the Ukraine grain deal (2022).

Observations

The influence of the African members—already a significant factor—strengthened during these difficult years. In 2020, the A3 plus 1 (South Africa, Kenya, Tunisia, and Saint Vincent and the Grenadines) formed a strong partnership that allowed them to work closely together in spite of having to operate virtually. In 2022, with the Ukraine crisis, the divisions between the European members, the US and Russia gave the African members, together with other members from the south, significant leverage. At the same time, these members are irked that issues from their region are not being given the same level of importance as Ukraine. This perception may lead to a growing divide between the European elected members and others, unless a concerted effort is made to address some long-standing intractable issues on the Council, such as Haiti and Mali. How much attention the Council pays to increasingly volatile issues such as Afghanistan, DPRK, and Sudan will also affect the overall dynamics among Council members. The African members will also be looking for support on an important issue for them: financing of AU Peace Support Operations.[99]

Members need to guard against the weaponisation of working methods which, in divisive times, can be used to distract from more substantive issues and to create further divisions among members. The numerous procedural votes of the Cold War period are testimony to what can happen if Council members are unable to agree. Some of the squabbles over rule 37 invitations to member states, and rule 39 invitations to briefers, belong in this category. These controversies are likely to continue, and this could lead to conversations about managing civil society briefers through more formal criteria.

Formats have been used to further political positions. This is the case with Arria-formula meetings, where members have used the format to amplify and promote specific agendas obscuring the original purpose of informative enquiry. Similarly, the proliferation of public meetings serves as a stage to showcase positions. Public meetings as an arena for procedural battles may lead to the pendulum swinging back towards more informal consultations, but until dynamics among the P5 improve, this is unlikely to lead to interactive exchanges and consensus building. Alternatives may be greater use of private meetings and informal interactive dialogues to allow for more confidential briefings.

Nearly every outcome is hard fought. There are few easy negotiations and compromises are needed to secure agreement on any kind of outcome. This is likely to continue in the coming years. High numbers of non-unanimous decisions are also likely to continue. They have now become the norm on sanctions and some peace operations renewals. Even the issues that members had been united on, such as non-proliferation, have seen vetoes. This is likely to continue as positions have hardened on many issues, including climate and security and human rights. Members in the last few years have had to protect the agenda items that they care about and prevent their degradation, rather than move them forward.

As a result, the focus on implementation of thematic issues is likely to continue. The commitments for working methods and women, peace and security have focused members on the implementation of these issues across the Council's work. There is now an attempt to have something similar on climate and security. It remains to be seen whether a proliferation of commitments will be useful to these issues if members struggle to implement them.

How penholderships should be allocated to elected members will continue to be widely discussed in the coming years. Some have suggested that members from a given region should be considered the de facto penholder for situations from the region. This, however, could prove politically problematic for some members; in reality, some regions have seen very few members stepping up to propose that they penhold on regional issues. There may also be capacity issues in taking on this role, as the time and effort in getting agreement on outcomes has increased as negotiations have become more contentious. Current penholders are under attack by some host governments, which may give rise to conversations about the criteria for being an effective penholder. It may also influence the development of co-penholdership arrangements.

The role of the General Assembly is likely to remain significant, as the Council grapples with a conflict that it appears to have little ability to affect. The Council's use of Uniting for Peace, which has led to a larger role for the General Assembly in addressing the Ukraine situation, and the veto initiative, may provide some momentum for discussion around reform of the Security Council, or at least the better use of some of its working methods.

The Security Council has weathered a stormy few years, relying on its working methods to navigate challenges. The ripple effects of these years are likely to shape the dynamics and how the Council works in the years to come. A deep understanding of the fundamentals that allow the Council to do its work and creative use of working methods will be needed for the Council to be effective in the face of current geopolitics.

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99   "The Financing of AU Peace Support Operations: Prospects for Progress in the Security Council?" https://www.securitycouncilreport.org/, 26 Apr. 2023.

Selected Documents on Working Methods

SECURITY COUNCIL RESOLUTIONS

S/RES/2623 (27 February 2022) called for an "emergency special session" (ESS) of the General Assembly to consider and recommend collective action on the situation in Ukraine. It was adopted with 11 votes in favour, one against (Russia), and three abstentions (China, India, and the UAE).

S/RES/2599 (30 September 2021) extended UNSMIL's mandate for four months until 31 January 2022.

S/RES/2596 (17 September 2021) extended UNAMA's mandate until 17 March 2022.

S/RES/2595 (15 September 2021) extended UNSMIL's mandate for two weeks until 30 September 2021.

S/RES/2515 (30 March 2020) extended the mandate of the DPRK Panel of Experts until 30 April 2021.

S/RES/2516 (30 March 2020) renewed the mandate for UNSOM until 30 June.

S/RES/2517 (30 March 2020) was on the drawdown and exit of UNAMID and established a follow-on presence, in accordance with resolution 2495.

S/RES/2518 (30 March 2020) was on improving the safety and security of peacekeepers.

SECURITY COUNCIL PRESIDENTIAL STATEMENTS

S/PRST/2022/3 (6 May 2022) conveyed strong support for the Secretary-General's efforts in the search for a peaceful solution to the war in Ukraine.

SECURITY COUNCIL MEETING RECORDS

S/PV.9286 (17 March 2023) This was a briefing on the humanitarian situation in Ukraine requested by Ecuador and France, where there was a procedural vote on a proposed briefer.

S/PV.9243 (13 January 2023) This was an open briefing on Ukraine requested by Albania and the US.

S/PV.9115 (24 August 2022) This was an open briefing on Ukraine where a procedural vote was taken on the participation of the President of Ukraine by VTC.

S/PV.9079 (28 June 2022) This was an open debate on the Security Council working methods.

S/PV.8979 (25 February 2022) This was a vote on a draft resolution condemning the invasion of Ukraine.

S/PV.8764 (5 October 2020) This was a monthly briefing on the use of chemical weapons in Syria during which the issue of the proposed briefer, José Bustani, a former director of the Organization for the Prohibition of Chemical Weapons (OPCW), was put to vote.

LETTERS

S/2022/88 (25 January 2022) was a letter from the Permanent Representative of Saint Vincent and the Grenadines as the 2020-2021 chair of the IWG.

S/2021/637 (8 July 2022) was a letter dated 8 July 2022 from the Permanent Representative of the Dominican Republic to the UN to the president of the Security Council.

S/2022/292 (5 April 2022) was a letter from the Permanent Representative of Russia to the president of the Security Council.

S/2022/32 (17 January 2022) was a letter dated 17 January 2022 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/1013 (6 December 2021) was a letter dated 6 December 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/939 (10 November 2021) was a letter dated 10 November 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/848 (5 October 2021) was a letter dated 5 October 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/776 (3 September 2021) was a letter dated 3 September 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/715 (6 August 2021) was a letter dated 6 August 2021 from the permanent representative of Pakistan to the president of the Security Council.

S/2021/703 (3 August 2021) was a letter dated 3 August 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/660 (12 July 2021) was a letter dated 12 July from the Permanent Representative of Saint Kitts and Nevis to the president of the Security Council.

S/2021/524 (1 June 2021) was a letter dated 1 June 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/428 (3 May 2021) was a letter dated 3 May 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/326 (1 April 2021) was a letter dated 1 April 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/245 (9 March 2021) was a letter dated 9 March 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/121 (8 February 2021) was a letter from the Permanent Representatives of New Zealand and Switzerland to the President of the Security Council

S/2021/106 (3 February 2021) was a letter dated 3 February 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2021/18 (5 January 2021) was a letter dated 5 January 2021 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/1163 (3 December 2020) was a letter dated 3 December 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/1077 (2 November 2020) was a letter dated 2 November 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/966 (1 October 2020) was a letter dated 1 October 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/877 (2 September 2020) was a letter dated 2 September 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/778 (4 August 2020) was a letter dated 4 August 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/639 (1 July 2020) was a letter dated 1 July 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/490 (2 June 2020) was a letter dated 2 June 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/418 (19 May 2020) was a letter transmitting the record of the 15 May open VTC session in lieu of the annual open debate on Working Methods.

S/2020/374 (7 May 2020) was letter transmitting the concept note from Estonia and Saint Vincent and the Grenadines for the annual open debate on the working methods of the Security Council.

S/2020/372 (7 May 2020) was a letter dated 7 May 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council

S/2020/273 (2 April 2020) was a letter dated 2 April 2020 from the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

S/2020/252 (30 March 2020) was a letter dated 30 March from the Permanent Representative of Switzerland to the president of the Security Council.

S/2020/253 (27 March 2020) was a letter dated 27 March 2020 from the president of the Security Council addressed to the Permanent Representatives of the members of the Security Council.

A/49/667 - S/1994/1279 (9 November 1994) was a letter dated 9 November 1994 from the Permanent Representative of France addressed to the Secretary-General containing an aide-memoire on open and closed meetings.

Selected Documents on Working Methods

NOTES BY THE PRESIDENT OF THE SECURITY COUNCIL

S/2021/1074 (22 December 2021) was on working methods during extraordinary circumstances.

S/2021/648 (12 July 2021) was on multilingualism.

S/2021/647 (12 July 2021) was on monthly working methods commitment of the Council presidencies.

S/2021/646 (12 July 2021) was on the role of coordinators in Permanent Missions to the United Nations with respect to the implementation of the Council working methods.

S/2021/645 (12 July 2021) was on preparation and training opportunities for incoming elected members.

S/2019/997 (27 December 2019) was on the timeline for the adoption of the Annual Report to the General Assembly.

S/2019/996 (27 December 2019) was on the gender pronouns used in the Provisional Rules of Procedure.

S/2019/995 (27 December 2019) was on reports of the Secretary-General in connection with consultations with troop- and police-contributing countries.

S/2019/994 (27 December 2019) was on the wrap-up sessions.

S/2019/993 (27 December 2019) was on the participation of the newly elected members of the Council.

S/2019/992 (27 December 2019) provided that activities not currently listed in the Security Council's monthly provisional programme of work are to be listed in an unofficial addendum prepared by the president of the Council.

S/2019/991 (27 December 2019) stressed that the process of the selection of Chairs of subsidiary bodies should take into account the need for shared responsibility and a fair distribution of work.

S/2019/990 (27 December 2019) reaffirmed the value of visiting missions, stressed the importance of engagement with the host country, agreed to consider different composition format, agreed to conduct missions within a conflict prevention framework, and to coordinate missions within the UN system.

S/2017/507 (30 August 2017) was the outcome of the work of the Informal Working Group on Documentation and Other Procedural Questions updating the 2010 Note 507.

S/2016/619 (15 July 2016) implemented measures concerning newly elected members, including the preparation of newly elected members, the selection of Chairs of subsidiary organs, and the preparation of Chairs of subsidiary organs.

S/2016/170 (22 February 2016) outlined the measures to improve the transparency of the Council's work, the process of selecting Chairs, the preparation of Chairs, as well as the interaction and coordination among the subsidiary organs and between the subsidiary organs and the Council as a whole.

S/2015/944 (10 December 2015) changed the period of coverage for all annual reports from 1 August to 31 July to 1 January to 31 December, starting with the 2017 report.

GENERAL ASSEMBLY RESOLUTIONS

A/RES/76/262 (26 April 2022) stipulated that the President of the General Assembly shall convene a formal meeting of the General Assembly within ten working days of a veto being cast by a permanent member of the Security Council.

A/RES/ES-11/4 (12 October 2022) on the Territorial integrity of Ukraine: defending the principles of the Charter of the UN

OTHER DOCUMENTS

S/2022/1011 (29 December 2022) Letter dated 29 December 2022 from the Permanent Representatives of India, Ireland, Kenya, Mexico, and Norway to the United Nations

addressed to the President of the Security Council.