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EVENTOS

# A Security Council for the 21<sup>st</sup> Century

## Challenges and Prospects

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# A Security Council for the 21<sup>st</sup> Century

## Challenges and Prospects

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EUGÊNIO VARGAS GARCIA  
MARIA CLARA DE PAULA TUSCO  
SÉRGIO EDUARDO MOREIRA LIMA  
(EDITORS)



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Fundação Alexandre de Gusmão  
Ministério das Relações Exteriores  
Esplanada dos Ministérios, Bloco H  
Anexo II, Térreo  
70170-900 Brasília-DF  
Telefones: (61) 2030-6033/6034  
Fax: (61) 2030-9125  
Site: [www.funag.gov.br](http://www.funag.gov.br)  
E-mail: [funag@funag.gov.br](mailto:funag@funag.gov.br)

**Editorial Staff:**

André Luiz Ventura Ferreira  
Eliane Miranda Paiva  
Fernanda Antunes Siqueira  
Gabriela Del Rio de Rezende  
Luiz Antônio Gusmão

**Graphic Design:**

Daniela Barbosa

**Layout:**

Gráfica e Editora Ideal

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## OVERVIEW



This book is a result of the international seminar “A Security Council for the 21<sup>st</sup> Century: Challenges and Prospects,” which was held at the Itamaraty Palace in Brasilia on 23 June 2016, organized by the Alexandre de Gusmão Foundation (Funag) and the Department for International Organizations of the Brazilian Ministry of Foreign Affairs, in association with the Pandiá Calógeras Institute, the Brazilian Center for International Relations (Cebri), and the Igarapé Institute.

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The seminar was opened by the president of Funag, Ambassador Sérgio Eduardo Moreira Lima, and the vice-minister for Political Affairs-I of the Ministry of Foreign Affairs of Brazil, Ambassador Fernando Simas Magalhães. In order to provide an opportunity for an inclusive debate, it was organized around a roundtable, comprised of approximately 30 guests, among them government officials, military and representatives from national and foreign academic institutions, civil society and the media. It was also open to the general public, with a limited number of spots. The audience, consisting of more than 100 people, included members of the diplomatic corps, researchers and students.

Among the representatives of other governments who attended the event were Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on Security Council Reform, as the guest of honor; Ambassador Martín Vidal, director general for political affairs, Ministry of Foreign Affairs of Uruguay; Ambassador Dirk Brengelmann, ambassador of Germany in Brazil; Counsellor Mohamed Bouabdallah, from the Department for United Nations of the Ministry of Foreign Affairs of France; Mr. Djeyhoun Ostowar, policy officer at the Multilateral Organizations and Human Rights Department of the Ministry of Foreign Affairs of the Netherlands; and Minister Kazuhiro Fujimura, Embassy of Japan in Brasilia.

The seminar featured the presence of renowned guests from civil society, including Mr. Bruno Stagno Ugarte, deputy executive director for advocacy at Human Rights Watch; former foreign minister of Costa Rica (2006-10); former executive director of the “Security Council Report” (2011-14) and co-editor of “The UN Security Council in the 21<sup>st</sup> Century”; Ms. Ruchita Beri, senior research associate of the Institute for Defence Studies and Analyses of India; Mr William R. Pace, president of the Center

for UN Reform Education and convenor of the Coalition for the International Criminal Court; and Professor Stephen Schlesinger, fellow at the Century Foundation, New York and author of “Act of Creation: The Founding of the United Nations.”

The following representatives from the media were present: Mr. Demétrio Magnoli, columnist for the Brazilian newspapers, “Folha de S. Paulo” and “O Globo,” and commentator on international politics on the Globo News television network; Mr. Jan Piotrowski, “The Economist’s São Paulo Bureau Chief”; and Mr. Silvio Queiroz, columnist for the newspaper, “Correio Braziliense.”

In the opening ceremony, Ambassador Sergio Eduardo Moreira Lima outlined the risk of the United Nations losing its preeminent role for the international security governance system. He advocated a more representative, transparent and legitimate Security Council in order to increase the capacity of that body to contribute to avoid conflict and to protect a greater number of civilians. He pointed out that our foreign policy has benefitted from contacts with the Brazilian civil society and asserted that Funag is working to strengthen and institutionalize this relationship. Moreover, he stressed that Funag is the leading Brazilian institution in terms of the number of books published in the field of foreign policy, international relations and Brazilian diplomatic history.

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*Ambassador Martín Vidal, director general for political affairs, Ministry of Foreign Affairs of Uruguay; Ambassador Fernando Simas Magalhães, vice-minister for Political Affairs-I, Ministry of Foreign Affairs of Brazil; Ambassador Sérgio Eduardo Moreira Lima, president of the Alexandre de Gusmão Foundation (FUNAG)*

Ambassador Fernando Simas Magalhães stressed that the seminar was part of the efforts of the Brazilian government to broaden the dialogue with the public and to raise greater awareness of the need to update and strengthen the multilateral system of peace and security. He recalled that, six years ago in April 2010, the Brazilian Ministry of Foreign Affairs, with the support of Funag, organized a similar event in Brasilia: the seminar “Emerging Structures of Global Governance,” in which the role of the Security Council in the 21<sup>st</sup> Century was also discussed. He also recalled that, three years later, in April 2013, Itamaraty and Funag organized yet another round of discussions on the issue with civil society and the media: the seminar “Current Challenges to International Peace and Security: The Need to Reform the United Nations Security Council” (Praia do Forte, 26 April 2013). He argued that,

given their paramount importance to the international peace and security agenda, the matters related to the functioning of the Security Council should be further discussed and studied by scholars, journalists and representatives from the civil society in general. At the end of his speech, he expressed his expectation that the seminar will inspire a larger community of experts and bring about fresh perspectives, fostering a deeper understanding of the many roles played by the Security Council.



*Ambassador Fernando Simas Magalhães, vice-minister for Political Affairs-I, Ministry of Foreign Affairs of Brazil; Ambassador Sérgio Eduardo Moreira Lima, president of the Alexandre de Gusmão Foundation (FUNAG)*

On his turn, the guest of honor, Ambassador Courtenay Rattray, highlighted “Brazil’s long history of being at the vanguard of the discussions on this important issue” and reminded the aspiration of the country for a permanent seat in the Council of the League of Nations. He provided an overview of contemporary efforts being made within the framework of the Intergovernmental

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Negotiations process (IGN). He noted the deep sense of “cynicism and apathy” that has pervaded the reform process for over 20 years, as well as the chronic inability to move beyond procedural concerns towards real give and take negotiations. He also noted that, upon assuming the position of Chair, he recognized, based on the complexity of the issues, that text-based negotiations were the most suitable approach to conduct the work of the IGN. He asserted that his first task was to imbue member states with a feeling of optimism that this time would be different (“they needed to be convinced that it would not be business as usual”).



*Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the intergovernmental negotiations on Security Council reform*

He described how he led the drafting of the “Framework Document” (adopted by consensus through the General Assembly Decision 69/650 of 14 September 2015) with the intention of using it as a basis for building a workable negotiating text. He assessed the current status of the IGN process, emphasizing

that there is a new text on the table, produced by the current Chair, Ambassador Sylvie Lucas (Permanent Representative of Luxembourg). He explained that the document is specific about the two less controversial key issues in the process (“the Relationship between the Council and the General Assembly”; and “the Size of an Enlarged Security Council and Working Methods of the Council”), outlining elements on which she determined that areas of convergence existed. In his opinion, the new IGN Chair, who is yet to be appointed, should commence work in the next session by moving to a consideration of convergences in the three remaining issues of Categories of Membership; Regional Representation; and Size of an Enlarged Security Council.

Moreover, Rattray noted that, although the technical work being undertaken within the framework of the IGN is important, real movement on reform will only take place if sufficient political will is brought to bear. In this sense, he assessed the importance of the roles performed by various actors and venues to the reform endeavor, such as the capitals of member states, the president of the General Assembly, the secretary-general and civil society. He concluded expressing confidence that Security Council reform “remains firmly within our reach if we muster the courage and determination to grasp it”.

The event was conducted in English, and all participants of the roundtable had the opportunity to take the floor, which allowed for the exchange of a wide range of perceptions and opinions. Invited moderators, panelists and commentators guided the discussions of the three sessions of the seminar, which focused on the following topics: “The Practice of the Security Council: Old and New Challenges”, “Improvement in the Working Methods of the Security Council”; and “The Way Forward: A Reformed Security Council.”

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It can be stated that the seminar has, to a large extent, fulfilled its objective of providing an opportunity for an inclusive debate on the current challenges faced by the Security Council and how a comprehensive reform and the improvement of its working methods would impact its functioning in a positive way. It is expected that the initiative can also contribute to promote greater interest and involvement of civil society, academia and the media in discussions about the many roles played by the organ in today's world.

# PROGRAMME

Morning session

|            |   |
|------------|---|
| 08:30-9:00 | <b>Arrival of Participants and Registration</b>   |
| 9:00-9:45  | <b>Opening Session</b>  |
|            | <b>Opening Statements:</b> <i>Ambassador Sérgio Eduardo Moreira Lima, president of the Alexandre de Gusmão Foundation (Funag)</i>   |
|            | <i>Ambassador Fernando Simas Magalhães, vice-minister for Political Affairs-I, Ministry of Foreign Affairs of Brazil</i>  |
|            | <b>Guest of Honor:</b> <i>Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on Security Council Reform</i> |
| 9:45-10:00 | <b>Coffee Break</b>   |

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10:00-12:30

**Panel I - The Practice of the Security Council: Old and New Challenges**

**Moderator:** *Ms. Letícia Pinheiro, professor at the Institute of Political and Social Studies (IESP), State University of Rio de Janeiro (UERJ)*

**Panelist:** *Mr. William R. Pace, president of the Center for UN Reform Education, convenor of the Coalition for the International Criminal Court*

**Remarks:** *Ambassador Martín Vidal, director general for political affairs, Ministry of Foreign Affairs of Uruguay*

**Discussion**

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12:30

**Official Photo**

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12:45-14:30

**Lunch**

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Afternoon session

14:30-16:20

**Panel II – Improvement in the Working Methods of the Security Council**

**Moderator:** *Counsellor Mohamed Bouabdallah, Department for United Nations, Ministry of Foreign Affairs of France*

**Panelist:** *Mr. Bruno Stagno Ugarte, deputy executive director for advocacy at Human Rights Watch, former foreign minister of*

*Costa Rica, co-editor of ‘The UN Security Council in the 21<sup>st</sup> Century’*

**Panelist:** *Mr. Marcos Tourinho, research associate of the Programme for the Study of International Governance at the Graduate Institute of International and Development Studies, Geneva*

**Remarks:** *Mr. Djeyhoun Ostowar, Multilateral Organizations and Human Rights Department, Ministry of Foreign Affairs of the Netherlands*

#### **Discussion**

|                    |   |
|--------------------|---|
| <b>16:20-16:40</b> | <b>Coffee Break</b>   |
| <b>16:40-18:30</b> | <b>Panel III - The Way Forward: A Reformed Security Council</b>   |
|                    | <b>Moderator:</b> <i>Mr. Jan Piotrowski, The Economist’s São Paulo Bureau Chief</i>   |
|                    | <b>Panelist:</b> <i>Ms. Ruchita Beri, senior research associate of the Institute for Defence Studies and Analyses, New Delhi</i>                    |
|                    | <b>Remarks:</b> <i>Professor Stephen Schlesinger, Century Foundation, New York, author of ‘Act of Creation: The Founding of the United Nations’</i> |
|                    | <b>Discussion</b>   |

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**18:30-19:00                    Closing Session**

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**19:00                    Cocktails**

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## **CONCEPT NOTE**

A more diffuse distribution of power has become one of the major trends in today's globalized world. Alongside this new international architecture under construction, past and present challenges have been accompanied by growing instability in many countries and regions. There seems to be frequent use of coercive measures as a means to address transnational threats at the expense of diplomacy, prevention, pacific settlement of disputes and the need to focus on the root causes of conflicts.

Against this backdrop, the principal organ of the United Nations with primary responsibility for the maintenance of international peace and security has been repeatedly criticized for both its actions and inactions. The Security Council seems to struggle when asked to provide effective political solutions to long-standing conflicts. Also, it has hastily authorized military interventions that, in some cases, led to tragic consequences. International crises have often been addressed by coalitions of countries at the margins of the organ, while, at the same time, unilateral sanctions have proliferated. Moreover, the Security Council has deployed peacekeeping operations in the absence of a sustained political process to support them and without suitable means to secure optimal performance. Incidentally, these

operations take place mainly in Africa, a continent that lacks appropriate representation in the Council.

Contrary to expectations, the Security Council still has not delivered on its promise to bring more stability to the world. Ongoing debates on core concepts and ideas, such as the responsibility to protect and responsibility while protecting, have highlighted useful pathways to be further explored. On occasion, however, the Council has been regarded as an instrument of the P5, which happens to be the internationally recognized nuclear powers. In reality, failure to uphold peace and security has occurred whether the interests of permanent members were aligned or not.

The Security Council has also been questioned because of its expanding law-making functions. Despite its many shortcomings in dealing with specific conflicts, discussions and decisions on certain thematic issues, such as climate change and health issues, had their numbers increased on the Council's agenda, encroaching on a role more fitting to the General Assembly, due to the latter's representativeness and universal membership.

A limited level of interaction with the wider membership is another aspect that raises issues concerning transparency and accountability. A substantial and consistent dialogue between Council members, non-members, interested parties and regional and subregional organizations, remains a political necessity that requires improvement. It is rather disappointing to realize that, albeit binding to all 193 member states, Security Council decisions seldom are discussed with the openness desired by the majority of the UN membership.

The thorny question of the veto generates the most heated criticism on the work of the Council. Positions range from total abolition to extension of the veto to new permanent members. Some member states have taken the position that new permanent

members should have the same prerogatives as current members, while others entertain the possibility of a waiver on the use of the veto until further discussion during a review process of a comprehensive reform. There are calls for limitations to be adopted, for instance, in the event of genocide, crimes against humanity and serious violations of international humanitarian law.

Improving the Security Council's working methods is a demand of virtually all member states, which rightfully expect a more inclusive decision-making process. Yet, better overall access to information is not sufficient to ensure either effectiveness or long-term legitimacy. For this to happen, the Council should depart from its 1945 framework and not lose sight of a much more complex world order currently in the making, so as to avoid mismatches between its structure and perceived geopolitical realities. Representativeness is key to promote further accountability, engage stakeholders and reinforce the credibility of multilateral institutions. A Council that is ineffective does not serve the cause of peace and security. Likewise, the Council will never be fully effective if it is not seen as truly representative in all categories of membership.

Member states have been engaged in the process of Security Council reform, and an overwhelming majority has indicated willingness to work towards a concrete outcome in a result-oriented negotiation. Many believe that meaningful reform, capable of addressing imbalances and deficiencies, could come about through enlargement of the two existing categories, with developing and developed countries adequately represented in both. Leaving the status quo untouched may profoundly jeopardize the Council in the long run, which prompts the need to consider realistic options to prevent such an undesirable scenario.

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The aim of this one-day seminar is to gather top scholars, government officials, representatives from international organizations, civil society, and the media, for an interactive, open and constructive discussion on the dilemmas faced by the Security Council and its prospects for the future as well. In order to encourage a free, down-to-earth exchange of views, the roundtable will feature a closed number of panelists and invited participants, who will contribute with different insights and experiences on the issues at hand.

The event will be divided into three sessions: “The Practice of the Security Council: Old and New Challenges”; “Improvement in the Working Methods of the Security Council”; and “The Way Forward: A Reformed Security Council.” It is hoped that, by bringing fresh perspectives to the debate, this seminar will foster a deeper dialogue on the many roles played by the Security Council and reach out to a larger community of experts with an active interest in the field of world politics, defense and security studies.

## **OPENING STATEMENTS**

**Ambassador Sérgio Eduardo Moreira Lima**

*President of the Alexandre de Gusmão Foundation*

Ambassador Fernando Simas Magalhaes, vice-minister for Political Affairs I;

Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on Security Council Reform;

Dear colleagues, ladies and gentlemen,

First of all, I would like to welcome all the participants to the seminar “A Security Council for the 21<sup>st</sup> Century: Challenges and Prospects,” organized by the Alexandre de Gusmão Foundation (Funag) in collaboration with the International Organizations Department of the Ministry of Foreign Affairs under the supervision of Ambassador Simas Magalhães.

For those of you who are not aware, Funag is the leading Brazilian institution in terms of the number of books published

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in the field of foreign policy, international relations and Brazilian diplomatic history. It has published over a thousand titles in the past ten years in Portuguese, English and Spanish. The publications are available free of cost at the Digital Bookstore on Funag's website, including in the e-book format. You will find many titles related to the topic of this seminar. So, let me invite you to explore this rich source of knowledge on diplomacy and international relations.

This seminar represents an opportunity to engage in a more direct manner with those interested in the challenges faced by the international community within the context of the Security Council Reform. It is also an occasion to gather the impression of public opinion in relevant issues on international politics.

Our foreign policy has benefitted from the contacts with the Brazilian civil society. We are working to strengthen and institutionalize them.

I am sure that the discussions we are about to have will bring international politics and the United Nations a little bit closer to you who are, as individuals and citizens, the agents of change and transformation in international relations.

I wonder what are our societies, our youth in particular, think of their prospects for the future when faced with a scenario that exposes, among other problems, a steady rise in the number of refugees, internally displaced persons and asylum-seekers worldwide?

According to the United Nations High Commissioner for Refugees, in 2014, there were approximately 59.5 million in this condition. By the end of 2015, there were 65.3 million forcibly displaced people worldwide. Of this number, 21.3 million people are refugees, 40.8 million are internally displaced persons, and 3.2 million are asylum-seekers.

These startling statistics raise questions about the logic governing the international system, which seems unable to reach the goal of consolidating peace and improving living conditions around the world. And this also introduces doubts about our capacity to perform our collective responsibilities, as stated in the San Francisco Charter of the United Nations.

The holding of open debates, consultations with troop and police contributing countries, field missions and the outreach to country specific configurations of the Peacebuilding Commission are all important attempts to promote inclusiveness and enhance the effectiveness of the Security Council's decisions.

However, in my opinion, a more representative Security Council, aligned with current political realities, will only be achieved through a real reform of its current structure. Even if there are differences of perceptions, with an overwhelmingly greater group supporting expansion in the two categories of permanent and non-permanent members, no single member of the United Nations today raises doubts about the urgency and inevitability of reform.

The sooner we accomplish this task, the better equipped the Council will be, and we be able to tackle and reverse the worrying tendencies we witness today more rapidly.

A more representative, transparent and legitimate Security Council can only lead to decisions and strategies that are more inclusive in their making, and in the perceptions they inspire, thus increasing the capacity of that body to contribute to avoid conflict and to protect a greater number of civilians.

Unless we find the determination to advance on this issue, the United Nations will continue to compromise its credibility. The organization might end up losing its preeminent role, and important issues might be discussed in other forums and

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groupings, perceived to be more efficient and more representative of the new realities of the day.

If it cannot rely on a representative, functional and truly effective Security Council, the UN risks losing importance in the international security governance system. And this does not benefit anyone, much less the P5, who would gain little by being permanent members of an organization that is progressively sidelined.

I hope this seminar will contribute to promote greater interest and involvement of civil society in the discussions about the current challenges faced by the Security Council and raise public awareness on how a comprehensive reform and the improvement of its working methods would impact its functioning in a positive way.

I wish you all success in your discussions and exchanges of ideas.

### **Ambassador Fernando Simas Magalhães**

*Vice-Minister for Political Affairs-I,  
Ministry of Foreign Affairs of Brazil*

Your Excellencies,  
Distinguished Guests,  
Ladies and Gentlemen,

It is my pleasure to extend to you all a warm welcome to the seminar, “A Security Council for the 21<sup>st</sup> Century: Challenges and Prospects.” This event was jointly organized by the Alexandre de Gusmão Foundation (Funag) and the Department of International Organizations of the Ministry of Foreign Affairs of Brazil, in

association with the Pandiá Calógeras Institute, the Brazilian Center for International Relations (Cebri) and the Igarapé Institute.

First and foremost, I would like to express my sincere appreciation for your efforts to join us in this important debate despite your busy schedules.

I also wish to recognize the presence of our guest of honor, who will address you soon: Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Related Matters. I take this opportunity to commend you, Ambassador Rattray, for your tireless efforts and determination to move the process forward and for the impartiality that you have demonstrated. Your experience and deep knowledge about the negotiation process in New York will be extremely valuable to our discussions today.

Allow me, as well, to acknowledge the presence of my counterpart from Uruguay, Ambassador Martín Vidal, director general for political affairs of the Ministry of Foreign Affairs of Uruguay. Ambassador Vidal is here representing one of the current non-permanent members of the Security Council. He is in a privileged position to share with us some thoughts on the current challenges faced by the Council.

I would also like to extend my greetings to all other participants, including representatives from several countries and institutions, from the governments of France and the Netherlands, from the Brazilian armed forces and members from the diplomatic corps, academia, media and civil society organizations. Thank you all for joining us in this debate.

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Ladies and gentlemen,

This seminar is part of the efforts of the Brazilian government to broaden the dialogue with the public and to raise greater awareness of the need to update and strengthen the multilateral system of peace and security.

Six years ago, in April 2010, the Brazilian Ministry of Foreign Affairs, with the support of Funag, hosted another seminar on the “Emerging Structures of Global Governance,” which was also held here at the Itamaraty Palace.

On that occasion, participants were invited to examine questions, such as: How should international institutions work if they were to be built today from scratch? Would the new mechanism be more democratic? Would it be possible to strengthen multilateral rules? Which would be the most desirable aspects of a new form of global governance? Does greater multipolarity mean greater multilateralism? How would a context of renewed multipolarity, with growing influence of developing countries, affect the United Nations and the expectations of the international community concerning Security Council reform?

The role of the Security Council in the 21<sup>st</sup> century was another interesting point of discussion. Some considered that its lack of capacity to effectively handle current threats would lead to an inevitable and expeditious loss of relevance. Others stressed that, for all its limitations, the Council is irreplaceable due to the international consensus regarding its legal authority. For those, a Council reform is essential to ensure that its decisions are recognized not only as legally binding, but also as politically legitimate.

Despite the challenges in advancing the reform process, some progress has been achieved, such as the approval of Decision 62/557, in September 2008, establishing the intergovernmental

negotiations in the informal plenary of the General Assembly, and the letter signed by 140 countries in 2009, addressed to the Chair of the negotiations, requesting him to present a draft to member states, which was actually introduced in May 2010.

Three years later, in April 2013, Itamaraty and Funag organized yet another round of discussions with civil society and the media: the seminar, “Current Challenges to International Peace and Security: The Need to Reform the United Nations Security Council,” which was held in Praia do Forte, Bahia.

During that event, the need to strengthen multilateralism and to reform global governance structures, so as to reflect current realities and enable them to tackle today’s complex challenges, was underscored. Transformations underway in the world increasingly highlight the serious mismatch between governance institutions and existing demands.

In the case of the Security Council, the imbalance in its decision-making core, centered on the same five permanent members since 1945, makes the organ out of step with the legitimate aspirations for an international order that is more inclusive and sensitive to the needs and interests not only of all the UN member states, but also of their civil societies.

Given the outdated character of its composition, it is not surprising that the need to reform the Security Council is a consensus issue among UN member states. However, the membership still disagrees on how a reformed Council should look. As a result, UN member states also have different views on how negotiations should be led, on what basis, and what the role of the Chair of the intergovernmental process in this regard is.

A large majority of the membership, however, favors establishing new permanent seats. An increase in permanent seats would not only change the Council’s configuration, but also have

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implications on its agenda, the content of the debates being held and the way it operates as a whole. New permanent members to the Council would also bring along a differentiated set of values and experiences arising from their own history.

We are confident that those seminars have contributed to raising public interest and involvement on the discussions about the global institutions responsible for the maintenance of international peace and security, stimulating greater engagement of civil society and bringing to this debate a broader perspective, going beyond diplomatic engagement among governments.

However, in spite of their paramount importance to the international peace and security agenda, we still notice that matters related to the functioning of the Security Council do not appear, with reasonable frequency or emphasis, in the headlines of major newspapers, academic theses or research papers, even in Brazil.

Very often, the process in New York has been wrongly regarded as isolated and independent, when it should be understood as a direct result of discussions held in capitals, where national positions are defined. Accordingly, further engagement of civil society, academia and the media should be seen as crucial for the evolution of national positions.

This ongoing debate on the Security Council reform cannot be regarded as an issue to be dealt with only by diplomats locked away in conference rooms. It is rather a matter to be discussed in newspapers, parliaments and classrooms. In fact, this is a political discussion with major implications for all countries and for all peoples. The Council's ability to adequately address challenges to international peace and security directly affects millions of lives around the world.

We expect that the seminar we are hosting today will inspire a larger community of experts and bring about fresh perspectives, fostering a deeper understanding of the many roles played by the Security Council.

Before concluding, I hope that the next few hours here will be productive and also enjoyable. I wish you every success and a very pleasant stay in Brasilia. I look forward to learning from your views and contributions to this debate.

Thank you.



## **KEYNOTE ADDRESS**

### **HE E. Courtenay Rattray**

*Permanent Representative of Jamaica to the United Nations and former  
Chair of the Intergovernmental Negotiations on Security Council Reform*

Ambassador Sérgio Eduardo Moreira Lima, president of Funag

Ambassador Fernando Simas Magalhães, vice-minister

Excellences

Distinguished ladies and gentlemen

Good Morning.

#### **Introduction**

It is a distinct honour and privilege for me to be asked to speak to you today and to share some reflections on the important question of UN Security Council reform.

In doing so, it is not lost on me that Brazil has a long history of involvement in this issue over which period it has strongly

advocated for its inclusion as a permanent member of the Security Council. In fact, this month marks the 90<sup>th</sup> anniversary of the formal notification by Brazil of its withdrawal from the League of Nations, which action it took in response to its denial of a permanent seat on the Council.

As you may know, consequent on the conclusion of the Locarno Treaties in 1925, Germany had been assured that it would be admitted to the League of Nations with a permanent seat. In an organization that depended on consensus, Brazil adopted the position that it would veto any permanent seat for Germany unless it simultaneously received one as well. In the event, a compromise arrangement was proposed by a committee appointed by the Assembly.

This arrangement, which is detailed in F.P. Walters book, ‘A History of the League of Nations,’ was intended to create “an intermediate class of semi-permanent seats whose holders, unlike the permanent members, needed to be re-elected every three years, but could in practice expect to retain their Council seat for an indefinite period.” It was understood by all that this element of the proposal was designed specifically to accommodate the aspirations of Brazil, Poland and Spain. However, as history shows, Brazil remained dissatisfied and refused to accept an arrangement that placed her among the second tier of world powers.

Now, nine decades following these noteworthy events, Brazil and Germany collaborate as partners within the Group of Four, where they are once again pressing their demands for a permanent seat on the Security Council of the successor organization to the League of Nations.

It is in the context of Brazil’s long history of being at the vanguard of the discussions on this important issue that I am particularly honoured to be asked to share my views on where

the reform process currently stands and what aspects need to be addressed, in order to heed the call for “early reform” that world leaders explicitly called for at the 2005 World Summit.

#### IGN Process: Current Status

Let me begin by providing an overview of contemporary efforts being made to reform the United Nations Security Council within the framework of the Intergovernmental Negotiations process. This is a process that I was privileged to lead throughout the course of the 69<sup>th</sup> Session of the General Assembly, during 2014 and 2015.

For those of you who closely follow this subject, you will be aware of the deep sense of cynicism and apathy that has pervaded the reform process for over 20 years, as well as the chronic inability to move beyond procedural concerns towards real give and take negotiations. On assuming the position of Chair, I recognized, based on the complexity of the issues, that text-based negotiations were the most suitable approach to conducting the work of the IGN. However, given the deep cynicism that had permeated the UN Membership, my first task was to imbue member states with a feeling of optimism that this time would be different; they needed to be convinced that it would not be ‘business as usual.’

Up to that point, the IGN process had become bogged down. The proceedings were mired in ritualized formal exchanges among member states, characterized by the endless repetition of statements about detailed well-known, static positions that had not evolved much over the years. It was a process preoccupied by procedural concerns, particularly surrounding the documents that had been produced since the inception of the IGN, namely Revision 2 and 3 of the initial compilation document.

My predecessor, the ambassador from Afghanistan, fully recognized the existence of this stasis, writing, in July 2012, that

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“It is time to recognize the limits of what can be achieved within the current framework of the Intergovernmental Negotiations (IGN) without a deepened Member State commitment to undertaking robust negotiations, involving active give and take.”

In the process of changing the dynamic of the IGN and spurring active give and take negotiations, the first decision taken during my tenure was to build a fully inclusive, step-by-step process towards the creation of a new text, in the hope of overcoming some of the procedural roadblocks that had been raised regarding previous texts. This “organic” approach had three stages, at the core of which was the creation of a framework document, which member states were invited to populate with their own proposals and positions. The intention was to use the framework document as a basis for building a workable negotiating text, one that represented the full range of views on the five key issues of the IGN mandate. The approach was designed to move the process beyond the divisions that had surrounded previous negotiation texts, and to do so in a logical, systematic and non-disputatious manner.

The second phase of the approach was the convening of back-to-back interactive dialogue sessions over the course of a week, which allowed member states to fully explore each other’s positions. It was intended to yield an in-depth understanding about the practical manner in which their various proposals would operate. This Socratic approach generated dynamic and engaged discussion among the membership and was characterized by more practical and less theoretical exchanges designed to build the common understanding necessary to achieve convergence.

This critical aspect of the process succeeded, for example, in forcing the C10 and other member states of the African Group to examine the Ezulwini Consensus more carefully, particularly how the two regional permanent seats selected by the African Union

would operate in practice. Similarly, I can say that, as a Caricom member, we were stimulated to delve further into the mechanics of our proposal for a designated, non-permanent, rotating seat for SIDS across all regions. The closest approximation we currently have to this concept is the existing Arab swing seat, which is based on an informal agreement whereby one seat is reserved for an Arab state, for which the Asia Pacific and Arab Groups take turns every two years in providing a suitable candidate.

The third phase of our approach embodied the process of condensing the framework document into a true negotiation text. The text was produced through intensive consultations with every single member state and group of states that submitted proposals to the Framework Document for the purpose of merging the obvious overlaps that existed between positions. These consultations also served to sharpen the language and make the text more readable. The outcome was that we were able to produce a workable document that was suitable for the commencement of text-based negotiations.

As a result of this inclusive process, more member states were encouraged to submit their positions and proposals, which resulted in a final text of 25 pages and consisting of 38 submissions, representing the positions of more than 120 member states.

On the 14<sup>th</sup> of September 2015, the General Assembly adopted, by consensus, Decision 69/650 in which member states decided to immediately continue the Intergovernmental Negotiations on Security Council Reform (IGN) during the 70<sup>th</sup> session of the General Assembly, “building on the informal meetings held during its sixty-ninth session, as well as the positions of and proposals made by member states reflected in the text and its annex circulated by the president of the General Assembly in his letter dated 31 July 2015.”

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So where does the IGN process stand today? The current Chair of the IGN, the ambassador of Luxembourg, yesterday held what, in all likelihood, was her final meeting. As she will be departing New York to take up duties at another post, a new IGN Chair will need to be appointed by the incoming PGA for the 71<sup>st</sup> Session. The PGA-elect is the Permanent Representative of Fiji, who was elected by the General Assembly last week.

Throughout this IGN session, the Chair has exhorted member states to identify elements of convergence between their respective positions and proposals, which were reflected in the Framework Document that was adopted by a consensus Decision of the General Assembly at the conclusion of my chairmanship.

On the basis of the discussions on two of the five key issues, viz. the relationship between the Council and the General Assembly; and the Size of an Enlarged Security Council and Working methods of the Council; the Chair produced a text that outlined elements on which she determined that areas of convergence existed. She has stated that it is her hope that, by reflecting them on paper, this will “help to inform our future work in the IGN and to focus our discussions further on the key issue areas in which more work needs to be done.”

Given the Chair’s imminent departure, however, the question arises whether the incoming Chair should proceed on this basis. If so, should we commence our work in the next session by moving to a consideration of convergences in the other three key issues, or should we maintain our focus on further considering the initial two issues the Chair selected, considered by many to be the low-hanging fruit?

An inherent risk of the latter approach is that it could unnecessarily prolong the negotiations by devoting inordinate attention and time to just two key issues.

There are also those who disagree with what they see as the adoption of a fragmented and piecemeal approach to the agenda of issues. The G4 and L69 have been vocal in this regard, with the L69 reiterating to the Chair at yesterday's IGN meeting that, in order "to ensure a meaningful outcome of the current session of the IGN under your able leadership, it is essential that elements of conversion, to the extent that it exists, as well as points of divergence in all five key issues, must be incorporated in the paper."

It should be noted, however, that the Chair has indicated that she remains "mindful of the comprehensive nature of the reform of the Security Council, encompassing all five key issues set out in General Assembly Decision 62/557."

Given these concerns, it may be preferable for the new IGN Chair, who is yet to be appointed, to begin with a consideration of the three remaining issues of Categories of Membership, Regional Representation and Size of an Enlarged Security Council. As we all know, this will not be an easy undertaking given that these three key issues are the most politically charged of the package. Dealing with them in the next session will require, I believe, a coordinated two-pronged approach focused on "technical" discussion within the IGN and heightened and targeted political discussion in capitals.

What is clear is that, although the technical work being undertaken within the framework of the IGN is important, real movement on reform will only take place if sufficient political will is brought to bear. The trigger for such action will arrive when the international community reaches a tipping point. This tipping point will be based on the level of frustration with the inability of the Council to take the collective action required to relieve the menace of aggression and safeguard international peace and security.

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Of course, it is not known when this point will be reached. We are already confronted with the crises in Syria and the Ukraine and, on occasion, in North Korea, on which the Council is divided. Yet in spite of the gravity of these situations, they have failed to provide the reform effort with the impetus it requires to jolt it from its decades-long malaise.

Given this situation, member states rightly ask themselves whether the IGN represents the most effective format within which to achieve Security Council reform. If not, should member states mount an effort to prepare a draft resolution on Security Council reform and subject the matter to a vote? In my view, this would not only weaken the IGN process by undermining the efforts of the Chair, but risk driving a wedge between different factions of the membership. Efforts have been made by member states in the past to hold straw polls on key questions, as a means of testing support for various draft resolutions. However, in the context of Security Council reform, such resolutions have proved to be more about amassing votes around a particular reform approach, rather than bridging divides, which is the stated purpose of the IGN.

## **APPROACHES/OPPORTUNITIES TO BE LEVERAGED**

I now wish to share reflections on approaches that can be adopted and opportunities leveraged in the pursuit of meaningful progress on Security Council reform. I will focus, in particular, on an assessment of the importance of the roles of various actors and venues to the reform endeavor.

## **ROLE OF CAPITALS**

As a question of strategy, one should inquire as to the role that capitals can and do play. During my tenure, I was able to see

the intensive lobbying activity in which a particular member of the P3 (China, the Russian Federation and the United States) engaged throughout capitals the world over. My experience was that there were those in the anti-reform camp who were more active in influencing opinion within capitals than their counterparts in the reformist camps.

This is not to say that pro-reform countries have not taken similar initiatives. Prime Minister Modi of India, for example, has been assiduous in using his extensive travels to secure pointed references to Security Council reform within the context of the bilateral discussions he has undertaken during the course of his official visits.

However, for some countries committed to maintaining the status quo, all levers of power and influence are readily deployed, including economic pressure. In doing so, approaches to capitals are often made simultaneously at all levels of government, from heads of state and government down to director levels within various ministries. Political outreach is also undertaken by lobbying parliamentarians and even targeting persons within the business sector.

## **ROLE OF THE PRESIDENT OF THE GENERAL ASSEMBLY**

Another question that arises is: What role can the president of the General Assembly play? A strong and committed PGA can be of immeasurable assistance to the IGN Chair by placing their considerable influence behind the reform process. Should they choose to do so, they can leave the membership in no doubt that the Chair enjoys their full confidence and acts in their name. Moreover, a PGA with political clout can effectively use their political capital to shore up support for the IGN Chair, if and when needed. They can also advance the process through engaging in

discussions with political leaders, either at UN HQ in New York, or on their visits overseas.

Conversely, a weak PGA can be manipulated by powerful countries. Equally as damaging, a disinterested PGA can opt to place the issue of reform on the back burner, thereby taking the steam from out of the process.

## **ROLE OF THE SECRETARY-GENERAL**

One should also examine the role that the secretary-general (SG) can play. A strong, independent and committed SG can bring considerable influence to bear on the process. Will the new SG be so disposed?

The last occasion on which an SG attempted to influence the reform process was in 2005, in advance of the World Summit. Kofi Annan detailed his proposals for Security Reform in his report entitled “In Larger Freedom,” which outlined a comprehensive package of United Nations’ institutional reforms. He was motivated by the view that “no reform of the United Nations would be complete without reform of the Security Council.” He also held the belief that “the Security Council must be broadly representative of the realities of power in today’s world.”

He proposed two reform options, the first being a model with six new permanent seats with no veto powers and three new two-year non-permanent seats, divided among the major regional areas. The second option provided for no new permanent seats, but created a new category of eight four-year renewable-term seats and one new two-year non-permanent (and non-renewable) seat, divided among the major regional areas.

Although Kofi Annan failed in his attempt to reform the Council, the question arises: Will the new SG be as engaged and bold as Mr. Annan was on this issue?

## **ROLE OF THE GENERAL MEMBERSHIP/PRO-REFORMERS**

And what about the role of the general membership? Whether this proves to be the case or not, UN member states sometimes discount the power they can wield when they organize themselves to act in concert. From my perspective, there have been instances of missed opportunities by pro-reform States during the course of this current IGN session, in which the Membership could at times have been more strategically astute. Member states failed to respond effectively to the IGN Chair's repeated calls for convergence and so missed an opportunity to go beyond the mere theoretical identification of possible areas of convergence during our examination of the key issues.

We could have instead developed common textual language that reflected convergences in the positions of various member states and Groups. These convergences could then have been presented to the Chair as new language that could, at some later stage, be assimilated within the final document.

## **ROLE OF CIVIL SOCIETY**

Let me say a few words about the role of civil society. Pro-reformers should consider the question of how civil society can be more effectively mobilized in support of the reform effort. First of all, it is clear that their engagement would need to be supported, including financially, in order to enable them to undertake activity in this area. Their involvement could encompass the publication of scholarly work on various Security Council reform proposals, or undertaking activism, such as through the staging of international campaigns and targeted outreach and advocacy.

Civil society advocacy could be effectively utilised by individual member states as a means to highlight the substance of

their proposals and positions. An example of this is the hearings that were recently organized by civil society at the UN recently, in which the Permanent Representatives of countries currently campaigning for seats as part of the Elected-10 fielded questions from member states, NGOs and civil society.

Civil society could also examine the feasibility of staging a side event on the margins of the General Assembly's annual consideration of the agenda item on UN Security Council reform, which normally takes place in October.

I wish to conclude now with some thoughts on the significance of the political environment that exists in member states that are at the forefront of the reform effort. It is undoubtedly the case that reform will only occur when the time is politically ripe for it.

The contemporary domestic political environment within various member states can obviously have an influence on the reform agenda. Domestic political instability can distract governments' attention from Security Council reform towards a greater focus on overriding matters of national concern.

Furthermore, the level of tension that may exist between the main reform parties is another factor that could influence prospects. As the foreign policy scholar, prof. Edward Luck, has said, within the United Nations "political convergence precedes institutional change, not the other way around."

A change of government is a further element that can have a bearing on reform prospects, as this may result in a fundamental policy shift between an outgoing administration and its successor. For example, we are witnessing significant policy changes as a result of recent elections that have occurred in Canada and Argentina, both members of the UfC. Similar policy shifts may also result from the forthcoming U.S. elections this November.

That said, I sometimes wonder how the positions of some countries can remain so static on this issue over a protracted period of time. In some instances, the policies of some member states towards Security Council reform have remained unchanged in more than 20 years. This begs the question whether they are able or willing to evolve in relation to their thinking on this issue, or if their proposals are forever destined to be immutable.

### **CONCLUDING THOUGHTS: SOME KEY QUESTIONS**

I leave you today with some key questions that I believe are worthy of consideration:

- Are pro-reformer countries genuinely interested in achieving reform?
- If so, how do they engage with their anti-reform protagonists?
- How would Brazil's presence as a permanent member, either with or without veto power, impact the crises in Syria, Ukraine or North Korea? Would its admittance to this elite club really make a difference to the rest of the world?
- What is Brazil's response to those who argue that, without structural change to the Security Council's operating system, the addition of new permanent members will fail to redress the fundamental problems that are embodied in today's Council?

Ladies and Gentlemen,

It has been a pleasure sharing my thoughts with you on this important subject, and I look forward to listening to the views of the other participants as we proceed to the panel discussions.

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Security Council reform has proved over the years to be a stubborn and elusive goal, but it is one that I believe remains firmly within our reach if we muster the courage and determination to grasp it.

Thank you!

## **DISCUSSIONS**

### **PANEL I – THE PRACTICE OF THE SECURITY COUNCIL: OLD AND NEW CHALLENGES**

**Ambassador Sérgio Eduardo Moreira Lima, president of the Alexandre de Gusmão Foundation** - We are now starting Panel I, “The Practice of the Security Council: Old and New Challenges,” with the panelists William Pace, president of the Center for UN Reform Education, and Ambassador Martín Vidal, director general for political affairs of the Ministry of Foreign Affairs of Uruguay. The moderator for this panel will be Professor Letícia Pinheiro. It’s a pleasure to have her with us once again. She is professor at the Institute of Political and Social Studies, State University of Rio de Janeiro (UERJ). Professor, you have the floor.

**Ms. Letícia Pinheiro, professor at the Institute of Political and Social Studies, State University of Rio de Janeiro – UERJ** - Thank you. Good morning. I am very honored to moderate this panel. I would like to thank Ambassador Sérgio Eduardo Moreira Lima as well as all the other organizers of this event. I have no doubt that this is a great opportunity to have a discussion about

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such an important issue at the international agenda for all of our countries. To do so today, we will benefit ourselves from the presentation of our panelist, Mr William Pace, president of the Center for UN Reform Education and convenor of the Coalition for the International Criminal Court, as well as the remarks of Ambassador Martin Vidal, director general for political affairs of the Ministry of Foreign Affairs of Uruguay. Well, in order to extract optimal results from this opportunity, I would like to suggest, if I may, that, after Mr. Pace and Ambassador Vidal end their presentations, we open the floor for the debate. And then I can either pick three or four questions, if that is the case, and come back to the table for the reactions or just maintain the floor open for discussions. Having said that, I would like to give the floor to Mr. Pace. Thank you.

**Mr. William Pace, president of the Center for UN Reform Education** - One must acknowledge the enormous skepticism and pessimism that surrounds “Security Council reform,” but, behind these three words, reside the fate of the United Nations, the charter and, most importantly, the first preambular goal of the United Nations: to save future generations from the scourge of war. The last century was the bloodiest, most violent war-ridden century in all history. And, tragically, the 21<sup>st</sup> century is on the same path. Global Civil Society, unfortunately, has stayed outside of this reform agenda. We are pleased that Ambassador Ratnayake raised this issue, and we hope that this conference will help stimulate NGOs around the world to awaken to its relevance to their mandates. I am honored to speak in my role as president of the Center for UN Reform and convenor of the Coalition for the International Criminal Court. The Center monitors, and has monitored for 20 years, and reports very neutrally on the Security Council Reform negotiations. We are grateful to have participated

in past Brazil Security Council Reform Conferences. However, I also serve as the general secretary of an old Peace Movement, the World Federalist Movement (WFM) and its Institute for Global Policy. The WFM is a founder of the Center for UN Reform, hosts the International NGO Coalition for the Responsibility to Protect and has led and coordinated the Coalition for the International Criminal Court, which now has over 3,000 NGO members since 1995. And, this last year, we were pleased to be hosting a campaign called “1 for 7 billion” on reforming the procedures for the selection of the secretary-general.

So, we have a long history of working on Security Council reform. Work on their current reports detailed small changes in the negotiation; my intervention today will be very broad stroked on this. First, I want to note here some important aspects of Brazil’s leadership in the Foreign Ministry here and at the UN. Just this past year, in the General Assembly reform meetings and committee, Brazil ambassador and Mission have played, I think, a very constructive role in the changes of the secretary-general selection process. They have also played an important role in discussions of the relationship of the General Assembly and the Security Council, on issues on which we were working with the Brazil government on the International Criminal Court. Again, the headquarters of the Brazil diplomat is the head of the Friends group. Brazil has been a strong supporter of the Rome Statute in this region and at the UN and this regard. Let me remind and request the Brazil government that we hope they will proceed to move forward on the Kampala Amendments, in particular, the Crime of Aggression Amendment to also complete along with the other Action Legislation Brazil has adopted relative to the Rome Statute. We also hope they will complete the National Legislation implementing the statute that has been stuck in the Parliament for several years. Lastly, I, again,

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want to congratulate the Brazilian government on the great South-South leadership they have shown. Excellencies and colleagues, the organizations that I am representing here today have been committed to fundamental reform and strengthening of the UN, and especially the Security Council, in the case of WFM since 1947. Founders of our Peace Movement, such as Albert Einstein, had experienced two unbelievably destructive world wars within 20 years. I mean these were the two most destructive wars in all of human history. And when one considers how World War II ended in Asia with the U.S. dropping atomic bombs on Japanese cities and Europe with, for many, the discovery of the most horrific holocaust crimes against humanity having occurred, our founders believed that the world community had only a decade or two at the most to establish the International Peace and Security structures, laws and institutions to prevent World War III. The Security Council's failure and the nuclear arms race began immediately after the doors opened, if you wish. Nevertheless, I think Einstein and others would be astounded that we are out 70 years without a war of using weapons of mass destruction among major powers again. Nevertheless, it cannot be denied that the proliferation of war and weapons of mass destruction began immediately after the charter entered into force, and it has continued in a catastrophic fashion to this day.

I will address a large historical perspective so I am going to have to speak in very broad strokes, and I know some of these should be more nuanced. The end of the Cold War in 1990 was monumental. It is important to recall that this major deal political development was not predicted or expected by the western governments. Their CIAs, their NSAs, NATOs, UK or French Intelligence are, as far we know, foreign policy elites. I don't know why this hasn't been the subject of Ph.D.s theses in the last 25 years, but it certainly warrants some looking into.

With the Cold War ending so unexpectedly, many experts claim that this astounding political development resulted in the United Nations filling the vacuum that was created. The new secretary general from Egypt, Boutros Boutros-Ghali, was asked and brought forward an agenda for peace, to be the document that serves as the background for the first summit of heads of governments of the Security Council, held in 1992. During this period of time, the New Russian Federation was, of course, overwhelmed with three organizations, and China was still focused mostly on non-UN priorities. So, there was this enormous opportunity for the UN and the failure for fundamental reforms and improvements to take advantage of the end of the Cold War. The responsibility has to lie primarily with the so-called P3, the U.S., the UK and France, and the international community that lost this opportunity.

As you know, at the end of the 80s and throughout the 90s, the UN embarked on a series of historical World Conferences and, in 1995, celebrated the 50<sup>th</sup> anniversary of the Charter in the UN. This 50<sup>th</sup> anniversary ignited a number of important UN reform processes, including an intergovernmental one that is infamous for its title. For many years, it was called an open-ended working group on the question of affordable representation on and increase in the membership of the Security Council and other matters related to the Security Council. This has now been reduced to the Inter IGN, intergovernmental negotiation.

I want to mention, before I go, that I brought some documents with me and I hope that the conference organizers will make available for circulation. A couple of them I will hear in a few minutes from Bruno Stagno Ugarte, who is one of the finest diplomats for ministering on the UN reform and Security Council issues in the last 50 years at the UN. He edited this important book on Security Council Reform that was released this year and another book that Bruno informed me about a few years ago called “15 Men on a

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Powder Keg,” a history of the UN Security Council written in 1970 on the 20<sup>th</sup> or 25<sup>th</sup> anniversary of the Security Council. Those are extraordinary documents that exist now, so a lot of studies and research is there; it is the political implementation that is lacking.

In my handouts, I have a time review on some important processes that the General Assembly and Security Council will agree to on the Peace Operations Commission Report, on the peace architecture report, on the Women Peace and Security Resolution and what the Secretary is supposed to do over the next four years. A paper on some of the Council expansion reform, proposals, the Razali Proposal, the Mahbubani 777, “Elect the Council” from a South African Institute, the Elders Proposal, an ACT Proposal, etc. I have a list of the supporters of the Code of Conduct regarding the Security Council action against genocide, crimes against humanity, more crimes elaborated by the Act 25 member group and a similar initiative by the French government asking the P5 to refrain from the misusing of the veto. The ACT has 111 governments within five months endorsing this. The French, in the last year, had 86 governments endorsing theirs. There is a copy of a letter that my organization wrote to the Security Council and numerous states when Russia was allowed to veto the Chapter 6 Resolution on Ukraine, which we think is completely contrary to Article 27 of the charter and one of the issues we will raise today.

Then, there is a copy of one of the reports from the Center for UN Reform on the IGN and lastly, a paper on the Resole Reform, a paper that I wrote, discussing this draft resolution from 1997. You will see from the Razali Draft Resolution in 1997, that Ambassador Razali was, I think, one of the most expert and effective presidents of the GA although people like me discouraged him from circulating his draft resolution, and I wonder if any GA presidents could really be allowed to issue such a draft resolution.

By this time, in the late 1990s, the United States, United Kingdom and French Foreign Policy establishments recovered or regrouped from what they perceived as a terrible mistake of allowing democratic global governance reform to blossom at the UN. I mean, the World Conferences were being attended by 10, 20, 30 thousand civil society organizations, the member states of the General Assembly had greater power in policy making than ever before. So, this was very much a red flag to the big powers, and they were able to react to this and to shut down the last of the world conference processes that would have been in the decade of International Law, which would have dealt with peace and security and the world of law issues.

As you know also, in 1996, was the U.S. veto, the recommendation for reappointment of Boutros Boutros-Ghali due to domestic political campaigning issues in the United States. The Razali Resolution has backfired over time, and I think the issues that were raised have led to nearly 20 years of deadlocked negotiations on Security Council reform. With a new century then beginning, tragically, there were catastrophic mistakes by the U.S. and the United Kingdom in responding to the attacks of 9/11: their invasion of Iraq, the war on terror... these have been disastrous beyond expression.

By 2004, the Bush Administration moved to fire another secretary general over his criticism of the invasion of Iraq. However, Secretary General Annan and supporting member states fought back and converted the 60<sup>th</sup> anniversary in 2005 into a truncated UN Reform Summit. The General Assembly, as noted, firmly rejected Kofi Annan's high-level panel proposals for Security Council Reform, but they did agree to some very important advances including, in our mind, the development of the Human Rights Council, the Peace Building Commission and the new norm responsibility to protect. The conference paper for this meeting

has raised crucial issues. The 1945 arrangement for reestablishing the League of Nations as the United Nations, the victors of World War II presenting the Charter as take it or leave it, even two of the P5 governments, French and China, were in post-war ruins and civil war. The P5 had never performed as promised in the Charter. Instead, they basically led a worldwide nuclear arms race. They have historically been the primary weapons producers and sellers, involved with mini proxy wars. This process, over the last few decades, of outsourcing peace-keeping operations in which they're supposed to have a primary role, are being outsourced to developing countries. As the Concept Paper also notes, the P5 are now threatening to expand a legislative law in the Council extending their mandate to issues on health and finance, climate change, etc. This, as you know in their paper, is a direct threat to the role of the General Assembly. There has been major development in the last five years on this issue of Security Council reform. First is the goal that many of us had of encouraging member states to separate the Charter and the non-Charter issues in the intergovernmental negotiation framework.

During this last decade, a majority of member states, we believe, have recognized the mistake of linking non-charter reform of the Security Council to the extension issue. And it appears clear that the 69<sup>th</sup> and 70<sup>th</sup> General Assembly last year have ended working methods to reforms being held hostage in the expansion negotiations and under resolution 62/557. As you will see on the graph I showed on synergy of the peace initiatives, the international community has agreed to a very packed agenda in the next several years on the continuation of reforms on Security Council procedures: peace operations reform, peace architecture, women's peace and security reform, and on implementing goal 16 of the Sustainable Development Goals and calling for the reform of the veto in the General Assembly. The Security Council

has scheduled numerous pass and monitoring for this so called working methods issues that I know the next panel is going to present expert information on. I hope this move to really focus on those issues that can and must achieve change is not too late.

My comments on the issue of new permanent seats will be controversial, because I think it is very clear that there's a very serious series of paradoxes and contradictions at play. One is that the majority of you and member states want major reform of the 1945 P5 arrangement and thus support, in principle, the expansion of the Council in both permanent and non-permanent categories. However, only a minority of governments actually appears to want any new permanent members and are sanctioned hegemons in their region. So, while they support a principle for everyone, when it gets down to their own region, there is significant opposition to this.

Secondly, it is the danger that adding permanent members in some regions might actually, in the UN, have countries withdrawing from the charter or even cause World War III, and I don't think of Brazil and this region, I'm talking mainly of the proposals in Asia. If Japan and India were on, I think, the political disruption would be enormous. So, I think it is at this point that you will find, in the agreement, the resolution and the General Assembly with 130 votes on five or six new permanent members is extremely small idea that a country like Brazil which could singularly get an agreement for that, but that will be blocked by those in Africa and Asia that would not want to have one or two new permanent members go forward without the full package. So, then you look at another 20 or 25 years of this paralysis on the expansion issue. And this is a gift to the P5 in my organizations. Because all they do is throw out red meat onto the floor and watch the member states in their different groupings fight over it.

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So, one of the suggestions, as mentioned, is perhaps an additional intermediate plan of additional members, some say two- or three-year memberships and some perhaps, five to eight or 10-year memberships that could be renewable. I promise you the longer-term memberships would drive the P5 crazy, and, yet, if they have 140, 150 governments supporting that, I don't think that P5 governments would veto the resolutions.

I need to also mention a couple of other major anachronisms and contradictions that exist, one that was illustrated last week. The Cyprus candidate for the president of the General Assembly was opposed by many governments because Cyprus has been in the Asia and UN groups since it was admitted in 1960. But it joined the European Union in 2004, and many governments complained that having three presidents of the General Assembly in a role from EU countries was inappropriate. So you would have had an EU national for the western group as is present for the eastern European group and for the Asia group. So this is just one of the ways that the regions established in 1945 ought to be reconsidered and reformed.

Also in the restructuring, many in Africa, Europe and South America have been calling for regional seats instead of new permanent seats for individual member states. So this is a whole area of issues that involved serious continued discussions and negotiation. Some of them are so interdependent with each other that I think we really do support moving ahead on those non-Charter issues. There can be improvements in maintaining peace and security and retracting the impact of the veto on the permanent membership and try to expand the ability of the General Assembly in the elected members to secure reforms.

And this is the last point. We have seen, in the last 20 years, 100 to 110, 115 states who are mostly small and mid-sized

democracies standing occasionally to the biggest powers and saying here's the kind of progress that we need and want. Whether it is last year's Sustainable Development Declaration, or other examples, I think it is the intergovernmental group that will be most successful in achieving fundamental reform of the charter and the Security Council. Thank you.

**Ms Leticia Pinheiro** - Now Ambassador Vidal, please.

**Ambassador Martin Vidal, director general for political affairs of the Ministry of Foreign Affairs of Uruguay** - Thank you very much to the Brazilian Ministry of Foreign Affairs, especially Ambassador Simas Magalhães. Thank you very much to Funag and the rest of the organizers and Ambassador Moreira Lima. I would also like to recognize the work of the Brazilian Embassy in Montevideo and to tell you I am honored to share this panel today with such accomplished diplomats and scholars. I am also very happy to see good old friends here in Brasilia. It is very positive and encouraging to have Brazil hosting these kinds of discussions. The proactive and constructive role that Brazil has played and will continue to play in global affairs, including peace and security, is something appreciated by many of us and beneficial to the system. The proliferation of armed conflicts, the increasing actions of terrorists and extremist groups on a global scale, the humanitarian crisis of biblical proportions that we are witnessing and the deficiencies in the international architecture to act in an immediate effective and in a legitimate way to address the most urgent crisis make it crucial that we work harder to find better ways to improve this situation. More than ever, we need to strengthen the multilateral system. Uruguay is a strong supporter of multilateralism, not only for our historical political view of the world order, but also for practical reasons. (inaudible)

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So, as I was saying, multilateralism is also important for practical reasons. It is very difficult with today's diffuse distribution of power to solve global or even regional problems unilaterally or bilaterally. We need more cooperation, particularly among states, but not only limited to them. In this scenario, the UN Security Council is a key player. The Security Council is an intergovernmental entity that has no sovereignty concessions among its members. It's the sum of its parts. So, the responsibilities for its actions and inactions rely basically in their members. However, there are things that we can do to increase incentives for member states to work together to solve the problems that are taken to the Council's attention. And, for that, we can update, upgrade or reform – as you wish to call – the Council, including changing its composition and improving the way it works. Every organization needs to adapt to changing realities to remain relevant. And the Security Council is no exception. We may have invested more than two decades already with the reform process, but the vast majority of countries, as said earlier today, still agree that the Council needs to adapt to current times. And, despite the lack of progress on the most sensitive issues, there are moments with more gains in some areas, as mentioned earlier today by Ambassador Rattray. My country, Uruguay, since 2004, has explicitly supported the expansion of the Security Council in the two categories. We believe that a more representative Security Council will bring not only more firmness and legitimacy to the system, but also an injection of strong political will, resources and energy that are much needed today.

I would like to share with you a few thoughts considering our current participation in the Security Council since January of this year. After six months in the Council, we also have confirmed the positive contribution that non-permanent members, especially those who are not recognized for the hard power capacities, can make to the agenda, particularly on the improvement of

working methods and also by providing a strong principled and comprehensive approach to the thematic discussions.

So, there we have made it for both expansions in the two categories. A good example of these I have just told you is recent resolution 2286 on the protection of medical personnel and medical facilities in armed conflict, presented by five non-permanent members and adopted with 85 co-sponsorships.

There are also other examples of good practices that are worth examining. Like the concerted actions taken by the Security Council and the Secretariat at the beginning of this year in the case of Burundi. We consider this, for the moment at least, a good example of preventive diplomacy. After the government of Burundi rejected some actions proposed by the African Union, the Council organized a visit by the 15 members to the country, had talks with the government and tried to have talks with the opposition.

This mission was not very successful, but, two or three weeks later, the secretary-general had substantive discussions with the government and opposition. In the meantime, the USG of DPKO requested by letter to the troop contributing countries that are deployed in the DRC in MONUSCO to make available part of their troops in case an urgent need arises in Burundi. And, finally, in April, a resolution was adopted supporting the diplomatic efforts for the African Union and setting up guidelines for a UN police force. All of this contributed to lowering the tensions in the country that remained mainly political factors, but reminded us of moments prior to the atrocities committed 20 years ago.

In this semester, we also have many examples of bad practices, but I will stay with the constructive approach that was suggested in the concept note. Of course, in the last few years, the Security Council has received strong criticism, either for its actions, like in the case of Libya, or its inactions as in Syria, especially in

situations in which mass atrocities or massive human rights violations were imminent or already underway. These situations force countries like Brazil and, in another way, members of the ACT Group, as William Pace has just mentioned, to find ways to frame these actions or simply to provide some possible rules of the game to limit the negative effects of those actions or inactions. The initiative on the responsibility while protecting was received with a lot of interest by the international community a few years ago. It has been seen by many supporters of R2P, like Uruguay, as a reasonable and realistic complement to the latter, to the R2P concept, that could allow several countries, that were hesitant because of the potential misuse of the concept, to engage in a more constructive discussion.

Likewise, but focused on avoiding flagrant inactions, the ACT Group launched a Code of Conduct last year, to limit the use of veto, an incredible resolution that would help to prevent or stop the three typified mass atrocities, as mentioned by William: genocides, war crimes and crimes against humanity, an initiative that we see as complementary to the French-Mexican one, in the same matter. These initiatives touch the sensitive issue of the veto, which being the clearest expression of realpolitik, and the notion of the principle of equality of states, we don't think it's a good idea to extend it to new permanent members in case the Council is reformed. Extending an unfair tool will not make the system more fair or effective. Therefore, the proposal of the 15-year moratorium could be a good way out for this moment.

Another source of criticism, and one which has just been mentioned by William, has been the legislative role of the Security Council. I couldn't agree more with him about the risk of extending this to other areas like the ones already mentioned. We only understand the risk of precedents or the unfairness of the rules in a few general matters. But, at the same time, we need to be aware

of the strong incentive that exists to treat things at the Security Council. It is much easier to get 15 members to agree on something than 193. We all have the responsibility, therefore, to work harder at the General Assembly to show how relevant it can be to have the broadest support to a given issue. Apart from demanding its relevance as a formal right, we should redouble our efforts to show how useful it can be when you get all actors involved or a wide and representative variety of countries agreeing on something.

I want to share with you an anecdote, during this type of discussion, about the legislative role. A good friend of mine, a P5 member, asked me, “Martin, tell me one example of why we should care about having a consensus outcome at the subsidiary body of the GA related to peacekeeping operation, the C-34, because my Permanent Representative thinks that if we don’t get an agreement there, we go to the Security Council and we easily can agree on a resolution on the issues that are under discussion.” And the answer is not mine, many TCCs share this answer: it is much better to have all the different parts of the chain involved in the solution rather than only a few, because to solve this problem you need not only the political will of the Security Council, but, in this case, the commitment of the countries that have to implement, the countries that have to invest their finances to the system. So, therefore, if you have an agreement at the General Assembly, also supported by the Security Council members, you can be much more effective. And to remind you of the example of the protection of civilian discussions, the then ambassador and former minister and current scholar Bruno played so well during his years in New York.

In 1999, the UN mission in Sierra Leone was being established for the first time among the POC, but it took 10 years for the General Assembly to even admit the mentioning of the three words “protection of civilians.” During those 10 years, the Security

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Council legislated on POC, and the GA refrained from it. And, for that, we cannot blame only the Security Council, we have to blame ourselves.

Then in 2009, we included this issue for the first time in a report of the C34, and, from then on, angles that have not been taken into account by the Council, like training capabilities and posture, were included in the mix and considered in the discussion of POC, thereby having a much more comprehensive view of the needs to move this agenda forward.

I understand that the next session will go deeper into this question of working methods, so I will refrain from entering into more detail on this matter, especially from the perspective of a troop contributing country. However, I would like to share, at the end of my remarks, one idea that we have been discussing together with our current E10 members. It has to do with the notion of permanent interests. This consists in the possibility of handling initiatives that go beyond the two-year participation of a given country in the Security Council. This would allow that a certain proposal initiated by country X could be continued by country Y and then by country Z. However, these are only partial attempts to improve the work of the Security Council, or not make it worse, but they are not substitutes for the need for a comprehensive reform that we are discussing today. Thank you very much.

**Professor Letícia Pinheiro** - Thank you, Ambassador. I would like to open the floor for debate. Ambassador Tronenko. Please, I would like you to introduce yourselves before you ask your question or make your comment. Thank you.

**Ambassador Rostyslav Tronenko, ambassador of Ukraine** - Thank you very much, Madam Professor. Since my country was mentioned more than twice by the guest of honor, Permanent Representative of Jamaica and by the panelist Mr. Pace, I would

like to make short remarks, probably complementing our Uruguay colleague. As you know, Ukraine joined the Security Council in January 2016. Our road to this event was a long and difficult one. We started our campaign for a non-permanent seat on the Council in 2002. I am underlining this to dispel any misconceptions that our bid for the place on the Security Council was in any way connected to the Russian aggression against my country, which started with the occupation and attempted annexation of the Autonomous Republic of Crimea in 2014.

This is our fourth term on the Council overall and the second one since our independence. When the decision was made back in 2002 that Ukraine would compete for the Council seat for 2016-2017, the rationale was to make our meaningful contribution to maintenance of international peace and security. There was no other hidden agenda then and, believe it or not, there is none now. We are strong believers in the purposes and principles of the UN Charter, and we always stood firm on them. We are convinced that these so familiar notions to any student of international relations as territorial integrity, political independence, sovereign equality, non-interference in internal affairs, settlement of disputes by peaceful means, inadmissibility of threat or use of force have to be upheld and defended against any encroachment. If violations of these principles or attempts to bend them occur, it always undermines the existing international order and puts under threat international peace and stability.

This has been our consistent approach to the issues of international politics, and this we bring with us to the Security Council. Our recent history of relations with the neighbor to the east only proves that our approach has been right all along. The Russian aggression against Ukraine, and the seeming inability of the UN to react properly, only strengthened our resolve to continue to exert efforts directed at upholding and protecting the very

basic foundation of international law and order, which is found in the UN Charter. Our membership in the Security Council is not aimed against the Russian Federation. However, protection of our independence, sovereignty and territorial integrity is our natural priority in the framework of any international organization, and the platform of the UN Security Council is not an exclusion in this regard. We will use all available means as a non-permanent member to counter the Russian aggression. For example, in January, we raised the issue of some statements made by the Russian president questioning the validity of Ukraine's borders. We made our point that such escapades will not be tolerated or ignored on our part.

Just last week, we held an Arria formula meeting on the situation with human rights in Crimea. At the same time, I would like to stress that our work at the Council will not come down just to setting scores with the Russian side. We have no intention of "hijacking" the Council agenda with our issue, and we are engaging in constructive work on all items that are brought to the attention of the Council. It is no secret to anyone who follows the work of the UN and the Security Council that the issue of (or rather the lack thereof) transparency and democratic nature of the work of the UN Security Council has long been under close scrutiny. We stand for transforming the Council into a more representative and open body and thus consistently support the idea of increased representation in the reformed Council of underrepresented regions, as well as improving its working methods. By the lack of time, I omitted the issues of elections of the UN secretary-general, the issue of maintaining peace and security in Africa, peacekeeping and peace-building potential, disarmament and proliferation issues and combating terrorism, which are among our priorities in joining the Security Council.

In conclusion, we are realistic and pragmatic in our approach to the work on the Security Council. We do not expect to change

things overnight. At the same time, through our work, we strive to make the world if not a better place to live in then at least a safer place. I hope that, in two years, when we finish our term on the Council, we will be able to report to you that Ukraine made a significant contribution to maintaining international peace and stability. Thank you. If it's possible, I would like to ask you, Madam Professor, to include my remarks in the papers of the seminar, please.

**Professor Letícia Pinheiro** - I will talk with the organizers about that. Thank you.

**Professor Letícia Pinheiro** - There is another hand raised. Would you please introduce yourself before asking or making your comments?

**Mr. Thales Castro, assistant for international relations of the Rector's Office of the Catholic University of Pernambuco - UNICAP** - Thank you very much, Professor Pinheiro, for granting me the floor. Well, basically, I just have a remark, it is not a question, but rather a reflection. I do share Mr. Pace's pessimism and somewhat of a cynicism that surrounds the entire rhetoric about the UN Security Council reform. Ambassador Ratray twice mentioned the word cynicism, it seems that you are being... Oh, I am sorry. My name is Tales Castro, from Recife, I apologize. I do share this general sense of pessimism because every time that we attempt to really think about reform, it seems that we fail to truly understand the inner workings in the true core mission of the United Nations Security Council. If we tend to understand Security Council reading Article 1 and Article 2 of the charter, we are misled and misguided to fall into an idealistic Kantian trap. The true mission of the Security Council is not to promote and maintain peace and security, that's a flaw. The true mission of

the Security Council – and this is my hypothesis – is to preserve world order. And order is very different than peace. When we see these idealistic views of the Security Council being responsible for the maintenance of world peace and security, we fall into this repetitive Kantian trap. So, that having been said, once, when I was writing my doctoral dissertation about Security Council back in New York, I heard from a prominent U.S. diplomat who said, “Well, Professor Castro, you are writing about all these naive views on reforming the Security Council or the UN, but you need to make one point very clear: when you are thinking about these perspectives of reforming the Security Council, we at the U.S. the Department of State in Washington, we ask ourselves ‘what is in it for me?’” By this expression, this prominent U.S. diplomat was pretty much emphasizing and portraying the true nature that we spend endless hours, which is very fruitful by the way, and I do congratulate Funag’s president, Ambassador Moreira Lima, for such a positive event, but we do spend a lot of hours trying to reflect and understand all of these positions, all of these perspectives in reforming the UN Security Council, but, at the core, the United States asks, “what is in it for me?”

So, we need to perhaps find a balance between legitimate representation and world order institutional governance. That global balance might enlighten us to see a little bit further, rather than falling in to this idealistic, Kantian, repetitive trap. It takes a former Egyptian, the first African, Secretary General Boutros Boutros-Ghali. Whenever he tried to establish this activist idealistic agenda, he failed to have the second mandate confirmed. So, my suggestion and remarks is that we need to go beyond the mere Sisyphus work, of every year attempting to re-edit and rethink the same strategies, notwithstanding the very positive efforts by the IGN efforts to actually promote thorough understanding.

So, my greatest remark is: wouldn't it be the case for us to rethink and reconstruct the entire notion of what underlies the domestic agendas of the P3 countries, rather than negotiation at this very macro level? If you ask the 193 member states of the United Nations if they are in favor of peace, they'd say yes. Fully committed, they'll publicly state that. But when you ask how or in what terms would this peace be constructed upon the Security Council reform, they actually failed to achieve minimum consensus. So, it is just a basic framework for our reflections. Thank you very much.

**Professor Leticia Pinheiro -** Thank you.

**Ms. Adriana Erthal Abdenur, fellow of Igarape Institute** - Thank you. My name is Adriana Abdenur, I am with Instituto Igarapé in Rio de Janeiro, and I wanted to say, first, that our institute is always honored to collaborate with Itamaraty and with these fellow think tanks. I have a proposal disguised as a question, and it builds on some of the remarks that Ambassador Vidal has just made on preventive diplomacy, but broadening it to the concept of conflict prevention.

Let me start by just sharing a little anecdote from the high-level debate on UN peace and security I participated in a couple of months ago, along with General Floriano Peixoto. One thing really struck me in that debate, in which we basically discussed the results of the HIPPO report of three reviews of the peace operations, peace building and women, peace and security. Over the course of two days, there were practically no comments about UN security reform. In fact, I think I was one of the very few, maybe out of two or three people who brought up the issue arguing that it cannot be divorced from reviews and those normative debates, and this was followed by a comment – I am not a diplomat, so I

can be undiplomatic – by the American representative, saying that this was not the appropriate venue to discuss UN Security Council reform. On the one hand, I was just talking to some diplomats here. It was a very good sign that, in the UN General Assembly, there was finally some open and deeper discussion of peace and security issues, but I don't know whether through bureaucratic inertia or political strategy on the part of maybe some P5, the issue of reform was really compartmentalized, and this seems very diplomatic given what we have been hearing so far.

But there was one theme that came up that was practically consensus, and that was the need to invest further in conflict prevention and address the so-called root causes of conflict. Everybody seems to agree on this. The problem is that, if it means everything, it means nothing. So, the million-dollar, or the million-real question is: how do you operationalize conflict prevention within the general architecture of the UN in a way that we are going beyond the mechanics of UN Security Council reform, and also thinking about the normative contributions, and eventually the operational contributions that some of these developing countries can make as candidates for permanency? I think at least two tasks for Brazil, and it would be lovely to see Brazil play more of an active role as a norms entrepreneur, and really champion conflict prevention but to help the UN map out the mechanisms and operationalize the concept in much more concrete way. So, obviously, this requires conceptual work, for instance, a typology of conflict prevention, and I think the concept that you mentioned of preventive diplomacy could be considered one that is geared, for instance, towards imminent conflict or recurring conflict, but it is not necessarily adequate for deeper, longer-term root causes of conflict.

And then, of course, this would be a project that would also require very concrete recommendations and the creation of a

more in-depth dialogue of conflict prevention. And the function of the UN Security Council in conflict prevention, because, if we go back to the charter, it was not all about peace-keeping. So, a lot of the discussion, and we said this last month, on fine-tuning peace keeping, whether it is robust missions or the smaller missions, is certainly necessary, because we know that there's a lot of room for improvement. But, clearly, there's a mandate that's not being fulfilled with conflict prevention. And I think this is a space of opportunity, so in addition to conceptualizing and helping to operationalize conflict prevention, Brazil needs to look back on this idea of a political strategy within the UN. I know that there are costs associated with being a norms entrepreneur. I just got a quote that, for instance, having a debate at the UN General Assembly costs around 20 thousand, maybe even more, if you add translation. So maybe that could be shared, so Brazil will find some like-minded partners in the developing world and elsewhere. Canada is very interested in this idea. And really push through in a way that, for instance, the responsibility while protecting – I know there are other reasons involved – but the proposal was placed on the table, and there was a lack of mid-term political strategy. So, in order to champion something that would substantively alter the functions of the UN Security Council, we have to remember that it is not about just creating space for ourselves, it is really about making this a more effective mechanism. We need this kind of norms entrepreneurship associated with concrete political and financial strategies as well. So my question disguised as a proposal – to go back the other way – is: do you see conflict prevention as a venue in which the political debate for UN reform could be deepened, and specifically for Brazil, but more broadly for others aspirants to permanent seats? Thank you.

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**Ambassador Ronaldo Sardenberg, former Permanent Representative of Brazil to the United Nations** - Before I enter the substance of my regards, I wish to thank the organizers of this international seminar, namely the Ambassador Sergio Moreira Lima and Fernando Simas Magalhães. Not that I wish to forget Ministers Maria Luisa Escorel de Moraes and Eugênio Vargas. This is a highly interesting seminar; it is in line with the tradition of this house, of thoroughly studying the issues relating to the Brazilian foreign policy, and to international relations as a whole.

I would like to recall the names of a few of our predecessors. The first one is the man to whom this room is actually given, in a way. This room is named Santiago Dantas, after a foreign minister of Brazil. Ambassador João Augusto de Araújo Castro, who also was an ambassador of Brazil, was also a Permanent Representative of Brazil in the UN and in Washington. But I still recall Miguel Osório de Almeida, Ramiro Saraiva Guerreiro, and, lately, Bernardo Pericás Neto, who, among others, were renowned for their intellectual prowess and their diplomatic expertise.

We have, at our disposal, a very useful concept note, which covers many of the issues relating to the reform of the Security Council. If we go to the remote past, I would say that, by itself, the creation of the G4, in 2004, brought about a constant improvement in the tiring work of building the Brazilian posture at the United Nations. It is a fact that, since 2004, most UN members, including the permanent 5, became much more interested not only in the possibilities for action by the G4, but also more specifically interested in the Brazilian stand in regard to day-to-day UN politics in the larger issues of the maintenance of international peace and security. So, the G4 is a plus for the Brazilian diplomatic efforts at the UN and far beyond. As a matter of fact, Brazil continues to work with the G4 countries. The G4 is now recognized as an indispensable actor of the process of the Security Council reform.

The action by that group in the quality of its diplomacy is now accepted as given by the United Nations membership. If we limit our observations to Brazil, I would say that the presence of Brazil at the Security Council is also now something that has a wide acceptance by the membership.

I am old enough to recall the time when people would question, in the United Nations, and here in Brazil, whether Brazil was or was not qualified for the position of a permanent member of the Security Council. I would continue by saying that there are no magic formulas to be applied to the process of reform. There are diplomatic initiatives and diplomatic possibilities, but we really cannot snap our fingers and suddenly create a new reality. The P5 have that power. They have a responsibility to honor that special situation they enjoy. The road towards success, however, is still blocked by descent by the variety of interests on the table. In absence of a better distribution of power within the Council, and the clear resistance to that, certain adverse trends are emerging, such as the evaluation of international law. From time to time, the Council take the dangerous road of law building, and the UN charter becomes less applicable, as the basis for the solution of controversies and conflicts under the sponsorship of the P5. It's hard to predict the future of the Council reform, as it hinges on the evolution, or perhaps I should say involution, of the present international order itself. It's widely accepted that there is a direct correlation between the Council's performance and the evolution of international order. A bad performance by the Council, which we see so many times, is always something that has an influence on the evolution of the international order.

The G4's current strategy is that of urgently preparing for the UN framework, with the Council in the forefront for the worsening international situation. I think, today, we are much less optimistic than we were at the beginning of this century. The

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continuing proliferation of nuclear weapons is reason for alarm, and terrorism became a new cause of growing apprehension. No doubts that, in the process, Brazil accrued some gains, so it would be naïve to expect that Brazil could succeed by absenting itself from the political and diplomatic process of reform, in hope of later on returning to it. If, at least for Brazilians, it's very easy to see that one can very well envisage the dire domestic repercussions if in the long run, at the end of this process, Brazil would achieve less than other members of the United Nations. So, we don't have the ability of absenting ourselves and then returning, and then being successful. We must work every day, every month of every year, together with our friends.

And, also, some words about the United Nations itself. The United Nations is not meant to be a world government, but it's more than a few buildings inspired by Le Corbusier and Oscar Niemeyer in Turtle Bay, New York. The UN is the best and largest political theater of the world, where the drama of international order is daily played. As a concept, it is also the most advanced international organization, as it is clearly shown in the preamble of Articles one and two of its charter, which are infected with the more doctrinaire aspects of the United Nations. The Security Council and General Assembly are among the main UN organs; however, they are based on radically different principles. While the Council is centered on power, as illustrated, for instance, by the veto in the hands of the P5, the General Assembly rests on the democratic rule of "one member, one vote," that is to say, the quality of nations, the sovereign equality of nations. At the Council, the diplomatic games are clearly conditioned by those in power, in particular by the P5's attempts to freeze the hegemonies inherited from last century. The faculty of the veto is a direct consequence of the geopolitical approach underlying the work of the Council.

But some people are more than pessimistic, they say, without producing evidence. Some skeptics are certain only a third world war can open a political space for the reform of the Security Council. I do not share that view. The Council is used to diplomatic anachronism in changes of international order. I don't have to go into this, but we should re-look at the admission of the People's Republic of China, or the joining of the People's Republic of China, to the United Nations. We should study the immediate adaptation that took place when the USSR became the Russian Federation, while keeping all UN charter prerogatives, which were given actually to the USSR. We often hear the idea that Brazil has created a number of embassies in the African countries, for the purpose of winning their support for the Brazilian standing on the issue of the reform of the Security Council. I do not believe that because I have never seen a concrete example of that happening. This is something that is done beyond the logic of the United Nations charter or the United Nations practices.

Having said that, I should clarify that the UN does not monopolize diplomatic and military process of our time, but it certainly plays an important role in legitimizing the action of states in the field of international peace and security. Thank you.

**Professor Leticia Pinheiro** - Thank you. Mr. Ugarte, please.

**Mr. Bruno Stagno Ugarte, deputy executive director for advocacy at Human Rights Watch** - Yes, thank you. I would like to thank William Pace and Ambassador Martin Vidal for their very interesting opening comments. I wanted to ask both of them what they thought about the role of penholders. We recently have, as of approximately 2010, the P5 basically monopolizing the holding of the pen for the drafting of resolutions. Ambassador Vidal did mention, of course, 2286, a case in which the pen was still on the

way, but how do you see the penholdership in light of the reform movement? What does it say about the willingness of elected members to actually try to have a more balanced approach?

Secondly, when we focus on the UN Security Council, we often think of the horseshoe table and the consultation room, but here I am maybe being a bit provocative. In fact, the Security Council operates on two levels: you have the formal Council, but then you have what is probably known as a subsidiary world, with 20+ subsidiary organs of the Security Council. And, unlike the main Council, in the subsidiary world, everything operates by consensus.

And, for my question: what are your views as to why is it that, in the subsidiary world, in which all elected members also have a veto in fact? Because it's by consensus. Why is it that we do not see a more equitable role by elect versus the permanent?

And, finally, I'd just like to raise something about what the enlargement means, especially if it comes with new permanent members, in light of what is known as the cascade effect. Because, many times, we focus on bringing in a new permanent member, but that doesn't just impact the Security Council, it means that if you have a new permanent member, they probably get a USG Undersecretary General, since most secretary generals, in part, get elected because they do some merchandising with the permanent members. The permanent members always get a judge at the International Court of Justice. Permanent members are always in the executive boards of agencies and programs of the UN. So any thoughts you might have on these three points is appreciated.

**Professor Letícia Pinheiro** - Thank you. I'll give the voice now to the presenters, and then I'll come back to the floor. We still have more than seven people who asked me to make questions and

comments. So I would be very happy if you could please keep it to four minutes, at most, in your interventions.

**Mr. William Pace** - Thank you very much. I guess I am going to try and go backwards. What Bruno Stagno was raising a minute ago is the fundamental issues of one of the ways in which the P5 have misused their powers. They are speaking individually today; I don't want to get in trouble for saying things. The current job description is they want a weak secretary general, who will not cause problems and who will appoint their nationals to run the main bodies of the UN. So you double and triple the number of permanent members, then you're going to have to double and triple the number of governments that are going to want a compliant secretary general who will appoint their nationals to join the UN.

One of our visions in our 1 for 7 billion campaign on changing the selection process is, in fact, this issue, and Brazil has been a very strong defender of stopping the entitlement positions. That is, the U.S. gets the Department of Public Affairs, the French get DPKO, the UK gets Humanitarian Affairs, Russia gets Procurement, etc., and China, etc. So, hopefully, this year, the General Assembly... again, we need to have the 130 governments who are going to stand up and say to the permanent members, "the way you're monopolizing certain positions is not acceptable going forward." They'd like the secretary general to have qualifications, job descriptions, and so forth.

Again, I compliment your mission in New York, and how they've been working with the General Assembly on this, and some of the elected members of the Council have expressed their views on this. I think very much the question of how the subsidiary bodies go by consensus, but anything that the P5 determined that they do not want to have voting or majority decision on, they keep as basically controlled by the veto. And again, our only hope, in

my mind, is that the General Assembly, and the elected members of the Council over these next 10 or 12 years, will make the kind of fundamental reforms so that the Council can indeed achieve its purposes of maintaining peace and security.

And, on penholders again, these are issues that have to go back to procedural votes, which should be a majority vote, of who gets to do what, what are the procedures? It's been 17 years, and they're still on their provisional rules of procedure. So at some point, the elected members need to insist, "let's have the rules of procedure, and let's vote on the rules of procedures, and procedural votes are not supposed to be subject to the veto."

Ambassador Sardenberg, I think we disagree about the G4, the perception of it, I think there was an awful lot of questions not about how the G4 plus South Africa when they were on the Council in 2011... what did we see in terms of improvements and reforms? And, again, if you just take a look at it, in Germany, the idea that the international community, 130+ countries, are going to have to thoroughly question a European permanent member. It is quite a political challenge. That Japan, after its history in Asia, was able to get China's agreement that they should be a permanent member. Other Asian members, like India, have similar concerns about hegemony. Yes, there are 130-140 countries that are willing to tell your governments that they will vote for it, and attend all the events that you're sponsoring for them and their contributions, but whether that's really going to happen, plus all 5 permanent members and their legislators and parliaments having to rectify, I think is the big question.

I think one of the things that Brazil did do, in 2011, when they raised in the framework of the Libyan fiasco, a responsibility while protecting, but my objection as someone who was involved with the whole development of responsibility to protect, is that the

issue of how the international community, and how the Security Council monitors and reevaluates how it is implementing peace enforcement resolutions is a far larger issue than responsibility to protect. So it was a politically effective framework, but, in fact, it has to be much more fundamentally how do we get the permanent members to access and reevaluate how we do peace operations?

And again, from my group, we do not think no boots on the ground, bombing is a successful peace enforcement strategy and has demonstrated that over and over again. One or two times it may have succeeded, but it mostly fails. I think one way you could start getting prevention is if you did what the charter and 45 promised, that the P5 were going to be the primary contributors to peace operations. They were 30-40% of the peacekeepers, I promise you will see attention to prevention, ratcheted up the scale immediately in those capitals, and that would have an impact.

The reality is that the silos and sectors inside the UN system have been fighting each other for years, and there's been a lot of funding and political investment. So, development did not want to do anything with Humanitarian Affairs. Neither sector, Humanitarian or Development, wanted to have anything to do with the peace and security works, or with the human rights work, or the accountability rule of law workers. So what we have achieved in the General Assembly and last year, was this historic 15 years. My parliament in the United States couldn't pass a resolution for a three-month plan on anything, much less 15 years on something this big.

So, I think this is a very big historic achievement, and, finally, the sectors of sustainable development, humanitarian assistance, peace and security and rule of law are supposed to bridge and work together. That is a strategy, and we would need to have a very aligned and strong secretary general who's

appointing independently, not who the P5 tell him to appoint, but independently strong leaders to head the departments so they could help implement real prevention.

And, again, the member states need to go beyond lip service to prevention, and prevention cannot be separated from human rights protection, from strong accountability institutionalized from the national level, regional organization level, etc. We'd like to see the HIPPO report, and the peace architecture and the Women Peace and Security processes continuing to be followed up, and we are pleased that both the Security Council and the General Assembly have committed to multi-year processes on that.

I don't agree that the UN is just here to maintain the world order at the Security Council from 45. Bruno was mentioning that to me earlier today, we had 54 countries in 1945; most of the countries were empires and colonies, etc. Indeed, this book argues, and I think the author is very correct, that the reason France was given a permanent seat by Churchill was because he wanted to have another permanent member that wanted to reoccupy their colonies at the end of World War II. It's very provocative, but I think it's hard... that's why in the end, Churchill was pushed out, because he did want to reoccupy, he didn't have the political support at home, etc. So, to me, whatever the reason for the P5 structure, most everyone, except some of the P5, agree that it was a fundamentally flawed arrangement. So why would we expand it now if it was fundamentally flawed? Why don't we fix it? And fix it with newer terms, terms that the elected members have much more responsibility over, accountability... but power to actually maintain international peace and security. Thank you.

**Ambassador Martin Vidal** - Thank you. I think I can share some views regarding the intervention of Professor Abdenur and Bruno. Regarding Bruno's intervention, first of all, to admit that

I don't think that I'm capable of answering in a very substantive way considering the knowledge that he has in these issues. This is, of course, very personal. I think that the sacrifice, in the best way we can put the word sacrifice, that the Small Five, during all that process, and reemergence of a larger group, a stronger group, the ACT group, I think, it's something that it's a small gain, it's a small step, but little by little is changing the way that the membership of the UN is viewing the importance of the procedural issues. You raised two or three procedurally/conceptually substantive issues that are intertwined: the penholders, the role of the subsidiary bodies and potential risk of enhancing the bad practices on appointment in the Secretariat. And to have a group of candidates gaining visibility, and I think moral legitimacy, because it tries to be consistent in its demands and its initiatives. I think it will take these issues to the surface and to be addressed in a serious way. Specifically, on penholders, when we see a non-permanent member drafting the first language and establishing their own procedures of consultations, you see much more transparency in the process. When you say that the standard, even though nothing in procedural matters gives you the certainty that you're not going backwards, because that's always the risk, it sets the bar higher, and we have seen that, at the end of every month, with the presidency.

Now it's very difficult not to do the summary in the wrap-up session, and we have witnessed it, as with other issues. I think, even though we are far from what we will like to be, there are improvements that should keep the countries that support this transparency and accountability together with others actors and partners who should continue pushing. This is a process, and we have not been in the Security Council long enough to address your second point in a very comprehensive way, but I think that E10 members have to coordinate more in order to feel reassurance with

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one another, that they are not going to leave behind and be alone against the big powers.

I speak for ourselves when we get together with countries like New Zealand for example, or like Egypt. In these other initiatives, we feel stronger and more confident on pushing these issues in the subsidiary bodies. And of course, your point on the positions in the Secretariat is a risk, I think that the fact that we are saying that there is no need to extend the veto is something that can diminish the risk a little bit. But it's something that, you are completely right, depends on a larger issue, that depends on reforming the system of recruitment, to put more emphasis on the merits of geographical distribution, so this has to be tackled anyway.

Regarding Professor Abdenur, very important points, you touch a lot of issues, and, thank you very much, this is a very rich discussion in the morning about conflict prevention and preventive diplomacy. I'd like to add a few things to what William said. I think it's very tricky when you reach the level of intervention in the Security Council, because you are raising the situation in a given country to surface before the situation is very hard, so, politically speaking, it's sensitive for the host country, for the neighbors, so this is an issue that has to be taken into account.

And, generally, the evidence is clear that crisis is too late, so we are reacting instead of preventing; this is a limit that exists. But the thing about preventive diplomacy is that it is much larger than Security Council agenda, and we have to explore all the possibilities there, because most of the work is outside the Council, for instance. Now we have the opportunity to do something with one of the SGs that refers to that in a way of strong institutions. That is clear; you don't see crisis when institutions are strong, or if the institutions are strong in those places, the effect of the crisis can be contained.

So there is an important role to be played by other entities, and also obviously the Security Council rules demand us to include reference of this kind of work. General Peixoto knows this very well in MINUSTAH, the peacekeeping operation with the element of peacebuilding mostly included. It's a very good example how very early in the mandate Latin American countries managed to include this peacebuilding agenda in the beginning of the mandate. I think this is a good practice, and it's showing ourselves in a good light, but I'm convinced that it's because the way of seeing things of the countries in the south, especially in Latin America, that this happens in this mission, and doesn't happen in others.

So, the peacekeeping agenda is also an important element to promote and to channel the conflict prevention agenda, and how to make it operative as you ask. Another point is the role of regional organization, because, when you talk about conflict prevention, preventive diplomacy, the countries that are closer to the place of the crisis having better knowledge about and influence, the role of regional organization is key.

So, finally, to your question, I don't have the answer about the link to Security Council reform. I'm pretty sure that the expansion will benefit preventive diplomacy because of the kind of approach or view that these potential countries could bring, but I'm not sure how the reform process would, by itself, benefit from increasing the level of visibility of preventive diplomacy. Maybe my Brazilian colleagues have better ideas than myself on this matter. Thank you.

**William Pace** - I forgot two quick things. One was about Ukraine. Clearly, we ought to take a look at the way Chapter 6 was abandoned in the first 25 years of the Council. It's a new century, a new world community, the globalization and all the issues that are in the concept paper, of course, have to be addressed.

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But now let's go back and look at the charter and see how we get back to a proper peaceful settlement of disputes and prevention and proper diplomacy. So, I think, to allow Russia to veto that Chapter 6 resolution, really is just a slap in the face at the rule of law, and the charter. I'd love to see, the ability of judicial review of Chapter 7 resolutions. That will also someday make the P5 more fair, on what they should or should not be doing. But again, on some of the things that I think could be done, whether there's improvement in the sanctions regime, automatic sanctions, automatic consequences of non-cooperation, the peacebuilding commission, properly funded and organized, the peacebuilding fund, the democracy fund, there's a whole range of tools if we fund them. The monitoring of elections issue, I think, is very important to continue to serve that way. Thank you.

**Professor Letícia Pinheiro** - Thank you. Before I let ambassador address your question and comments, I really would like to ask you to keep only to three minutes at most, to be able to come back to the speakers, so they can have their reactions and answers, because we still have seven people, and that's it. Please, Ambassador.

**Ambassador Dirk Brengelmann, ambassador of the Federal Republic of Germany to Brazil** - Thank you very much, I promise I will stick to three minutes. So, on the first point, I can be pretty sure, given the time and pressure, that Germany would support the G4 position, and that won't be a surprise to anybody. Some of you mentioned, I think it was you Mr. Pace, what is the added value, or can you make the case of the added value. Quite bluntly, I would argue that, given our fanatical and political contributions, and contributions on essential elements of what the charter says that we actually would level up to that question. And this sense, yes, we will continue to present this position, which we do in the G4, we also believe that part of the comprehension of reform

should be this issue. We don't think you can easily draw a line and say it's easier to do this, and let's forget about the other things. And, for us, it's an impasse of that same debate, we know it's not easy, but you, as an American, I think you have the origin of your independence from the very famous Boston Tea Party, and a slogan of that was no taxation without representation. So, I would think that, as an American, you would have a very good understanding of the basic concept.

I was very thrilled with the speech of Ambassador Rattray, which I think gave us a perfect understanding of the state of play. I think for us, as Germany, but I would imagine it for all partners, the issue that you describe, the five issues, and should we look at the two low hanging fruits, or rather go for the five? I think for us, the five of them are important, so I think I would basically share your view in order to save time. Perhaps we can discuss over lunch your reference to the League of Nations, because I was quite fascinated by this, but would like to understand it a little better.

I have a question for the colleague from Uruguay. I understood you saying that comprehensive reform debate, and the issue of the enlargement of the Security Council, do not always go well together, that's how I understood you, but maybe I'm wrong. And on the accretion of the enlargement of the Security Council, I heard you say something about the moratorium on the veto issue. Was that my correct understanding, that you said if there was a moratorium, then it would be easier to accept Uruguay? That's how I understood it. Thank you.

**Counsellor Mohamed Bouabdallah, Department for United Nations, Ministry of Foreign Affairs of France** - Thank you very much. I wanted to address two issues. The first one is about the P5, and the second is about the enlargement issue. First of all, regarding the P5, I had the feeling, hearing some people around

the table, that there is an understanding that there is one P5, that they have one position on several issues. I just would like to stress that, on different issues, you don't have one P5. I mean, the P5 members have the veto right, but they look at the issue from a different angle. For example, on peacekeeping, if you look at how many peacekeepers each permanent member contributes to the UN, if you look at one permanent member with national operations, military operations in support of peacekeeping operations. If you look at what are the criteria for designating the next UNSG, you can have very different perspectives from each P5. So, I just want to maybe correct the perception that there is one P5, with one position.

Now, as to the enlargement issue, I very much agree with what was said in the beginning of this morning, that it is of the P5 interest that the UN is reformed, for the UN is not to be sidelined, and that's very much the position of France. Also, I don't want to speak on behalf of the UK, but I know that it's also their position, and we are strong supporters of the enlargement of the Security Council. We are in support of the G4, of more African members in the Security Council, including for the permanent members, because we believe that it is in our national interest that the UNSC stays relevant, stays at the center of the global stage and, therefore, be enlarged.

Now, how do we proceed? Again, if we wait for the P5 to trigger the reform, I personally believe it won't go far. And, again, I very much subscribe to what I said before, there are 140 countries able to agree on one reform. It would be very difficult for one of the P5 to oppose that. So, I think that we should continue to work hard in order to find the solution that would be agreeable between two-thirds of the GA. As you know, France is in favor of such an approach, and I think there are two hot issues that we have to deal with.

First is Africa. We have to help our African colleagues to develop a vision, to build on the consensus, to find a way that would be acceptable to at least two-thirds of the GA. And we have to also tackle the issue of Asia. I mean, we have tensions rising in Asia, and, if we are realistic, it's difficult to imagine an enlarged Security Council against this backdrop of rising tensions in Asia. So, we have to see how we can work on those two issues, and that's why we try to do that on a national level, in support of G4 efforts.

Finally, as Ambassador Rattray said before, there is a question we should ask ourselves. Those who are in favor of the enlargement of the Security Council, should we continue to try to move forward within the framework of intergovernmental negotiations, or should we contemplate the possibility of going back to the GA and pushing forward a resolution? That's a big question for today. We are still trying to advance in the intergovernmental negotiations, but it's true that, in the future, this question has to be answered if we want to move forward. Thank you very much.

**Mr. Djeyhoun Ostowar, policy officer at the Multilateral Organizations and Human Rights Department, Ministry of Foreign Affairs of the Netherlands** - First of all, thank you, Madam Professor and Chair, for giving me the floor. I will also try my best to keep to the time and remain within three minutes. I asked for the floor for the very simple reason that I wanted to come back to the very pertinent statement/question, or statement concealed under a question, by Professor Abdenur. Already, several callers and speakers made reference and answered that question, but, if I heard their statements correctly, part of the question was about what aspirant members, new members in the Security Council, could do to bring prevention more to forefront of the debate.

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First, let me say that I definitely would agree with the observation that if there was one major consensus in the high-level debate, it would be peace and security, and, if there is one cross-cutting issue that comes to the forefront across the three major reviews that took place last year, then it is that prevention needs to receive much more attention in interventions. I think it's also true that sometimes there is more lip-service to prevention than actual action. Unfortunately, this is something that has to be recognized. I think it is also true that, very often when addressing this question, there are real costs involved, so the financial aspect is important. We've seen just recently how complicated it can be when there was a concrete proposal, I'm sure you were aware of it, to strengthen DPA's capacity in prevention by adding a number of positions. A total budget for increase was approximately 12-13 million, but it proved to be quite difficult to get consensus and agreement on it. In the end, a small fraction of it was given.

So, having said that, I think there are quite a few concrete things that current permanent and non-permanent members can do, but also new, coming permanent members of the Security Council can do. First, allow me to refer to the potential option, or at least something to consider, and namely reinvigoration, this so-called horizon scanning practice that was used for a number of years and then was abandoned for the reason Ambassador Vidal already mentioned – that naming countries is quite a politically sensitive thing to do.

But, if we want to be serious about prevention, I think it is important to be able, and to dare to, look forward and to actually speak about countries that are at risk. Perhaps looking at research and statistics is a useful thing in this, namely there is a huge problem of what researchers refer to as "conflict relapse" or "conflict trap." Some authors did research and came out with numbers such as 103 countries that had conflict from 1945 to 2009. Out of this

total number, only 44 countries managed to avoid relapsing into conflict. Another number that is circulating is that 90% of conflicts in the 21<sup>st</sup> century were already there, you could argue the validity of this number, but I think there is a lot of truth in the fact that countries come to relapse into conflict. So, there must be a political will to discuss this. And, finally, let me also refer to one practice that the Netherlands introduced when we were members of the Security Council last time. It was 1999-2000, and one of the things we did was at the end of our presidency, to circulate and discuss concept note entitled No Exit Without Strategy. That note was specifically targeted at thinking and allowing an open discussion about managing transitions and end of missions more effectively. This is again something that could be continued. Of course, some work happened on this as well, but as we need to be able to look forward, look at conflict that can and should be prevented. We also need to be able to look backwards and look at what is happening now in order not to allow difficult situations to reemerge. Thank you.

**Mr. Eugênio Pacelli Lazzarotti Diniz Costa, professor at PUC-Minas, president of the Brazilian Association of International Relations – ABRI -** Thank you, Leticia, and thank you to the organizers for inviting me here. I'm Professor Eugênio Diniz from the Pontifical Catholic University of Minas Gerais, and also the Chair of the Brazilian Association for International Relations, which is institutionally represented here. I thank Fundação Alexandre de Gusmão for this invitation. And since Leticia is also a friend of mine, I will ask her to keep me under tight reins, because, otherwise, I shall keep speaking.

What I am trying to address here is that we've been mentioning some challenges and talking about them, particularly the challenge of making the Security Council more representative and also the problem that has been recently becoming more visible, more

dramatic, that of expansion. The south made expansions itself, obtained extension of the Security Council role and mandate by actually legislating on some arenas and also by securitizing issues, and putting them under their own agenda, which has been resented by many, for good reason.

But I think there is also parallel phenomena going on, that sort of erosion of the Security Council that's more traditional and mandated. We always talk about some failures in these situations, failures in that situation, as if they are circumstantial events, but maybe there is a more structural phenomenon going on, and that's what I wish to mention. I think there are some challenges in the let's say, more extreme version. It's actually being challenged, these more traditional roles. Even if we think in the more ambitious role of peace and security, or the less ambitious version of maintaining or managing the world of international order. This is because of actual, current practice within the Security Council and by the individual members of the Security Council at the same time. It's both an institutional and national problem, and I think it the problem of Libya in 2011 has been mentioned.

Okay, Libya was a fiasco, but not only because of its outcomes, but because of the process. When there was the vote, well, China and Russia didn't veto the resolution on Libya. They actually went along, maybe to see how it would play out, and then, well, the humanitarian role in Libya became operation "smash-Gaddafi." Since then, I think it has become very clear, at least to some of these major actors in the international arena and within the Security Council, that a similar situation should now be addressed the same way.

So, I think a lot of what we are witnessing nowadays in relation to Syria and the refugee problem, and other already mentioned issues around the world, maybe in a certain sense a

sort of institutionalization of this mistrust about the way that the Security Council would handle all the situations, and this kind of paralysis seems to me to have become particularly critical, after the Libya situation. I'm afraid that, when it comes to actually managing the world order, or trying to more forcefully address issues of peace and security, we might be in a worse quandary than we are actually aware of. And I'm not really sure if actually enlarging the Security Council would be helpful in making it more effective. I think there is a trade-off between representativeness and effectiveness, and particularly there is a famous Article by O'Neil at the end of the 80s who showed very convincingly that enlarging the Security Council with non-veto members would actually decrease the power of non-permanent members in the Security Council, both individually and collectively, and enhancing or increasing with more veto endowed members in the Security Council would make it even worse.

So, I'm not sure if we are correctly identifying, or if we are not addressing the issue of what the Security Council will actually have to maybe rebuild. William has mentioned, well, maybe it was flawed from the beginning, but making it – trying to address this now will be effectively confronting the institutionalized power arrangement within the Security Council, so I think the challenge that is put forward nowadays is maybe more fundamental than we might have noticed before. Okay, I'll cut it, and thank you for keeping me honest.

**Mr. Silvio Queiroz, columnist at Correio Braziliense** - I'll introduce myself. My name is Silvio Queiroz, I am a journalist in Correio Braziliense, a diplomatic correspondent. I would like to briefly share a reflection of mine, made from the point of view of a newsman. We usually are challenged to approach such subjects with the mission of trying to address public interests, public concern which arises in reference to singular events. We could take, for example,

the shocking image of the Syrian boy who drowned last year off the Turkish coast. That is an image that caused worldwide uproar and highlighted the widespread perception that the international community, the multilateral system, failed miserably to deal with human suffering caused by conflicts. That brings me back to a notion I keep in mind from childhood that more or less told us that the UN is the perfect forum to tackle and resolve matters that have already been dealt with by the superpowers.

This notion that more or less worked to describe the mechanics of the UN and Security Council during the Cold War seems to express a main contradiction nowadays, when we no longer have the bipolar order, which somehow tackled regional conflicts, or at least kept them regional. And we have a multipolar order emerging, which operates under the very same system, that operated in the bipolar order during Cold War.

Now I come to this for one reason, I sense that this perception of failure by the multilateral system happens to further fuel unilateral approaches and solutions in local levels, as we have been witnessing in Europe in reference to the influx of refugees from the Middle East.

So, to close my remarks, I guess one challenge put forth by this situation is that this very situation turns out to be a political factor, stimulating unilateral and warmongering views, which further undermine the very multilateral system that is paralyzed and hampered by unilateral actions and initiatives. So, this is kind of a trap, which I guess we must take into account when we try to address the question of the Security Council.

**Ms. Ruchita Beri, senior research associate of the Institute for Defence Studies and Analyses, New Delhi** - I'm basically commenting on the remarks that Mr. Pace made when we dismissed the role of G4 in the UNSC. I'm basically going to argue here that,

although during the term India did not manage to enhance P5 consensus on the UN reform issue, nonetheless, during its term, I think India did manage to make a mark on some issues. I pointed out only three issues here.

The first is straightening the debate on our R2P and aligning with the developing world, particularly supporting Brazil's contribution to the norm. Second, it held regular and frequent meetings on counter-terrorism as it was chairing the committee on counter-terrorism. Third, India actually participated in delegations related to combating piracy and raising important issues relating to peacekeeping as a true contributing country. So, I think we really have to look into the kind of comments we get from representatives of the P5, and Mr. Pace really came out as a typical dismissive P5 representative today. Because he said "you're not even part of our hemisphere," that kind of comment. So I would expect that there would be more kind of research when you make such kind of remarks. Thank you.

**Ambassador Martin Vidal** - I would like to address a couple of questions made by the Ambassador of Germany, and I think William has a broader larger agenda to answer. When I said, Ambassador, after describing a few small and concrete gains in working methods is that these were only partial events to improve the work of the Security Council, but they are not a substitute for a comprehensive reform. On the moratorium, this reasoning connects the positions of countries like my country regarding the veto, and many others about not going along with the idea of extending the veto to new members, new permanent members. And, on the other side, the very strong position of the African group regarding the veto, so this suggestion of putting up with 15 years to reconsider this substantive issue of the veto could provide a way out. Not to add more difficulty to a negotiation that is already complicated, we will

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postpone this discussion on the subject. We understand this idea for a way out this moment. Thank you.

**William Pace** - Thank you. Again, I will start at the very end, because it was such a serious misunderstanding. I'm not reflecting any P5 view, I have an anti-P5 view. My organization was started, in part, because its opposition in 1947 to the veto and the permanent membership and the certainty that the Council was going to fail in maintaining peace and security the way it was organized, that was the way it began, and it's still the occasion. We don't support any hegemonies, permanent entitled unrepresentative. I mean that is not held accountable by election or something, hegemonies in the international legal order, and we don't think expanding that flawed model from 45 is any solution to the problem. So I hope you understand.

I think it is a great tragedy in the last 25 years, since the end of the Cold War, that you have seen tremendous advances I think in proposals for democratic global governance, much greater democratic global governance, but the primary opponents of democratic local governance have been the big democracies. The great national democracies, but they are in our group of primary opponents of this, and it is a tremendous contradiction, I think, between their national constitutions etc. and how they want to act multilaterally and internationally. I have tried today, and I knew starting and trying to do a very large picture, very broad brush over 70 years was going to make you say generalizations that have massive nuances to them, and I wanted to try and respect that. But I do think it is important, the Brazilian foreign ministry here, that I think if you quietly surveyed the vast majority of real experts on this issue, within the framework of the IGN, you would discover that that body is as likely to be as paralyzed 20 years from now as it is today on this expansion issue.

So, I've made the case that I think it has been historically important, in the last three or four years, that government member states through the act, through the norm, through other mechanisms, have been moving to separate charter issues with non-charter issues on improving the paralytic methods of the Council, and I don't think rearranging the chairs on the Titanic is any long-term solution, so I think you need to look very carefully at this. The issues that you raised that India did in 2010-2011 are fine and important issues, but again I'm not sure anyone feels that we've got the hold on counter-terrorism and piracy etc. that we need to have.

So, we are looking at what are some of the fundamental proposals that we need to have for the Council to be able to improve. In looking at 70 years, this continent, the Americas, should ask: was the Cold War's policy of the United States towards South America the best policy? Did they work? Were they not enormously flawed for decades, and caused great damages to principles that the United States claimed that they were abdicating for etc.? And with a real difficult contradiction in my mind, a paradox perhaps, and that is the charter I started has prevailed for 70 years, there hasn't been World War III, we haven't had these massive wars with weapons of mass destruction between the major powers. I know if we had not had the veto and the permanent membership, the Senate would've withdrawn two or three times in my lifetime. The whole system may have collapsed two or three times. So there is this role that I believe the permanent membership and the veto have played, and I think going forward is an enormously dangerous situation, and I think how the emerging powers that deserve to have a major role in the preamble goals of the charter is crucial, and if they're not respected in how they want to contribute to this, fine, but to create additional unrepresentative unaccountable hegemonies is the wrong route to go. The right

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route to go would be to expand the Council, to expand the rights of the elected members, to reduce the rights of the veto and the permanent members. There's a whole range of proposals that if 60-70 countries would stand up and start pushing for them and help empower them when they get on the Council, they can succeed.

And, in terms of just disarmament alone, one would think that the Council really has to make major advances on disarmament, and instead the P5 are amongst the major weapons producers and sellers. So those are contradictions that getting from 2016 to 100<sup>th</sup> anniversary in 2045 or 2080 or something, those are the ones that I was hoping to bring to this conference, but I don't have answers. It is not out of any lack of respect for India or the contributions of other regions. In fact, I think regional international organizations must play a much major role in the next 25 years if we are going to prevent this terrible catastrophe. Thank you.

**Professor Letícia Pinheiro** - I was about to end this session, but I see that there are other two questions to be made. Ambassador, would you like to make a comment or ask a question?

**Ambassador Sérgio Eduardo Moreira Lima** - I would like to make some brief comments on points that have been raised here. Throughout the 20<sup>th</sup> century, there was a lot of violence and indiscriminate use of force on the part of nation States, but, at the same time, it was a century of great opportunities and transformation in terms of international and humanitarian laws, as well as for human rights legislation. A world that was previously based on bilateral agreements evolved into a multilateral system. And multilateralism was possible because it was founded on certain common principles and values. Yet, what we are seeing in the 21<sup>st</sup> century is a very dangerous situation, in my view, in

which the selective use of those principles and values is risking to deconstruct the system built on those relatively solid foundations after the Second World War. This creates a paradox. Democracies are being strengthened with institutions that reflect broader representation and participation, as one can see in Latin America and in other regions of the world. Their systems of checks and balances are being enhanced to prevent abuses of authority among the powers within the State. This is in conformity with certain values and principles, which represent historical advances for their societies and civilization as a whole. These countries would like to reconcile such principles with international governance for greater transparency and accountability. But what they see is what Mr. Pace has shown us: a certain deficit of representation and legitimacy, which must be overcome for the sake of consistency and coherence with the principles we uphold domestically.

Brazil and other like-minded countries have been raising this question for some time. As a matter of fact, we have a certain responsibility. First, when one looks at the map of South America or the southern hemisphere, and sees South America as a territory free from interstate violence, one asks why and how? The answer has to do with diplomacy, with the respect for certain principles and traditions to negotiate in good faith and solve problems within the rule of law. In the early 40s, when the United Nations was being discussed and its Charter negotiated, Brazil expressed reservation in relation to the veto power. Earlier, in the beginning of the 20<sup>th</sup> century, Brazil had reclaimed the principle of sovereign equality of States, at a time when this Westphalian principle was totally ignored by the Great Powers. In the Second Peace Conference at The Hague in 1907, Rui Barbosa, the head of our delegation, and Rio Branco, Brazil's foreign minister, gave a significant contribution to multilateralism. Without the legal equality among nation States, multilateralism would hardly have been built. This principle was

not recognized in 1907, but the ideas held in that Conference matured and the principle of equality before the law was finally consecrated in the UN Charter.

Mr. Pace referred to the meaning of judiciary review, and this is an important matter. In Brazil, we are witnessing the fine-tuning of a system of checks and balances in order to ensure the equilibrium of the three branches of powers. Theoretically the system should protect the citizens against abuses of power, enhance legitimacy and ensure harmony. Without it democracy would not function properly.

However, in the international system, we are not protected by a system of distribution of power that would hinder us from abuses of authority. So, this means that the international system as we know it does not have a mechanism which provides minimal assurance to nation States. The mandatory decisions of the Security Council are not subject to checks and balances, to judicial review and lack due representation. This is a worrisome situation that leads us to think about the meaning of *Magna Carta*, as a landmark instrument to rein the abuses from which the lords, when in face of the absolute power of the king, were trying to defend themselves. There should be awareness that this democratic evolution within the Western civilization demands greater transformation in international society and international order. If it is not understood, that in the 21<sup>st</sup> century this is an unsustainable path against history and political evolution within societies, the systemic problem will end up by decreasing more and more the legitimacy of the international order, as the ambassador of Germany suggested: *no taxation without representation*.

When Ambassador Sardenberg was a Permanent Representative of Brazil in the UN, and we worked under his command, the Security Council approved a resolution on Iraq that caused

the unemployment of many Brazilians. As Brazil was not a non-permanent member of the Security Council, it did not participate in the discussion of the resolution. Even so, because of its nature, the resolution had to be internalized automatically in our legal system without scrutiny on the part of Brazilian authorities. Worst of all, some of the meetings in the decision-making process were conducted behind closed doors. Since Brazil was not seated there, no one was defending our views and our rights. So, from my perspective, it was an arbitrary process. It would be very hard to explain to 200 million people why those decisions were taken without our representation in the Security Council. Thus, the point we are discussing here is a critical one for the true meaning of democracy. Thank you.

**Professor Leticia Pinheiro** - We still have Ambassador Rattray for your comments please. Do you mind if I ask you to be very brief?

**Ambassador Courtenay Rattray, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on Security Council Reform** - Yeah, I just wanted to make a comment on what Professor Abdenur put on the table, which I think it's quite relevant to our discussions. We talked about reform in the context of the Security Council, but she raised the issue of conflict prevention. And you know, conflict prevention is required, but it doesn't depend on Security Council reform, and it's a long-term endeavor. And a lot of the elements that go into conflict prevention came out this morning, and I'm very glad for her to put it on the table, things like when you look at the drivers of conflict, lack of socioeconomic opportunities and marginalization, and someone mentioned unresolved conflict, in terms of risk of lapsing back into conflict, these all need to be dealt with.

But there is another issue, that is not dealing with the long term, but more with the short term, which hasn't come out yet this morning, and I just wanted to mention it. It has to do with the application of Chapter 99 of the charter of the United Nations. This is an Article that has rarely ever been evoked, it was evoked back in the 1960s with respect to the Congo, and, by my understanding, the most recent time that it has been explicitly evoked was in 1979 during the Iran hostage crisis. When they had the San Francisco conference, there was not a lot of discussion about the role of the secretary general at the San Francisco conference, but there was discussion about the secretary general role in respect to Article 99. At that time, the issue was, should Article 99 be discretionary or an obligatory function, and, obviously, when you read Article 99, you see what sides one notes. It is discretionary, it says that the secretary general *may*, it doesn't say *shall*, it says "bring to the attention of the Security Council any matter that threatens the international peace and security." Now, in my view, I know why they put it like that – "may." I think that Article 99 is one of the clearest and most articulate expressions of the political role that the secretary general must play, in my view. Because the secretary general, in his or her opinion, is going to look at a situation and say, "You know what?"

Earlier it was mentioned about Burundi, and Burundi had resonance on what had happened in Rwanda, when people went on to the radio waves and started to speak in a very insightful and inflammatory manner. So, there was a case there, but you know, this is reticent of the secretary general to exercise his or her authority, and earlier we spoke about do you want a secretary or do you want a general? Do you want an ineffective and weak secretary who can be manipulated or does it benefit you to have a strong one? Well, obviously, the P5, in their infinite wisdom, feel that it is better to have a more malleable secretary general, and maybe

that is why, in the context of what we've been discussing here this morning, there are all of these crises that we are faced with. The question arises, would it have been better for the charter to have obliged the secretary general to place matters in front of, rather than to say they may, but rather he or she would have a duty. So I just wanted to mention that, thank you.

**Professor Leticia Pinheiro** - Thank you very much, thank you. I would like to thank all the speakers and also the audience for this such a rich debate, and also I would like to apologize for having used or sometimes not having used properly my veto power as moderator, and thank you, everybody, we come back at 2:30 as I understand. Thank you.

## PANEL II – IMPROVEMENT IN THE WORKING METHODS OF THE SECURITY COUNCIL

**Counsellor Mohamed Bouabdallah** - Okay, I think we'll resume our works now. Ministers, Ambassadors, dear colleagues. I'm very pleased to moderate this second panel on the improvements of the Security Council's working methods. I didn't have the occasion to introduce myself previously, but my name is Mohamed Bouabdallah. I work for the Ministry of Foreign Affairs of France in Paris, in the UN department, and I'm responsible for institutional affairs, including the reform of the Security Council.

First of all, I would like to briefly introduce the three panelists. On my left, Bruno Stagno Ugarte, who is a deputy human director of human rights, and was previously Minister of Foreign Affairs of Costa Rica and also Permanent Representative of Costa Rica to the UN in New York. He's also the co-editor of the book that was mentioned earlier by William Pace, "The UNSC in 21<sup>st</sup> Century,"

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and I really recommend this book, which is the basis for anyone interested in UN Security Council affairs.

On my left, Mr. Marcos Tourinho, who is an associate researcher on international governance at the Graduate Institute of International and Development Studies in Geneva. He has most recently focused his work on sanctions, but I understand that he will also speak about the differences between the P5 and the elected members of the Security Council.

And, finally, Mr. Djeyhoun Ostowar, who is a diplomat from the Ministry of Foreign Affairs of Netherlands. Actually, he is kind of a counterpart to me, because we have the same portfolio, so he is in charge of the UN reform and of UN peace operations in West Africa and the Ministry of Foreign Affairs of Netherlands. In addition to his position, he is a Ph.D. candidate at King's College, and he is examining the dilemma between justice and peace.

Before giving the floor to Bruno Stagno, I would like to say a few words. Working methods may seem like a nitty-gritty issue, when we speak about UN Security Council reforms, but it's of paramount importance. As it was said earlier this morning, the activity of the Security Council has dramatically increased in the last year in terms of peacekeeping operations, in terms of sanctions, in terms of international justice, and, as it was said several times, in terms of legislation that the Security Council has imposed, namely on terrorism and on proliferation of weapons of mass destruction, there is a feeling that the Security Council is a body that has not changed in the past 30 years or so. Yet, when we look at its working methods, we see that it's an ever-changing body, as mentioned in the book that I referred to before.

So, today, we have a discussion about whether we should pursue the enlargement of the Security Council and/or the improvement of its working methods. I will give three sets of

questions to the panelist. The first one is what needs to be done in terms of working methods, more than what was done before, and then I referred to transparency issues, inclusiveness, sanctions and prevention. Second is how to move forward? Should we merge the issue of working methods with the issue of enlargement or should we deal with them separately? And a third question is about the veto, the veto restraint. Some argue that it should be dealt with within the question of enlargement; others argue that it should be dealt with within the question of working methods. So, I would be interested to hear the views of our panelist on that, on how to advance the question of veto. So first, without any delay, I will give the floor to Bruno Stagno.

**Mr. Bruno Stagno Ugarte** - Thank you, Mohammed, and thank you to the Ministry of Foreign Affairs and the Fundação Alexandre de Gusmão for the very kind invitation, I'm very pleased to be here. In the interest of full disclosure, I'd like to say that I was one of the founding members of the Small 5, so, obviously, I'm very committed to working methods, and in light of that debate we had in the morning, one of the founding members of Uniting for Consensus, so I know that doesn't necessarily make me very popular amongst the G4 crowd. But I just wanted to put it out there, so that you know where I stand. Mohammed has already mentioned the fact that working methods may be nitty gritty, and I would add to it that they tend to be unsexy. It is not the sexiest area of the Security Council reform. I, however, do believe that if there is any chance to credibly and progressively improve the way the Council goes about its business, which is how I would define working methods, it is precisely through an improvement of its working methods, and I know this sounds redundant, but, unfortunately, the Security Council to this day has provisional rules of decision, as has already been mentioned earlier.

So, now it has been since 1946, operating on provisional rules of procedure. It means that unfortunately, improvement of working methods is not necessarily cumulative because everything is provisional, and this I think is one of the main challenges we have, at least those who try to advocate for improved working methods of the Council. Now, in terms of the way the Council goes about its business, its business, as the charter says, it's the primary responsibility for the maintenance of international peace and security. And the problem with that conception, of course, is that the primary responsibility is very clearly enshrined in the charter, but it's not an exclusive one, as well all know. And the General Assembly can have a subsidiary role when the Council fails to perform, according to that primary responsibility. Although the charter is almost inscribed in stone, and I won't go into the history, but just reforming the UN charter is pretty much next to impossible, in light of the very high bars that Articles 108 and 109 established. The fortunate thing with working methods is that they don't require charter reform. And they obviously engage all 193 member states with equal power, in terms of proposing changes to working methods. But, although the charter is pretty much inscribed in stone, that doesn't mean that the charter didn't allow the Security Council, like the main organs of the UN, to be extremely creative.

If you read Articles 29 and 30 of the UN Charter, what it says is that it gives the Security Council absolute freedom to create whatever subsidiary bodies it wants. And when you look through the history of the Council, what type of subsidiary bodies has it created? These are bodies that neither Stalin, Churchill nor Roosevelt would have ever imagined the Security Council establishing. I will mention a bit more on that later.

The second one is Article 30, which, once again, gives the Security Council absolute freedom to adopt the rules it wants, the

rules of procedure, to go about its business. And there is no judicial review, there is no General Assembly review, there is no ICJ review regarding what subsidiary bodies and what rules of procedure the Council will have. So it's this incredible capacity to be creative. Now, of late, if we look at the working methods of the Council, and how the Council has performed one of the unfortunate conclusions one has to arrive at, is that the Council has been overusing its charter, its Chapter 7 powers. Most of the resolutions adopted of late by the Security Council are basically Chapter 7 resolutions, those that are basically what is known as Chapter six and a half. And we can answer any questions of Chapter 6 and half, but it's just a slim majority of resolutions that are actually adopted under Chapter 6, which is the capacity of the Council to basically be involved in peaceful settlement of disputes. So what does this reflect? This reflects a Security Council that is just going about its business too late in the game, once conflicts have really become conflicts.

So, the Council is basically failing in its duty to play a large role in early warning and in preventive diplomacy. And you can look at this at a time when the Council is having more agenda items than ever before, at a time when the Security Council has been mandating more peacekeeping missions that are costing UN member states more than ever before. And I would not want us to think that all of that is because the entire discussion about the Security Council reform should be what countries are first-tier powers, second-tier powers and third-tier powers, but, to me, the real debate is what will the Council do to address the challenges of protection of civilians? Because to me, that is the main challenge.

And that is where, unfortunately, to this day, the Security Council has not made civilians a first tier priority. It has not. I want to be very clear about that. In fact, Ban Ki-Moon has complained that the current state of protection of civilians leaves little room for optimism. You know, having a secretary general

who has been as bland as the current one, saying that there is little room for optimism in the protection of civilians, is in itself quiet and embattlement coming from the current secretary general of how we are doing on protection of civilians today. Now, if the Council has been underperforming in terms of early warning and preventive diplomacy, this is, unfortunately, because it is getting involved way too late. And if I want to now recall this capacity to be creative, the Council can be extremely creative, but, unfortunately, it is being creative way too late in the game.

Look at for example, the Former Tribunals for the former Yugoslavia and Rwanda, and now the international residual mechanism. These were creative, of course. Once tens of thousands of people had already died. If you look at the UN compensation commission for Kuwait, that was after Iraq invaded Kuwait. If you look at many of its resolutions, legislative resolutions, *erga omnes* resolutions regarding terrorism, it's been after catastrophic terrorist attacks. So it's very creative, creating a varying truce of bodies, that go beyond the scope of a specific situation, but actually have obligations at times *erga omnes*. But it's not doing the same using those creative powers in earlier moments of the game. Already, in 1985, so that's already 30 years ago, Pérez de Cuéllar said "Crises have frequently been brought before the Council too late for preventive action. It would seem to follow that the Council might well establish a procedure to keep the world under continuing scrutiny in order to detect nascent causes of tension." Basically, a preventive capacity mechanism for the Council.

That was already in 1985. To this day, the Council has basically failed to do that. Probably the best mechanism that it has available was something that has already been mentioned before: Horizon Scanning exercises. And here one must pay tribute to a permanent member, the United Kingdom. The United Kingdom basically is the one that has to be credited with coming forward with this

idea. And it was, to their credit, supported by the then head of the Department of Political Affairs (DPA) of the United States. And they both instituted these Horizon Scanning Exercises. Basically, once a month, the DPA had the chance to come to the Council, in the consultation room, and basically tell them what is worrying them that is not on the agenda of the Security Council, or what is worrying them that is already on the agenda of the Security Council but it's not up for discussion until three to six months down the line. And although many meetings of Horizon Scanner were scheduled, there was one permanent member that basically killed it, and that was not China, it was not Russia, it was the United States. And, unfortunately, after the United States killed it, many other decided to then no longer commit their political claw behind us, to the point that, today, instead of having consult Horizon Scanner being done by the head of DPA, in the consultation room, with all of the ambassadors present, what the UN is doing today is to have DPA do so under its turf, that means on the 30-something floor of the UN Secretariat, outside of the UN turf, UN Security Council turf. Ambassadors don't necessarily attend, because now it's more political councilors, and they are extremely careful as to what they want to raise, because they don't want to mention countries that will then learn that the Secretariat is pushing to put them somehow on the agenda of the Security Council. And this is basically the Secretariat defaulting on something that has been mentioned before: Article 99, which gives a secretary general the capacity to bring issues of concern to the attention of the Security Council. The very fact that today, in 2016, 31 years after Pérez de Cuéllar said we need preventive mechanisms in the Council, after we have had a secretary general who has come up with the initiative known as Human Rights Upfront, shortened to Rights Upfront, after the fiasco in Sri Lanka, that, to this day, the Secretariat does not find the courage to go through Horizon Scanning is basically,

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I think, a shame on the system. And it's a shame also on all of the Council members because they have not created a political space to bring Horizon Scanning back to the UN Security Council.

So, actually, we have retreated in terms of Horizon Scanning. Another tool, another working method that has been available was the Arria-Formulas, first established in Bosnia-Herzegovina by the Venezuelan ambassador at the time, when he wanted to create an opportunity for a non-member to somehow brief the Council, and he invited a Croat-Bosnian priest. At the time, that was possible, but, today, we still have Arria-Formulas. But the Arria-Formulas are becoming so much more bureaucratized to the extent that today you have Arria-Formulas where it's UN officials using Arria-Formulas to brief the Council. So, they're not necessarily now a tool to bring those that have no standing to brief the Council, which was the original purpose of the Arria-Formulas. Another tool or working method that is available is Informal Interactive Dialogues, and they were also meant to create another alternative for people who don't necessarily have a standing to brief the Council to do so. But, unfortunately, Interactive Informal Dialogues have, at times, become the instrument of the Council to say it's talking about something, but avoiding any possibility for action.

The best case of that is Sri Lanka, in 2009. It was the last campaign by the Sri Lankan government against the Tamil Tigers. People knew that there were about 90 thousand civilians trapped on some beaches, and the Council organized three Informal Interactive Dialogues to say it was discussing Sri Lanka without putting it on its agenda, and obviously you cannot adopt any action in an Informal Interactive Dialogue. So, basically, it is an escape mechanism more than a to-action mechanism. Then, another good tool, that has also lost some of its strength are Council Visiting Missions. Council Visiting Missions sometimes, in the past, were quickly deployed. They were not necessarily deployed

with all 15 Council members participating, and probably the best Council Visiting Mission that I could flag is one that happened in September 1999, when it was just five Council members that went to Timor-Leste in a very crucial moment, where Indonesia basically had to decide whether it was going to accept the results of the independence referendum for Timor. And the fact that the five ambassadors in fact, the head of the delegation was Namibian ambassador, which is I think important to note, came to Timor-Leste, and basically were there while the Indonesian military was deciding what to do next, made a huge difference.

Let us look, for example, at what has happened now more recently in South Sudan. South Sudan, as we all know, 15<sup>th</sup> December 2013, a coup or so-coup, doesn't really matter, the country went into civil war. It took the Council nine months before scheduling an emergency visit to South Sudan. Nine months. Because it's become so bureaucratized in deploying visiting missions. Another important tool is any other business. Every time the Council meets in consultations, there is the possibility, if you're talking about the Western Sahara you can always, at the end, talk about any other business.

And there I have to give some credit. As of late, there has been a lot more use of any other business. So there has been some improvement there, but a lot more could be done. And then we obviously have the possibility to inscribe new agenda items, and here it's the failure to use procedural votes. Since 2007, we've only had three issues inscribed, thanks to a procedural vote. Procedural vote means that there's no veto, you just need to have nine votes to have it adopted. Adding an agenda item to the Council is a procedural decision. We had Zimbabwe, Myanmar and North Korea. Only those. We should be having procedural votes every week. Every week if possible. Not only to inscribe new agenda items, but also to deal with many other procedural matters on

a procedural basis, and not relying on consensus. So procedural votes need to be improved.

And then I would also like to add, since Mohammed has asked us to, the veto. And here I would like to return to what William Pace has mentioned. Because we do see some progress in terms of new initiatives, like the French initiatives, which I think has to be commended, although it still has that little tagline in the national interest, which allows every P5 to interpret national interest quite widely. There is the Code of Conduct by the ACT, which is a fabulous initiative, but what have we really seen in terms of real action? We haven't seen real action in terms of the code, or in terms of the French Initiative. But where we have seen real action is in terms of Russia, in March 2014, using the veto to veto a Chapter 6 resolution to which presumably it could have been a party to the dispute, because it was Ukraine claiming at the time. And, here, I don't fault the Russians, I fault the other 14. Because the other 14 should have raised their hands and said "Excuse me Ambassador Churkin, that is not a veto, I understand you're just abstaining, because you cannot veto a Chapter 6 resolution, if you presumably are party to this dispute." Nobody challenged Russia. And I think that puts to shame the other four permanent members, and all of the ten elected members, for not having done their duty to defend the charter and its integrity.

So, I think actually we're moving back in terms of the veto. Now, why do I think, in terms of enlargement of working methods, I don't think it's an either/or proposition, so be it. Enlargement can continue, they will be wound behind those sails someday. But working methods have had sufficient wind today. And, as I mentioned, one of the founding members of the S5, yes, at the beginning it was extremely hard to build *momentum* for working methods. We were crushed by the P5 in our original initiative, crushed. None of the P5 were willing to tangle with us on working

methods, but, since, with the Small 5, as they were reconstituted a second time, they and the P5 were unable to crush us. They had to resort to illegal opinion issued by the Office of Legal Affairs to basically crush the S5, and now we have the ACT, which is a much larger group, which manifests that there is increasing interest by member states on working methods.

And here I would like to (I'm wrapping up) highlight the role of elected members, because I do think that elected members are not just tourists on the Council. In fact, if you look at most of the improvements in terms of working methods, but also in terms of bringing civilians to the very core of the substance of the business of the Security Council, it really has not been the P5 who have been in the lead. Who inscribed the issue of children in non-conflict? It was Portugal. Who inscribed protection of civilians? It was Canada. Who inscribed women, peace and security? Bangladesh. Who inscribed the Aide Memoire to the protection of civilians? It was Norway. If we count more recently, who dealt with the humanitarian and human rights aspects of the Syrian conflict? It was not P5, it was Australia, Luxembourg, and later Jordan. And who has dealt with, as Martin Vidal has mentioned, issues like medical facilities and how they should be protected? It was a cohort of elected members. So, here we have huge divide between permanent members, who I'm not saying they are not interested by protection of civilians, they just haven't done enough to lead on protection of civilians. And there is why we need a lot of movement in terms of working methods so that elected members can continue to press for a Council that can act as early as possible, so that the Council can actually perform its main duty, which is to prevent and discourage war for future generations. Thank you.

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**Counselor Mohamed Bouabdallah** - Thank you very much, Bruno, for this sober presentation on the dynamics of working methods in the Council, and thank you for this transition for what Marcos is going to say about the division between the elected members and the permanent members of the Security Council. Marcos, you have ten minutes.

**Mr. Marcos Tourinho, Research Associate of the Programme for the Study of International Governance at the Graduate Institute of International and Development Studies, Geneva** - Good afternoon, it is a great pleasure to be here, thanks to the organizers for the invitation. My argument today is basically that, if our purpose is to improve the prospects for international peace and security working methods, reform must be the top priority. If we have other purposes, then you can do other things, but if the purpose is to improve the way the Council works, then working methods must be the most important priority. The reason for that is essentially the radical and increasing inequalities in participation between permanent and elected members in the Council. This is effectively killing the public deliberation in the Council, and the Council was created to work on the basis of public deliberation, public decision making. So this is very harmful to international peace, and security more broadly. As Professor Schlesinger and others described very well, the design in working procedures of the Security Council were subject to profound contestation in San Francisco. They were not simply accepted; the narrative that we hear everyone simply accepted or more or less adopted the privilege of great powers in San Francisco is simply not true. Everyone did accept or understand that it was inevitable that some sort of hierarchy would be present in the charter. After all, the winners of the war had suffered much during the process, and they were

supposed to be the primary ones responsible for carrying out the future peace enforcement missions.

So, everyone accepted that they deserved some prerogatives. But those would have to be limited by other more egalitarian rules and working procedures. The Australian Foreign Minister, at the time, summarized the prevailing view, which was that leadership was acceptable, but domination was intolerable, and I want to focus here exactly on this thin line between leadership and domination in the Security Council by the great powers. Because, as we all know, the Security Council has very exceptional prerogatives to fulfill its role of managing the world's international peace and security. It really is unimaginable that such a small group of countries can not only shape international law, but can take decisions that are legally binding in every country of the world. This may sound a little abstract, but, if you know about the 1267 regime on counterterrorism, you'll see that those measures are actually very specific, and many laws in Brazil were designed in New York. So it's an exceptional amount of power, which is not a problem, if we understand that those exceptional powers were not granted by the Charter to the P5, but they were granted to the entire Security Council. And if we take into consideration that the sharp decline in the capacity of elected members to fulfill their roles of participating in public deliberation on the Council, we see that we are effectively distorting the equilibrium established in the charter on the Security Council. And there are a few reasons, some of which are stated in the charter about why elected members are important. Not only do their votes count, but because the Security Council works on the basis of deliberations founded on international law on legal arguments, elected members play this role exactly as Bruno just mentioned, to speak up when international law is being disregarded. Also, elected members should bring to the table their political, cultural and social characters and their local and regional backgrounds. It is not

by chance that the Council states that the elected members should have an even regional representation. And third, elected members, most often, there are a few exceptions, are disconnected from the immediate political interest of the world's crises, and can more easily make contributions in the broader interest of peace, rather than in their own interests. As we know, the classic definition of great powers, is that they have interest everywhere. That's not how small powers work.

So, for this reason, I find it highly problematic to observe growing distance between the opportunity of participation between permanent and elected members of the Council. And I'll give a few very concrete reasons for why this has happened. Some are structural. First, elected missions started mandates lacking the technical procedural knowledge to fully understand the prerogatives of members of the Council, and, as a result, in many cases, elected members must let more experienced, that is, usually permanent members of the Council, guide them in the way they should manage the work, especially when they are presidents of the Council. This is also further complicated by the fact that permanent members have much better information, and an institutional memory that is applied strategically on what they think is best to be done. Second, political and diplomatic resources of elected members are uneven, while some states, big or small, may have the background or resources to at least follow all Security Council decision-making very closely. Others do not, and have to prioritize usually thematic issues that they are more closely engaged with, effectively letting go of the prerogatives as full members of the Security Council dealing with every single issue at hand. These are important limitations, but I will discuss a little bit later they can be addressed.

It is the most recent transformations in the working methods and working relations between elected and permanent members

that are most concerning, and I'll give three very concrete examples. The first is on open meetings and the participation of non-Council members. The vast majority of Security Council meetings are closed, even to UN members; not expecting they would be on TV, but even members cannot participate on most meetings. Open sessions are very important; they have become a ceremony for reading prepared statements. They are not integrative at all, and, while of course some of the work of the Council should be confidential, the closure of sessions should not be the standard. The Charter is fairly explicit also on Articles 31, 32, 34, that non-members of the Security Council, interested parties, affected states, troop contributors should routinely participate in deliberations even without a vote. And while the decision to call on them should be considered procedural and not subjected to the veto, in practice the P5 have largely restricted the use of these rights, and, when affected states are consulted, it's usually after a decision has already been taken on the backstage. So there is no dialogue with affected states.

The second point which was mentioned earlier today, is the pen holding system, which is very recent, it's less than 10, maybe six years from now that it has started to appear and it's probably the most absurd development in the work of the Security Council. It basically consists of, in the name of efficiency, a single country owning an item in the agenda and being kind of responsible for presenting a draft resolution on that issue, every time. There always must be five members, who claim exclusive authority of the drafting and leading discussions on specific issues. It's not uncommon for former colonial powers to be the penholder of their former colonies, which I think, in many cases, make things even more problematic. But, most importantly even, this new system affected the entire decision-making process. Drafts are often produced on more junior levels in the penholding missions,

and then they are shared among the P5 first, and, only after an agreement is reached among the P5, are they then shared with elected members, once all major decisions have been made. And any questioning by elected members is often disregarded as impossible because an equilibrium has been reached among the P5.

In many cases I studied, sanctions equilibrium means horse-trading on the backstage. Third is on deliberation and decision-making. Today, most meaningful discussions are held outside of the chamber and exclusively among the P5. Elected members are included when all major decisions or many major decisions have been taken, and it's very difficult for them to have input into the negotiations of specific crisis. As both Bruno and Martin mentioned before, thematic issues are really where elected members are able to thrive much more than in major crisis. As a result, the Security Council chamber has become, as a former diplomat wrote in the book Bruno edited, either a vehicle of political theater when the P5 cannot agree, as we saw in Syria very often, or a tool for the ratification or formalization of decisions already taken privately.

What we see then is that the power of the veto, a major but limited prerogative designed in Dumbarton Oaks and approved in San Francisco to make sure that no major decision will be taken against the will of major powers, has really become a day-to-day presence, relevant to the smallest details. The real meaning of the veto goes way beyond the formal legal entitlements granted in the charter, and permeates the Security Council in spite of the fact that Article 27 prohibits the use of it on procedural matters on subsidiary bodies.

Before the power of the veto, as anyone who has been spending some time at the Council will attest, there was a kind of egocentric institutional exceptionalism, which is consistently exhibited by P5 members in the most minor decisions really, in very small

decisions, but especially in the protection and expansion of their procedural prerogatives in the working methods. In this sense, there's no question that P5 members, and to be clear, ALL P5 members, abuse the power of the veto, because the power of the veto has become an all-encompassing justification for under-the-table negotiations and horse-trading between P5 and the skipping of actual deliberation in the Council as envisioned by the charter.

Now, I pictured a very bad scene, but what can be done about this? I argue that this disproportional hierarchy is an essential feature of the Security Council today, and it's an institutionalized disease that needs to be cured. And the first step, in my view, is to start bridging the gap between elected and permanent members in the Council. And in recent years, several initiatives have emerged in trying to do that and have been quite successful, making the Security Council more transparent. Informal elected members have been the objective behind the establishment of Security Council report, and excellent organizational reporting on the Council activities and an indispensable source for any scholar working in the UN. The government of Finland sponsors any works from up and coming members to try to bring them up-to-speed as early as possible. Empowering elected members through knowledge was also the rationale behind sanctions app, a smartphone app I developed with others to offer relevant information about UN sanctions regimes to elected members. Most importantly, though, I think there's much to learn from the Small 5 experience.

By the way, my favorite proposal is the one about having to justify vetoes on the basis of the charter. I think it's subtler and more effective than a broader veto restraint that is unlikely to pass. But, more generally, I think we need to understand that the P5 is deeply institutionalized as a group. We talk very much about the visions among the P5, but, when it comes to their own

exceptionalism, they really do stick together. When it comes to working methods, the P5 is together, and the E10 is fragmented.

So, to institutionalize the E10 as a group in the Council must be the strongest priority; it is difficult but necessary. More effective support structures for elected members should be put in place, and we must remember: combined, the E10 also has a power of the veto. As we know, veto in the Security Council is not about passing or not passing a single decision, but it's about being respected at that table. So, perhaps that power should be used by elected members as well. I think a brief strike of elected members in the Council could have interesting results.

The main lesson, however, is that procedural reform is slow and incremental. I think it's more about long-term vision and persistence than pressure about a landmark resolution, and that's again a lesson from the Small 5 experience. One interesting motto perhaps, which we can discuss, is the work of the like-minded group in the processes of creation of the office of the ombudsperson for the 1267 regime. It is the closest we ever got to assistance of judiciary of Security Council decisions. In spite of huge resistance by the P5, with a little bit of help by the European Court of Human Rights, the consequences were immense, and I think this is the kind of model, the kind of initiative to improve the Council. Thank you. 38min23s

**Counselor Mohamed Bouabdallah** - Thank you very much. So I'm giving the floor to Djeyhoun Ostowar, so he can share his views on how to "cure this institutional disease" within the Security Council. You have 10 minutes.

**Mr. Djeyhoun Ostowar** - Thank you, Mr. Chair. Let me start by saying what I didn't say when I first took the floor in the interest of time. I want to extend a big gratitude to the organizers, to all

institutions that were involved in bringing this conference and bringing our participants here together. It's a wonderful initiative, it's as important as ever, despite the sometimes-frustrating process at times for the lack of progress. I wanted to also start by stating something that was asked a couple of times in the corridors, namely "Hey, you're pretty young! how come you're a speaker here?" So you may get a downgrading of serenity hearing me speak I hope, not too much downgrading of quality. I also wanted to say that I'm encouraged by that last thing. When I hear previous speakers, it was almost as if we use each other's notes, due to so much overlapping in things that were said by different speakers in this panel, when we were speaking with each other on margins, and also during lunch. So I'm also encouraged by that, that there is consensus on a lot of issues. When we speak about working methods, some see this topic maybe as indeed not sexy but nitty gritty.

I would like to propose maybe another way of looking at it, is that issues that are outside the scope of the working methods, such as categories of representation in the size of the Council, you could see them as issues that are more transformative in nature, piercing through the core of the entire discussion. Well, working methods could be seen maybe as issues that are on the belt surrounding that hard core but, nonetheless, extremely important. Previous speakers already said one of the reasons for this, that the working methods are important, is that they don't need the charter amendments. I don't want to repeat that point, but what I want to say is that, indeed, the working methods are born much more in practice than in formal agreements, and practice has evolved over time.

There's one point also that has to be emphasized, and doesn't get sufficient attention in discussions. It's also clear, another aspect that maybe hasn't been put forward yet, is that working

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methods are really issues in which the greatest conversions can be found amongst sometimes unusual partners, where countries may be very far from each other in discussing other issues, but, with working methods, there is quite a bit of consensus.

So, this is a promising area, where already quite a bit has been achieved, but where a lot more has to happen, and I want to use this short intervention to do both. To try to highlight efforts that have already been taken, the progress that has already been achieved, mentioning some best practices, but also to point out areas in which clearly more work needs to be done. In doing this, I will attempt to react to some of the statements by previous speakers and maybe questions as well, posted by our moderator.

Since the increase in attention to working methods in the 1990s, several important steps and processes have been initiated. Examples were already given, but these examples clearly showed that it is possible to change the *modus operandi* of the Council. Evolving practice of public sessions briefings to and by non-members of the Security Council, the use of wrap up sessions already referred to, are examples of developments in which contribution was made for more transparent Council, a clear effort in making the Council more inclusive.

Amongst the most notable developments is the adoption of the so-called note Five for Seven under informal working group done on the presidency of Japan in 2006 and later updated in 2010. This document codified some of the best practices and referred to them, and one specific thing that I wanted to mention was that there has been more attention, and suddenly more recognition, to the fact that the United Nations Security Council needs to evolve in discussions with party's states that are affected by the particular situation.

You may remember, in 2014, after the tragic events of the downing of MS17, when a lot of innocent passengers died, the Kingdom of the Netherlands found it very important to be able to speak at the Security Council. It was an opportunity to emphasize the importance of a resolution calling for full cooperation with the investigation of the attack, as well as the importance of full cooperation in the processes of repatriating the remains of the victims. Other welcome initiatives are informal meetings, indeed that were all referred to in all shapes and sizes where an attempt is made, especially when non-Security Council members are able to participate, to organize more strategic thinking, to organize sessions in which more strategic thinking is possible, more attention to tailored conceptualized approaches in peacekeeping operations and sanctions and so on is facilitated. Welcome initiatives are also best practices championed by, for example, Spain and New Zealand, to host meetings that allow true policy contributing countries to discuss the missions they participate in. The value of timely and meaningful participation of troop contributing countries is, of course, not a new element in this discussion. It goes back all the way to the Brahimi Report from 2000, subsequent Security Council Resolution 1353, and also, of course, the discussions that preceded these particular milestones.

And it's particularly important when extension of mandates is discussed, changes to mandates, that can have a direct impact on troops contributing countries and their forces on the ground. I have to mention Arria-Formula meetings as well. Something was already said by the previous speaker. I just want to add maybe a positive note to that, that Arria-Formula meetings, while still not perfect, have evolved, and we have to organize this evolution as well, from being used primarily to exchange views with state representatives or high-level representatives, to engage with non-

-governmental organizations, like human rights, international think-tanks, international crisis groups and so on.

Further, there have been a number of important initiatives, and I want to mention also the important initiative by France and Mexico to voluntarily limit the use of the veto. It's an initiative that we support, in the Netherlands. We think it's worth supporting. There is, of course, much discussion about whether it is the right approach or the most promising approach to limiting veto, but it also shows that it is certainly a more nuanced situation than sometimes perceived.

And, here, I may be doing what our moderator cannot do in his capacity as moderator: show solidarity to our P5 member, because we often speak about solidarity among P5 members. I think this particular initiative shows that, within P5, there also different approaches and opinions, and not only different ideas about veto in this case. If you look at the track record, and correct me if I'm wrong, it's been a very long time since France and the UK haven't used veto, from 1989. So this is something that shouldn't be forgotten, and I think that it should be also part of our discussion, part of our more nuanced discussion.

So past and current best practices often introduced and pushed indeed by non-permanent members of the Security Council must be welcomed, must be cherished, must be built upon, and both by sitting members of the Security Council whether there are permanent and non-permanent members, because it cannot be done just by a select group of countries, there needs to be a much broader support for these initiatives. I already mentioned in my previous short intervention that the Netherlands was in the Council for the last time in 1999-2000, and we are currently aspirant or a candidate for the Security Council for the term 2017-2018.

I already mentioned the example of what we did, or what we tried to do, when we were in the Council last time, the concept notes No Exit Without Strategy, apart from the fact that it was important for us to push discussions about prevention, about preventing relapsing to conflict. This was also a tool that was used for another purpose, for tackling the problem of my previous co-participants in this panel already mentioned, the fact that the Security Council is often deliberation based on written prepared statements. With this particular initiative, we wanted to allow a more open exchange, a more open and interactive deliberation. And I also mentioned the example of briefings, or other things that could be done. Briefings in the context of Horizon Scanning meetings and other things is that there is quite a bit of conversion and consensus, at least among these participants' practice that was indeed killed, that wasn't reinvigorated. It is really worth examining whether revisiting that practice is worth it.

It also ties in with the suggestion by Ambassador Rattray, to allow secretary general to use the Article 99 power much more effectively, because wrap-up sessions can and should have the secretary general playing an important role there.

I'm coming close to finishing. So one note on horizon scanning... I'm not trying to push this particular example, but just using this as an example on what can be done: Brazil was in the Security Council for the last time and revived the practice of wrap-up sessions in 2011, also an important example of best practice. If we're elected to the Security Council, we will do, and we will try our utmost to build on the best practices to expand, to really explore alternative options for improving the working methods of the Council. This is really what we understand by the notion of being a partner for peace. It is important to breach the gap between elected and non-elected permanent members, but also to breach the gap between the Security Council and wider membership.

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Let me just conclude by saying one thing, Mr. Chair. In order to realize and build upon various improvements and best practices mentioned in my short intervention, I maybe differ slightly in opinion from the previous speaker, namely that it should be the initiative of elected members. I honestly believe that we need cooperation by all here. Members of the Security Council and non-members alike, permanent and non-permanent – the wider community of actors, NGOs, academics and others involved in the debate. The kind of contribution that can come from different corners is invaluable. That's why we value our cooperation with countries like Brazil. That's why we value an event like this, where conscious effort is made to bring together different stakeholders in this debate. We need thinking outside of the box, we need innovative thinking from academics and think tanks. Let me once again finish by just saying congratulations to the organizers of this conference, great job in bringing everyone together and actually facilitating an open and candid discussion here. Thank you very much.

**Counselor Mohamed Bouabdallah** - Allow me, I will just say a few words before giving the floor. Just to nuance a little bit what has been said about the P5. I agree with you that the elected members do matter. Before asking the questions of the veto, you need nine votes in the Council to adopt a resolution, and, if you don't have the nine votes, you don't need to ask what would be a veto by a permanent member.

Second, we say the P5, but the dynamic within the Council, and I've been in New York in 2011, and now I'm in Paris giving instructions to New York since 2013. It's not the P5 versus the elected 10. Most often, it's the P3 plus a certain number of elected members against Russia, China and some other countries. So the dynamic is really different. It's not a question of the P5 agreeing

and then the others have to rectify. I'm speaking about how it works. How can we think about improving working methods?

So just to nuance a bit, what you said, you have a discussion and disagreement within the P5, and the elected members can have a say, can have an impact, can change things, and even within the P3, you can have protective discussions on several issues. Second is the question of capacity. It was raised, and when it comes to penholder ship, we have an issue of capacity. And what needs to be done is to help countries that are elected to the Security Council and that do not have the resources to get the resources and get prepared to be a member of the Security Council. The elections for the new elected members will take place next week, for the very first time. Because until now it was in autumn, so now we will have six months to get prepared for the new mandate. And third, we did not underline enough the role of the Secretariat. When a penholder put a draft resolution or text in front of the Security Council, it's largely based upon the recommendations and reports by the Secretariat. So, therefore, it's influenced by the Secretariat and it's not only what the P5 wants or thinks.

Now, on working methods, I just want to say one thing. You said that the P5 has a common say on that, when we have different examples that prove the contrary. First is the veto, you have the French initiative, you have the UK who applied to the ACT code of conduct, and those are not shared views among the P5. You also have the UNSG selection process, France and the UK, pushing for a more transparent process within the GA, and it was not the same position for other permanent members, etc. So, I will leave it here and take questions from the audience.

**Mr. Demétrio Magnoli, columnist at O Globo and Folha de S. Paulo** - I'm Demétrio Magnoli, Group of Analysis of International Scenarios, University of São Paulo, columnist of O Globo and Folha

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de São Paulo. I'm very happy because this seminar is challenging probably the official position of Brazil about the reform of the Council. Brazil has a position and the G4, based on the assumption that the Security Council is anachronistic. It's a piece of another world, a piece of the past, it's part of the 1945 world, and this world doesn't exist anymore. I would say no, that's wrong. That's not a wrong tactic, that's not wrong politics, that's conceptually wrong. We live in this world, the 1945 world is our world, until the third World War because the League of Nations and its Council were the fruit of a general war. By the way, the reform of the Council accelerated its decline. The United Nations was the fruit of a second general war, and the Security Council with the six powers apex was the fruit of this second war. What do we need to do to reform the Security Council in its composition, to reform the right of veto? We need, that's obvious, a third world war, Armageddon, just that, so it's easy.

Nowadays, what's the main hurdle to think about regarding a reform on the composition of the Security Council? The main hurdle is China. China doesn't accept, and we understand that, China doesn't accept the intake of Japan and India, but the intake of Japan and India is all the United States accepts and wants. The scenario will not improve. On the contrary, with the strength in the seize around China, the scenario will worsen with time. So I don't understand why the G4, in the last 20 years, are pressing with the same old issue of the reform of the composition of the United Nations Council and the veto rights. Instead, I think we have a great discussion ahead about working methods.

**Counselor Mohamed Bouabdallah** - Thank you very much, I give the floor to:

**Mr Juliano Cortinhas, professor at the University of Brasilia -**  
Good afternoon, my name is Juliano, I'm from the University of Brasilia. I'm not as pessimistic as Professor Demétrio Magnoli, but I do share some of his doubts and questions. I think that, on one side of the table, we have the pragmatism, and legitimacy is on the other side of the table. So I think that most of the proposals that are on the table are very pragmatic because they intend to reform the Council, but they don't intend to propose a strong reform in the Council, so legitimacy is not in the center of the question when we talk about reform. If we want a legitimate institution, we should propose a stronger and a deeper reform than what the G4 is proposing, for example.

So, would including four countries in the Council as permanent members turn it into a legitimate institution? I don't think so. I think that a much deeper reform, and a reform that requires a big change in the decision-making process of the Council is necessary for us to construct legitimacy in the Council. But they don't propose that, because we don't think that it is a feasible proposal. So I do agree with you in that sense. I mean, what would bring legitimacy to the Council? In my opinion, a totally different institution would be necessary for that, and I'm not sure about the conditions for that. I will try not to think a third world war would be necessary, because that would be too pessimistic in my opinion. But I would like to hear from the panelists about that. Do you think that we have the conditions in the foreseeable future to effect a deeper change in the Security Council? A change that would bring more legitimacy to the table? Or do you think that, only by including four new members, that would be enough?

And another thing that I would like to add to the discussion is domestic politics. To me it's very hard to separate foreign and domestic policy. I don't see that the Brazilian society has discussed this issue enough. I don't think that we talk about the costs of

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being a security member of the Security Council in our society. So how much does that cost? For a permanent member, it is a very costly endeavor to be a permanent member of the Security Council. Would the Brazilian society be ready to pay those costs? I don't think it would. Brazil, today, is entering into a very important economic crisis, and we owe a lot of money to the UN, so if we should pay higher costs, would we be ready to do that? I don't think so, and I don't think the Brazilian society is discussing this issue enough in order for us to strongly defend the international system in that decision. So I'd also like to hear more about that relationship between domestic and foreign policy. Thank you very much.

**Counselor Mohamed Bouabdallah** - Thank you. I will take two more questions before the first one is answered by the panelist. May I ask the audience to shorten their questions? General, the floor is yours.

**Lieutenant General Fernando Rodrigues Goulart, vice-chief of strategic affairs of the Ministry of Defense of Brazil** - Thank you, I'm General Goulart, vice-chief of strategic affairs in the Ministry of Defense, and I'd like to focus, in this discussion, on the working methods of the Security Council, on the issues of ability of performance, which, in my view, is in no way less important. If we talk about the methods the Security Council should follow, we have to consider that the members of the Security Council must have the capacity and the ability to carry out the task, to follow out the procedures, and we know that the decisions concerning peace and security are very hard decisions, and the Security Council requires very hard work from the members, both the permanent members and the non-permanent members. In this sense, in my view, a particular challenge that the Security Council faces, and the United Nations will face in the case of an enlargement, is who will

be the next permanent members, or long-lasting member in the Council, versus *vis-à-vis* the performance the member states show, or have shown, in its previous presence in the Security Council or in other UN bodies, like the EcoSoc or the General Assembly itself? We know that there are different performances among the member states, and the fact is that, if we don't take this into consideration, it may be the case that an enlargement of the Council is detrimental to its functionality instead of contributing to the functionality. What I say is not exactly about the number of members, but the quality of the work these new members can bring to the Security Council. This is the comment, and I'd like to pose to the panel the question of, is a performance is in any way taking into account or can be taken into account when one considers the enlargement of the Security Council?

**Counselor Mohamed Bouabdallah** - Thank you very much. Last question on my right, for the first arm.

**Lieutenant General Floriano Peixoto, former commander of the United Nations Stabilization Mission in Haiti** - Thank you very much, I'm Lieutenant General retired Floriano, Brazilian Army. It's not a question, it's just a comment. As a former member of the high-level panel, I feel myself compelled to make just a few comments in relation to the challenges and prospects of the Security Council, most specifically on the theme of this panel. After eight months of visiting several capitals, hearing different voices around the globe, we came to a deep analysis and strong conclusions and recommendations in different areas. I really recommend those who haven't had the chance to read our report take a look at it to see how deep we went, in several areas, including this theme that has been the focus of this seminar. Specifically, in relation to the Security Council, we came to many recommendations, as you can

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see going through the report, just to give one example of those recommendations.

We, as a panel, came to the conclusion that the Security Council, mainly the most powerful members, should be more dedicated, more committed to peace operations which are the core of the UN, as we know. What we see today is that the Security Council establishes a mandate and signs a resolution, leaving the heaviest part of the weight to be carried out by member states and TCCs. And we believe, as a panel, that this situation has to be changed. What you expect from the most powerful members of the P5 is that they will be present and more committed to peace operations, for example, offering troops and critical access that can improve the UN system and its credibility/efficiency/liability. We also included in our report several analyses and recommendations on the structure of the UN that I really recommend that you review. The report we built is envisaged to work in a 10/15 years' horizon, so it is a good source for research to understand the steps that have been taken since the delivery of the report last year to the secretary general – when the UN created a work group to check the implementation and recommendation and see the important work that we did in order to make the UN system more credible in terms of peace operations. This is just a contribution to show that this matter has been specifically and carefully addressed by the high-level independent panel last year. Thank you.

**Counselor Mohamed Bouabdallah** - Thank you very much. I could not agree more on the need of more involvement in peacekeeping operations of P5 members. So, first answer to the first round of questions.

**Mr. Marcos Tourinho** - I'll be brief so that we can get more participants going. I think the question on capacity was, in part,

answered by the fact that it is not the case that the Security Council actually does all the work it mandates. I think quite the contrary. Sometimes the example of Costa Rica, that does not have an army and was one of the best members the Security Council had in the last decade, is a good example. You need a wide variety of abilities and capacities in the Security Council, which is not just military capacity. So that's what I wanted to say.

I also just want to clarify very quickly the issue of the P5 unity and the veto. Two things: the first is that, of course, the P5 have multiple differences among them, my point was not to say that they share all opinions, obviously, but we can all agree here in the absence of others that France might as well be the best P5 member; we are still thankful for 2003 and others. But my point is that some P5 members might be more aligned with what might be constructed as the broader UN, or public interest on international peace security, but my crucial point is that, when it comes to the devolution of power from the P5 to this rest of the Security Council, or to the broader Security Council, there is broad agreement among the P5. No P5 is suggesting change in the appointment of UN officials, in having their own quotas. No P5 is suggesting great scrutiny, democratic or legal, of the Security Council decisions. I mean, when it comes to the core authority of the P5, in my view, there is not a lot of difference, in spite, of course, your views on the secretary generals and various other procedure being different.

When it comes to the veto and other issues more broadly, I think there's a bit of misunderstanding sometimes, and then Demetrio alluded to that when we said we don't want the world from 1945 anymore, we need a new world. It's actually quite the contrary. If you look at the charter, we talk about the implementation of the charter as it is written in the charter, it's all we're asking for, it's not much more than that. The problem is

that, over the years, issues of the charter, especially when it comes to the Security Council, I think, are not respected. And maybe the solution is to go back to the world of 1945, not to go even further away from it, which is what has been happening in the past 30 years in the Security Council. We're neglecting the Charter. It's not like we need to go back to it; we don't need to change it very much. Including the veto, I'm not against the veto in principle. The veto, as outlined in the charter, not in procedural issues it's fine, it's part of the constitution of power. Okay, leave it there, but leave it limited. What can't happen is what happens now, that any very minor issue, for example, a letter from the letter of the ombudsperson to one individual who was delisted from a list of Al-Qaeda sanctions in 2001, needs to be voted by all five permanent members. That's what can't happen.

So, if we go back to the charter, as it is in the charter, if this is coming back to 1945, I'm more than happy with coming back to 1945, and that's the crucial point about the mission creep of the P5, what I wanted to say. Thank you.

**Mr. Djeyhoun Ostowar** - Sure, I would even be happy to because a lot of questions were answered really well by previous speakers. The keeps coming back to the debate, which is not necessarily a bad thing. We often see that the discussion on working methods is difficult to disentangle. It gets distracted by the questions of membership, categories and several questions.

So, without saying that certain issues are more important than others, I would actually argue that it is more important to delineate, to some extent, the discussion working methods to recognize that those larger, complicated sometimes more contentious issues need to be treated separately. Even though there is often overlap and interconnection, just for one basic reason, an enlarged Council will

have consequences for application of the rules of procedure of voting and so forth.

So, that one basic point that I wanted to make, and one more thing. There was a question that was important about performance, and another question about legitimacy. And when we speak about working methods, it's important to recognize that working methods, despite being less sexy, despite being less contentious and so, are all about legitimacy. If sound adjustment to working methods happen, if we build on good practices, expand on those best practices, then we do something really concrete, about transparency, inclusiveness and legitimacy. So this discussion has everything to do with legitimacy. Let me finish here.

**Counselor Mohamed Bouabdallah** - Thank you very much. We have ten minutes left, and I have nine people wanting to ask questions, so it's 30 seconds per person, if you want to have answers, please be brief. Thank you very much.

**Contra-Almirante Antonio Ruy de Almeida Silva, special advisor to the Brazilian Superior War College – ESG** - I'm Admiral Ruy, professor of the Brazilian War College. About the methods, I would like to know a little more about the pocket veto, this informal way to make the veto, because we have a lot of data about the veto, but not about the pocket veto. And the second one is about the question that we talked here, the question that sometimes the Council is not fast in making decisions, but, in the case of Libya, it seems that was not so delayed. But the vagueness of the resolution allowed a change of government, in the mess that Libya is today. So, I don't know how the panelists would answer this, this fast method, and the results of this matter.

**Counselor Mohamed Bouabdallah** - Thank you, Admiral, for being brief.

**Mr. Thales Castro** - Thank you, Mr. Chairman, I'll be very brief. I'm Thales Castro from the Catholic University of Pernambuco in Recife, also Consul of Malta in Recife. Congratulations on the panelists' views; they bring refreshing critical views on the improvement of the working methods. Whenever I read this word improvement, it strikes my mind in the sense that improvement doesn't necessarily mean reform, so it's a way to optimize the current rigidity of the PRP, the Provisional Rules of Procedure, which are very rigid. I mean, how can we actually reform something that is so rigid? The charter is not so much rigid as the Provisional Rules of Procedure.

But, anyway, I do congratulate and salute all of the views, I'd like to remember and recall one specific phrase from Secretary General Dag Hammarskjöld in 1961 when he died in a plane crash, Nobel Peace Prize laureate by the way, *post mortem*. He said, "United Nations was not created to take us all to heaven, but rather to save us from hell." So if, by hell, he meant a third world war according to Demétrio Magnoli or not, it seems that some countries understand that the working methods of the Security Council are fine. I see that as my old pick vision, but some countries understand that things work well, there might be some shortcomings, but they work well. If we see the charter, Mr. Tourinho said something about we need to perhaps recall the charter. And the charter still has the Soviet Union in Article 23. The Article has Republic of China, which was replaced in 1971 by the People's Republic of China. So, my point of contentiousness and perhaps of reflection is maybe we need to reconsider how to actually improve all of these rigidities. If you check all of the 111 Articles of the charter, the word democracy, or the word democratic, does not show up, in one single line of the charter. So, we're trying to improve something that, by nature, by structural nature, is not democratic itself. So it's a great challenge. And I understand that this event here is so important, and so

fruitful, that we are actually trying to understand these challenges beyond these rigidities. So it's just general mainframe to analysis. Thank you.

**Counselor Mohamed Bouabdallah** - Thank you very much. Please.

**Mr Dawisson Elvécio Belém Lopes, professor at the Federal University of Minas Gerais – UFMG** - Thank you Mr. Chairman. I'm Dawisson Lopes from the Federal University of Minas Gervais, Brazil. Encouraged by the panelists, I'll just leave you with kind of a thought-provoking question, and I'll be very straightforward. What if we find out, right now, that two of the most pressing international security crises, I'm referring to Iran and Syria... what if we find out that they have not been dealt with at the United Nations Security Council? I mean, would this debate still make sense? Because the impression that I have is that the most important questions of international security today have been dislocated from other venues, and also to regional international organizations. I mean, the European Union, the African Union, even UNASUR, have taken some important steps towards playing roles they didn't use to play in the past. So, what do you make of this trend? Iran, Syria, and the United Nations Security Council, as far as I'm concerned, have failed miserably in dealing with these two serious crises. I want to hear from you.

**Counselor Mohamed Bouabdallah** - Thank you. Mr Pace.

**Mr William Pace** - Very quickly. What I would argue is that I hope, over the next five years, we can parse out this term "working methods of the Security Council." I think it has become a euphemism for a whole galaxy or constellation of really important issues that will be diminished for being packaged in this nice wording. It helps, but I think we should deal with that. I rarely have disagreements

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with Bruno Stagno, but I will say I would like to see more thought about the Security Council election process. We obviously are the ones who complain and throw many millions of euros at it, and it's usually a race to the bottom in order to get African and Asian votes, etc. I don't see that it is an actually edifying process. So, to me, it would be better to have some other process, including what should be the qualifications to be on the Council? What should a government bring? It's in the charter that they're supposed to be doing that. So, I think clarifying that through the act, or hopefully the other government groupings, I think would be very important. And again, no one can underestimate how important restraint over veto has to be over these next five, ten or 20 years. The member states saying to permanent members "Look, here's the deal we made, here's what would work in this century in terms of the veto, but this ridiculousness of where the veto is used for everything has got to stop," and it's in their interest, actually, the permanent members, for it to stop. Complimenting, again, the panelists on the whole range of issues that they covered very expertly.

**Counselor Mohamed Bouabdallah** - Thank you very much.  
Ambassador.

**Ambassador Dirk Brengelmann** - Thank you very much. At the risk of repeating myself on one point, the General asked about performance, and it came up on other interventions. The charter actually makes the point about important contributions in the first place, and the regional or geographical distribution in the second place, so I think the performance issue, as you put it, is important. I have some problems with what Mr. Magnoli said about how we need a third world war. I know you meant it more as a side comment, but, coming from where I come, you do get the shivers when you hear talk like this and, especially in other quarters in

Europe, you do sometimes hear that talk, so I really would warn a little bit against using that term of the third world war.

But, more importantly, you made a point about China being opposed to the enlargement, because I don't like A or B or C. We have the veto in the Security Council; do we even have a larger veto before that? Because one country doesn't feel fit to a certain other country that is already ruling it out. I just can't really accept the notion behind it. It is an important debate that we are having, which is to close the link to the issue that we are debating in a larger sense, which is the issue of the international law. Where are you actually having that dispute? How are you going to resolve that dispute? Important questions that we will have in front of us in the foreseeable future. And I think these questions, and these issues related to that conflict, will be very important in telling us how we're going to revolve issues in the future. That is all I wanted to say.

**Counselor Mohamed Bouabdallah** - Thank you. Two last questions, very brief, thank you very much.

**Mr. Eiiti Sato, director of the Office of International Affairs of the University of Brasilia – UnB** - So I'm Eiiti Sato from the University of Brasilia. I would like just to raise perhaps a question proposing a different approach. I think in terms of the problem of the composition and the enlargement of the Security Council, there are many good ideas, but perhaps we should think from a different point of view. I agree in the sense that, in many aspects, it did not change very much from 1945, but, in another sense, there were quite a lot of changes. Especially from the 70s onwards, we had very different words; the integration of the nations is completely different, the speed of information, and so we have many different

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issues, new issues in the international arena that bring us to think about procedures and working methods.

I will give you a very quick example: when the United States was going through a very harsh civil war, one very important point regarding what the United States had done was to avoid intervention from powers from abroad. That's what the U.S. did, and that's why the United States was kept as only one nation, and was not divided. So, what happens today, is this a different world? Everything is completely different. That time, to avoid the trafficking of arms, and even communication, it was a very different time. Today it's completely different, it's hard to avoid or, for example, to put into practice in the real world non-intervention, self-determination principles like this that are quite central to the notion of the United Nations. So, we have terrorism, drug trafficking, money laundering, lots of new issues, and I don't have any good ideas to address this topic, but I was thinking that it would be a good idea to bring this approach to this table. Thank you.

**Counselor Mohamed Bouabdallah** - Thank you. So, last question please.

**Ms. Adriana Abdenur** - Thank you, my question is: how do you boost within the U.N., not just the UN Security Council, but perhaps primarily outside it, peace and security related evaluation practices that might allow for more intelligent decision-making within the Security Council? Because from what I've heard in this panel and elsewhere, it seems that a lot of the decisions, whether the veto or the wonderful list that Mr. Ugarte provided us, is a reminder that there are several other things that the Council does. They are either based on geopolitical interests; we all know that. We've heard a lot about that. They're based on a lot of assumptions about what works and what doesn't, and/or they're based on really

poor intelligence, and absence of data as well. And I think that's partly because evaluation practices within the UN are really, for the most part, box-thinking exercises. I know that there have been recommendations included within the REPO framework for improvement.

But, if you look across the board, they're mostly procedural evaluations, rather than impact evaluations. With peacekeeping specifically, I think that has to do with the problem that the resolution of these conflicts has not been emphasized enough, so we have these so-called intractable or long-term peacekeeping, in which you have sort of a conflict governance rather than conflict resolution. And, if you look at the work that, for instance, the OIEOS within the UN does, it just kind of seems to be very kind of standard procedural, rather than looking – with peacekeeping looking at casualty figures, and you look at how many different types of hard power are deployed, and you look at maybe some parts of mandates, but you don't have an overall mandate evaluation, anything that would be called effective. With training for peacekeeping, which is a very timely topic here in Brazil, and our peacekeeping training center trying to discuss this right now, different member states carry out very different peacekeeping training, and there's also gaps between how they're trained and their performance during operations. And then coming up with a UN framework for evaluating peacekeeping training is a politically very touchy subject. So you have these very fragmented supposedly evaluation practices that don't seem to add up to really solid information that can at least feed into decision-making practices of several of the main attributes of the UN Security Council. It seems that reform without addressing this wouldn't necessarily improve the effectiveness of some of these approaches.

**Counselor Mohamed Bouabdallah** - Thank you. I will give the floor to the panelists, but just to say one thing about Iran. You mentioned that Iran was not dealt within the Security Council. It's partly true, as you know, the Vienna Agreement, there was a mandate given by the Security Council to do a P5+1. And I was part of the negotiation, and you cannot say that the Security Council was not involved. There were six resolutions on that.

**Mr. Dawisson E. B. Lopes** - Yeah, you're right. I'd just like to mention the conferences in Geneva, the two. One for Syria and the other for Iran. That's what I meant.

**Counselor Mohamed Bouabdallah** - Okay, Please.

**Mr. Djeyhoun Ostowar** - Thank you, Mr. Chair. Let me not try to (inaudible). Now it's better. Let me try to take the question there that was partly about relevance of the Security Council *vis-à-vis* other actors, other avenues, regional organizations, on training and let's say information, decision-making, and also a very important point made by Mr... I can't read your name, but from one of the members of the esteemed panel on peace operations. I agree with the Chair of the panel, which would produce really important and valid recommendations. To somehow try to tie these different things together. I want to say a few things. First of all, let me start with the observation that it is important to give more responsibility or ask for more responsibility from Security Council permanent members, when it comes to delivering troops and so on and so forth. While I would concur with that observation, I would say that there is also one step further that we could go. This is something that we, in the Netherlands, have tried to do successfully, but not always as successfully as we would like to over the course of the last couple of years. Namely, to address the asymmetry and gaps that exist between developing and developed countries when it

comes to the contribution. Namely trying to engage our European partners much more actively in peacekeeping. We haven't done it alone; we've done it with like-minded countries. This has produced some good results in Mali, specifically, where we have a large presence, but, of course, it's a struggle to get sufficient troops of high enough quality, and, on top of that, with capacity for enablers and so on.

This brings me to your point of training and quality of troops. I think these issues are very much tied together. One of the reasons that it is hard for western European countries, in this case, to send their troops, is that their quality, or at least their perceived quality, of operations of other troops is not good. That's not to say that it's always the case, but the perception is not always positive, unfortunately. But sometimes it is also true. Sometimes there are issues with training, like you already pointed out, and I think that something has to happen on that front. One of the things that we're trying to do is to try to seek a niche within the training in which we can have articulat leverage or a particular expertise. For example, when it comes to training of troops, we try to contribute to the training of sexual exploitation, abuse, gender, those sorts of issues. I think countries could take the lead on a lot of different topics, helping each other and helping the UN to burden-share an important task in which we are all together. So let me leave it there.

**Counselor Mohamed Bouabdallah** - Thank you very much. Marcos.

**Mr. Marcos Tourinho** - I'll just only touch on a few issues. First, on evaluations. I spent the best part of the last six years evaluating UN-targeted sanction, and my view on evaluations are just two points. I don't have a comprehensive answer, of course. The first is that many of the evaluation types that I've heard you mention

sound like they are track evaluations: evaluations on peacekeeping, peace-building, sanctions, whatever. What I've learned, after six years evaluating UN sanction, is that this doesn't work very well, because the way the Council thinks is not on tracks. It's on packages of policy instruments. Of course, from the DPKO point of view, or from the PBC point of view, you have to have all of these details, detailed data-oriented types of evaluation, which will then be fed by those departments to the Security Council. But, from the Security Council point of view, the thinking of packages of policy instruments use at the same time, on this occasion, for that occasion, I'm not sure these very detailed evaluations are very useful. What we don't have, that I think would be more useful, is a more systemic view of the interactive effects between different policy instruments.

So, how can mediation use sanctions and different peacekeeping or how can peacekeeping help sanctions, and so on? We have a more effective package of policy instruments in the Council. The other point is that I'm not sure all things should be on the Council. I mean, these are busy people already, and it's already a very long agenda. There are ways of keeping things away from the Council. It's not necessarily a bad thing, and we should think about that as well.

With regard to what if Syria and Iraq are not dealt with inside of the Council, Adam Robert always says and repeats that the Security Council is a system of selective security. So I wouldn't call that a trend *per se*; it's not something new that the Council is now being sidelined on some issues. I think it has always been like that. And I would say the issues in which the P5... I mean, Ukraine is the other case there which was not treated by the Council and that usually these are cases in which there are high sensitivities from the P5, and these cases have to be treated outside of the Council.

So, usually, selective security means if one of the P5 cares very much about it, or two of them actually... two of the P5 care very much about it, it won't be treated in the Council. Or, if no P5 cares about it at all, it also won't be treated by the Council. So I think the selectiveness is by design and not exactly a trend.

Very quickly on the pocket veto. The pocket veto is when the veto is not put on the table, it's put on the negotiations of the drafting of a resolution, you know better than me about this. But the pocket veto is the instrument through which the veto is supposed to be fairly limited in the charter, it becomes a much broader instrument to manage the entire council, and not to actually veto decisions. So that's the importance of it. So the numbers of when vetoes were made, are only partially relevant. They only describe vetoes being used once negotiations collapsed completely. Not vetoes being used in the course of negotiations for resolutions.

And finally, on Libya and speed. I don't think the mistakes made by Libya were due to speed. In the Council, there is one fundamental concept to understand the Council, which is constructive ambiguity. Constructive ambiguity on purpose. The language of operational paragraph four of 1973 was vague on purpose, and, in that case in particular, to radicalize opinions about what it really meant took place, but every single resolution has constructively ambiguous language, and that is by design, it's part of the negotiation process I would say.

**Counselor Mohamed Bouabdallah** - Thank you very much. Just to add on Libya, if you remember well the resolution 1970 before brought Kaddafi and his affiliates to the ICC. So when we have to interpret 1973 about the future and Kaddafi and its affiliates, we have to take into account the 1970, that was adopted unanimously

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by all Security Council members, including the permanent members.

**Mr. Marcos Tourinho** - And that one was rushed. 1970 was rushed.

**Mr. Bruno Stagno Ugarte** - I'll be very brief because I agree with pretty much everything that Marcos has said. Just on the pocket veto you have to imagine, the veto is the tip of the iceberg, the pocket veto is 90% under the surface. So it happens very often as any elected member can tell you. I think Libya has been addressed. I'll try to answer, and I take Bill's criticism on my position. Regarding what Ms. Abdenur mentioned, I think there are three areas in which more work has to be done, and I follow Marcos in terms of sanctions.

Sanctions have become the tool of choice of chapter seven for the Council. Never before have we had so many sanctions on committees. Unfortunately, there's also more sanction busting. Sanction busting by many member states, and here what the Council needs to do is get serious about secondary sanctions. And unfortunately it has only done this twice throughout its history. Once, with Liberia, in light of violations with the Sierra Leona situation, and once with Eritrea, in light of the situation in Somalia. But it's about time the Council gets tough with those who are violating its own Security Council-mandated sanctions.

Secondly, mission debriefings by special representatives of the secretary general and the force commanders, like Mr. Peixoto. Once they are terminating their mandate, they should somehow have off-the-record discussions with the Security Council members, to basically share what is their view as to the failures, the gaps and also the successes of each United Nations peacekeeping operation or special political mission.

And, of course there are the final missions' reports, but these are never actively discussed. So it would be very important to do that, as part of the natural debriefing process of these high-ranking officials. And the third thing is to get rid of what is the costliest, most anachronistic and lamest part of the entire UN structure, which is the military staff committee, which serves absolutely no purpose, because it doesn't do any military advice at all. They've had over 4,600 meetings, and they have not produced one single useful recommendation in 70 years. Instead of that, what we need is actual military advice from people who do know about military affairs.

And, in the end, just because I started with protection of civilians, I would just like to end by saying when we talk about the greatest failures of the UN, they have nothing to do with terrorism, nothing to do with weapons of mass destruction, they are all about massive failures on civilians. For Mr. Boutros Boutros-Ghali, it was Rwanda. For Mr. Kofi Annan, it was Rwanda because he was the head of peacekeeping, but then, of course, Srebrenica. And also I would say the Democratic Republic of the Congo, because it is the deadliest conflict, but because it is the Congo, nobody really cares that three million have died. And for Mr. Ban, it's Sri Lanka and Syria. Syria not because of chemical weapons, because that was addressed, it was the civilian toll. And if the Council has been somewhat good at something, it is to create an incredible array of tools and institutions and working methods and binding legislation to address counter-terrorism, to address weapons of mass destruction, but it has utterly failed to be as proactive and creative on protection of civilians. And it has not yet solved the main problem for the greatest failures or that they will happen again. And that is I think an important business for the next secretary general.

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**Counselor Mohamed Bouabdallah** - Thank you very much. We will end up here, because now it's coffee break before we resume the third panel. Thank you very much to the panelists.

### **PANEL III – THE WAY FORWARD: A REFORMED SECURITY COUCIL**

**Mr. Jan Piotrowski, The Economist's São Paulo Bureau Chief** - Is everybody back? So most people are still here for the last session, which is very nice. It's a good start. My name is Jan Piotrowski, I'm the São Paulo bureau chief for "The Economist", and I'm pretty sure I was invited here because of who I work for, and not because of who I am. I know next to nothing about the United Nations, I know a little bit more today, and I hope to learn even more after this session. I will complain, at the beginning of this session, about something that I have already complained to some people in person about after the previous session. Namely, that the topic of the session, which is the way forward for the reform of the Security Council, has basically been addressed from the start of the day, and it is the thing that is on everybody's mind. I hope that now perhaps – well, we won't come to a conclusion, there's no fact chance of that, but perhaps we can sort of wrap up what we we've learned today, and what we need to think about in the future.

For me, at this session, we have two distinctive panelists. We have Ruchita Beri, who is a senior research associate of the Institute of Defense studies and Analysis in New Delhi, and therefore representative of G4, although not a diplomat, but a representative of a candidate for permanent membership. And we have Stephen Schlesinger, who probably knows more than most people about how the UN was created, and perhaps, from that, we can learn how it can be recreated. So, why don't we start with Stephen?

**Professor Stephen Schlesinger, Century Foundation, New York -**  
Thank you very much, I want to thank Funag and the Brazilian Ministry of Foreign Affairs, and my excellences and colleagues at this meeting. I'd like to talk to you this afternoon about how the Security Council came into being, in a word: talk about its history. Because to understand the future of the UN Security Council, we really do have to understand its past. Where it came from, why it was designed in the way it was, how its powers have been exercised over the past 70 years, what are its potentials and its pitfalls.

Now, the central importance behind the creation of the Security Council was really the failure of the League of Nations. In the league, you may recall, every country had the veto. Meaning that a single world nation could block any action by the league. And, furthermore, no league edict was binding on any member state. Cooperation in the league was totally voluntary, and this made for a disaster basically. President Franklin was thought to be, as history has shown, the true architect behind the formation of the United Nations. He had been an avid supporter of the League of Nations, as a member of the cabinet of President Woodrow Wilson, the man who had invented the idea of the league. Roosevelt was then deputy of the secretary of the navy in that administration, and, of course, as we all know, the league was rejected by the U.S. Senate in 1920, which was a rejection that shocked Roosevelt. He never forgot it, he never forgave what it happened.

In the years that followed, he continues to believe in the League of Nations and the utmost importance of having a universal security body. He kept that idea of a resurrected league in the back of his mind in his first two terms as president, elected as you know, in 1932. He began to plot to bring back the league, or at least a revised version of it, all the way up until the beginning of the Second World War. But during the period of the 30s, because of the huge and deep isolationist feelings in the United States, he

did not dare even suggest the notion of another league, because he would have been shot out of there immediately by Congress and by popular opinion.

But when the second World War began, he secretly instructed the U.S. State Department to start drafting a new organizational charter, along the lines of the league, but with significant differences. But, mainly, he sought the league because he absolutely insisted that a break of a Second World War should not result ultimately in the break of a third world war. His mindset was an easy one for the planet: security, security, security. This was after seeing our planet go through two catastrophic global conflicts – the first and second world wars in which over 90 million people had died.

Now, at that point, in 1945, when the Second World War almost came to a close, Roosevelt did not have to think about the United Nations. The United States was the most powerful country on earth. They could've pretty much run foreign affairs on a unilateral basis from then on. But Roosevelt understood, and it was part of his vision as a leader that you could only operate on a world scene in a multilateral fashion. After all, he won the Second World War with an alliance, it wasn't done by the U.S. alone. And that alliance gets to the key behind the Security Council. As I said, Roosevelt felt that he had to have a new institution, different from the old League. The key to a new organization was going to be an exercise of *realpolitik*, namely keeping together the successful anti-Nazi war-time alliance of Great Britain, the USSR, China, the United States and France, as the primary powers steering the new organization and serving as enforcers on all UN missions. All within the Security Council. In other words, he believed the UN could not operate effectively unless these allies acted collectively. He simply did not believe that any other state on the planet had the strength to handle these responsibilities.

By the way, at one point, he even considered Brazil as a sixth member of the permanent membership on the Council, but Brazil was eventually turned out because it had not been a key member of the anti-Nazi alliance, and it was not considered mature or ready enough to step up to a lead position on the Council. So, the Security Council as Roosevelt envisioned it, would make all decisions on war and peace, and its resolutions would be binding on all member states. They were not voluntary, they were obligatory. In other words, once a country joined the UN, it had to obey and follow the dictates of the Security Council. Still true today. But most importantly, by Roosevelt's design, the five nations I've mentioned, would not only be permanent members of the Security Council, they alone would have the veto power. No other member state would have the veto, in contrast with what had happened with the league, where every country had the veto. This is because Roosevelt felt that, since these five nations would be taking the risk of the lives of their soldiers in the UN enforcement actions, they should have the right to block any military undertaking they oppose. And the veto power would be considerable. It could enable the P5 to stop UN missions, to make the ultimate decisions on who would be secretary general, to prevent amendments to the UN Charter, to shape most discussions on the Security Council, to keep new nations out of the United Nations, and, most recently, deciding whether cases should be sent to the International Criminal Court or not. But most importantly, Roosevelt wanted the U.S. to have the veto, because he knew if he did not have it, he couldn't otherwise get the UN treaty ratified by his own U.S. senate.

And, furthermore, he could not get the backing of the Soviet Union to participate in the Security Council. The Soviet Union made it quite clear that, without the veto, it would not join in. Of course, the veto, as we've said before, did not apply to procedural issues. The veto, nonetheless, caused a furious uproar at the San

Francisco conference, which was held in the spring of 1945. A furious uproar among the smaller states. However, in the end, the smaller nations acquiesced in the arrangement. After the United States and the Soviet Union literally threatened to walk out of the conference if they did not get their way, the smaller states adopted the theory that it was better to have these two countries inside the organization, rather than outside. Because a body like the UN simply could not survive without the participation of its most powerful members. Still, even with the veto in place, the Soviet Union had its own objections. The Russians wanted an absolute veto, preventing even the discussion of any issue in the Council, while the U.S. wanted a more limited veto, allowing countries to bring crisis to the attention of the Council without fear of a veto. Otherwise, Roosevelt feared that the smaller countries would not join the United Nations.

The U.S. eventually won this round, and today we do have a more limited veto. In any case, Roosevelt did show some broad mind and even idealism by giving the smaller countries their own forum, namely the General Assembly, where every state, regardless of its geographic size, its population, its wealth and its army strength, every state had a single vote. Yet, General Assembly resolutions were not going to be binding on member states, they were voluntary. Still, even today, as had been proven in the past, they carry immense significant moral weight. Of course, after 1945, the Cold War intervened, freezing the Security Council in place from acting for the next 45 years due to profound differences between the U.S. and the USSR. That is until the collapse of the Berlin Wall.

Meantime, during this period, the UN had to adopt creative alternatives to the Council's inaction. With initiatives like peacekeeping or using the secretary general as a mediator, or giving the General Assembly more leeway to deliberate on issues.

Now we come to today. Even now, the smaller states have continued to complain about the presence of five permanent members with the veto, arguing, quite rightly, that the Security Council no longer represents global legitimacy, since the power realities of 2016 are so much different than those of 1945. Their most aggressive effort to institute changes came as has been mentioned before, with Secretary General Kofi Annan's reform commission of 2005, but outside of a few new agencies, the commission recommendations did not go anywhere as far as Council changes were concerned. The obstacles have since grown, as Bruno Stagno Ugarte and Marcos Tourinho have both pointed out in their comments on the troublesome working methods of the Security Council. Any reform endeavor inevitably, as it's obvious, bumps up against the P5, who occasionally pay lip service to reform, remaining rather happy with the way things are today. It also bumps up against the fact that smaller countries themselves cannot decide who, among their own ranks, should have the enviable seat on the Council.

To obtain genuine change, in my view, is an incredibly difficult thing to achieve. Only world opinion in concert with internal pressures from committed member states can possibly chip away at the veto structure. And that is very unlikely to happen in the immediate future. Now there are current proposals already mentioned for permanent membership without the veto, or special membership with ten-year renewable terms, or expanding the size of the Council from 15 to 21 members. So far, none of the proposals have gone anywhere, and, for the moment, it seems like the Roosevelt structure originally put together in 1945 still holds 70 years later. Yet, we have some minor consolation that – with people here, it's somewhat controversial to say, but let me say it anyway – which is that we do have a semi-active security body at this point, which does, on occasion, accomplish some goals of

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peace and security. The argument by those people who make that plead, and say don't fix things that don't need to be fixed, is that the Council does work despite flaws.

For example, in 2015, 64 resolutions were passed whereas, if you go back to a year like 1959, it passed one resolution. They also argue that the P5, in a sense that they represent power, do represent five powerful countries around the world, each one of the countries of the P5 have nuclear weapons. The other issue that they make an argument about is that if you add additional members to the Security Council, it hampers decision making. It slows down some of the resolutions. It may even interrupt the ability to act in an organization that doesn't act that quickly anyway, even worse terms. And if one looks at the Council's recent accomplishments, 16 peacekeeping operations, peace emissaries in Syria, Libya, Yemen and North Korea and so on. The UN won the war in Sierra Leone and Liberia in helping to rebuild their societies. There is that rather twisted argument, but an important one, that the Security Council does fulfill some function, even in its most limited way. In any case, with that small consolation, I guess my conclusion is we unfortunately have to work with what we have. Thank you very much.

**Mr. Jan Piotrowski** - Thank you very much for a wonderful historical insight with some potential lessons for the future, and now we turn to Ms. Ruchita Beri. The floor is yours.

**Ms. Ruchita Beri, senior research associate of the Institute for Defence Studies and Analyses, New Delhi** - Thank you, Chair. I would first of all like to thank the organizers, for giving me this opportunity to present my views on the Security Council of the 21<sup>st</sup> century. I think this is a very important debate that we are discussing today. I would like to begin by quoting Narasimha Rao,

former Indian minister of the Ministry of Foreign Affairs. He has opined that the problem of reforming the Security Council is rather akin to a situation in which a number of doctors gather around the patient and all agree on the diagnosis, but they connect agree on the prescription. The diagnosis is clear. The Security Council reflects the geopolitical realities of 1945, and not today. And I would like to point out that, first, in terms of numbers, at the time of signing the UN Charter in 1945, the Security Council had 11 members, including five permanent members, and five non-permanent members, and the UN was comprised of 51 members. In other words, there was one Council member for every five member states and one permanent member for every 10 members of the General Assembly. Today, the membership of the UN has increased more than three times, and rests at 193, and only 15 members of the Council at least of 8%. So this is one of the situations we are facing today.

Second, this situation is unjust for countries such as Japan or Germany, whose financial contributions to the United Nations outweigh those of the former five permanent members. Similarly, it's equally unfair for countries such as Brazil and India, that have contributed to the United Nations' peacekeeping operations since the organization was born. The composition of the UNSC has changed only once, in 1964, when the four additional non-permanent member's seats were added, increasing the Council to 15 members.

The third issue that is important to note is that we are today living in a hot, flat and crowded world, and effective and legitimate UNSC is needed to confront and manage the global threats. There has been an increase in global armed conflicts and transnational threats, such as terrorism, and cybercrime have grown. Yet we are talking about the global peace and security architecture, which is more than half a century old. So, clearly, there is a need to reform

the United Nations so that it reflects the realities of the 21<sup>st</sup> century. Last year, the long-pending UNSC reform process got a much-needed breakthrough, when the General Assembly adopted, by consensus, in September a denominating document that contained positions of impending seats on the Security Council reform, and how the powerful 15-nation body should be expanded in its permanent and non-permanent categories. Despite the agreement on the need to expand the number of UNSC seats, there is no consensus on the category of seats that should be expanded, or the countries that should assume the new permanent or non-permanent seats. This breakthrough was possible due to the tireless efforts of the group of four G4: Brazil, India, Germany and Japan, amongst others. For over a decade they have been in the forefront of the reform debate.

Having the prospect of further movement in the reform process is dependent, to some extent, on two issues: a positive approach by the P5 and a more flexible approach by the Africa group. It is important to know that no reform is possible without the agreement of the P5 – the United States of America, the United Kingdom, France, Russia and China. Given the power of veto, the P5 can block the adoption of any draft resolution for reform. During the last two decades of negotiations, the P5 have been reticent on the views about an expansion. In recent years, while France and the UK have supported the reform process, Russia, China and the United States have been more skeptical. The United States perceived that a larger body may become unwieldy and maybe difficult to manage. A careful scrutiny of the statement reviews that they would allow a limited expansion of the Security Council. In fact, they appear to be keen on maintaining the status quo, with regards to the permanent category, with some improvements in the working methods. Nor would they appreciate the extension of veto privilege to the new members. However, the

P5 should realize that the absence of reform may discredit the United Nations itself. The UNSC is the most important arm of the UN, and, if it loses teeth, then the UN will lose power as well. Further, if the Security Council reform drags on indefinitely, then the key countries involved in the reform process may start looking for an alternative.

As you are aware, that may be the case of the international financial institutions. The lack of reform in distribution of voting rights has already seen the establishment of alternative financial institutions, such as the Asian Infrastructure and Investment Bank and the New Development of the so-called BRICs Development Bank. So, if the UNSC reform is not risen, other countries may choose an alternative system on the peace and security architecture as well. Therefore, the process initiated by the intergovernmental negotiations cannot succeed until the P5 understand the position and, secondly, that they get the support of the 54 members of Africa Group.

There is a need for the African countries to revisit the Ezulwini consensus. The African countries have been talking about the urgency for the inclusion of the members from Africa in the reform of UNSC. And in the last UN General Assembly meeting, at the 70<sup>th</sup> anniversary meeting, President Zuma of South Africa presented a very strong case for a position for the African countries in the reformed UN Security Council. But there is a wide consensus at it exists at the moment. It notes that Africa is opposed in principle to the veto and then adds that, as long as it exists, it should be made available to all permanent members of the Security Council. The African position is for 11 additional members of the UNSC to increase its size to 26. The position also states that Africa should get two permanent and five non-permanent seats. Further, it gives the African Union the role to decide the criteria for selection.

Moreover, if you look into the African union rules, it means that the African positions arrived on consensus.

So, I don't see any movement in African position at the moment. If we need to move forward on the reform process, the African Union should consider opening talks with other like-minded coalitions and also consider agreeing to a free vote on the General Assembly on this issue.

At this point of time, I'd like to mention that the recent breakthrough in the intergovernmental negotiation process was possible only because of the teamwork displayed by the former UNGA President Sam Kutesa of Uganda, and the former Chair of the IGN, Ambassador Rattray, present among us today, to advance discussions. This reflects that, if the people leading the process such as those responsible for forging the current compromise on tax-based negotiations, are convinced about the urgency of reform, and work closely, then the prospect of early conclusion of negotiations cannot be fought.

In the end, I would like to say that it is clear that the road ahead is not easy. The permanent members should realize that the more democratic and representative Security Council would be better equipped to address the global challenges, and that there are more pressing issues to be tackled on the global level than only preserving the prerogatives. The champions of reform: India, Brazil, Germany and Japan, the G4, should continue their multilateral diplomacy to build democratically evolved global consensus on restructuring the UNSC.

So, I leave you with the words of India's Prime Minister, Narendra Modi, the remarks that he made at the UN General Assembly last year, and I quote him: he said that "we must reform the United Nations including the Security Council, so that it carries greater credibility and legitimacy, and will be more representative

and effective in achieving our goals. There is no cause greater than shaping the world in which every life that enters can look to future security, opportunity and dignity and where we leave our environment in better shape for the next generation. And no cost is more challenging. And we are called to rise to that challenge with our wisdom, experience, generosity, compassion, skills, and technology, and I'm confident that we can." Thank you.

**Mr. Jan Piotrowski** - Thank you very much. We will be taking questions from the floor, and I will use my prerogative as the Chair of the session to ask the first ones. The first thing I would like to do is a provocation. We were asked, I think, the representative from France – I think it was you – who said that we should seek innovative solutions. Here is one that just occurred to me while I was listening. For the elected members, perhaps we should use a lottery to pick them. And I'm only using this half tongue-in-cheek. Lottery is used to nominate juries, which are adjudicated in important criminal trials. Lottery was used at the birth of Athenian democracy, to review who will be serving as parliamentarians and in the Brazilian Senate. I'm sure I'm not the first person to suggest this, but whether it's innovative or not is open to debate, but I'm just putting it out there.

Now, as for the questions to the panelists, two. The first is the rehash a point made by William Pace earlier. I wonder if the geopolitical boat to reform the Security Council hasn't been missed. The 1990s, the great moderation, the end of history. That seemed to be the moment, when, of course, there were five permanent members still... the point I'm going to make... It's interesting that, at this round table, we only have one government representative from one of the P5s. Four of the countries in the P5 are not present. That is telling, it seems to me, symptomatic, perhaps something to ask ourselves about as well. There is

obviously a semi-consensus among the P5 that, as it stands, they're pretty happy with the status quo, with some reservations to the most reluctant veto yielder, whom we have at the table. Perhaps, considering the geopolitical environment in the 1990s, there may have been, during those years, less reluctance on the part of some of the permanent members to agree to the ascension of some other potential permanent members. Today, we can see that China would be not too pleased with India or Japan. We know that Brazil is not everybody's first pick. There are plenty of African countries that would probably ruffle feathers among the permanent five as well. So the first question is: have we missed the geopolitical boat for any substantial reform of the Council, realistically speaking? I'll just leave it here and allow others from the floor to ask their questions and perhaps return.

**Mr. Bruno Stagno Ugarte** - Thank you. I wanted to ask both of you what your views are since you both mentioned the veto, and we've been discussing the veto about "uniting for peace." When the Security Council fails to accomplish its responsibility due to a veto, the General Assembly has the capacity, thanks to a very creative move done by the U.S. in the 1950s, once again, how creative permanent members can be. Uniting for peace allows the General Assembly to actually take up decisions. In the early days, the referring resolution, because it was referring resolution by the Security Council, actually acknowledge the due to differences amongst the permanent members, the issue was being referred to the GA. Nowadays, unfortunately, we would never see the P5 agreeing to a resolution from the Security Council acknowledging they have serious differences, and asking the GA to step in. So any views as to what role does uniting for peace potentially have?

Secondly, I've always been perplexed by the fact that 2011 was the year when presumably the Council was most representative

in terms of total world population. I'm not going to say more representative (inaudible)... it was also the year where we saw the Security Council abysmally fail on Syria, and it was not the Security Council that started to address Syria, it was the General Assembly. Kofi Annan's mandate did not come from the Security Council, it came from the GA. And in fact, there was pressure to invoke uniting for peace, but there was a reluctance to do so, and General Assembly acted without invoking uniting for peace. So how do you mix the fact that 2011 was presumably the most representative year ever in terms of representing the world population, and having failed on the definitive issue that we have had in the last six or eight years? And finally, Ruchita, I'm a bit perplexed and also, I'm not African, but a bit annoyed by the suggestion that Africans have to revisit Ezulwini. After all, the African Union came to a position, since when are we asking regional bodies that they must review their own position because it's not to your liking?

**Mr. Jan Piotrowski** - Okay, so let's have one more question, maybe the gentleman at the back.

**Mr. Guilherme Casarões, professor at School of Advertising and Marketing, Getulio Vargas Foundation – FGV** - Okay, thank you very much, I'm very happy to be here. I'm Guilherme Casarões. I teach International Relations at Getúlio Vargas Foundation and ESPM in São Paulo. I personally liked Ruchita's metaphor about the doctors and the patient, and I think that the metaphor applies to two different things. First of all, it applies to the perception that the Security Council has failed and that it is obsolete, but it also applies to a deeper, more philosophical idea, which is the notion of international security and sovereignty and democracy in themselves. So my question is actually very simple: is it possible to reconcile absolutely diverging views on the most

basic ideas of international politics, So as to make an efficient or workable Security Council reform?

Let me be a little more specific. Back in 1945, since we're talking about history, there was a common denominator holding the five countries together, and that denominator was probably the war, and how the war had ended. But nowadays, conditions have changed dramatically, both in structural terms, I mean the world looks very much different from what it looked like in 1945, but also in normative terms. So, Mr. Piotrowski mentioned the 1990s as a watershed, which was very important, and perhaps in the 1990s it was easier or potentially easier to make diverging views converge a little bit on some very specific ideas of sovereignty. For example, I remember Kofi Annan's article that he published in "The Economist" magazine, on the changing role of sovereignty, or the changing notion of sovereignty. But, in 2016, I'm not sure if this is possible anymore. The role of emerging powers has changed dramatically in the last couple of years, or decades, and I think that the structure of power that we have today is very hostile to any possibility of reform if we don't talk about the most philosophical ideas behind the notion of security to begin with.

So, again, to make a very long story short, is it possible to reconcile diverging notions about sovereignty, for example, with an enlarged Security Council? It's difficult now, the Council has failed numerous times. I wonder if six more, 12 more members, if that wouldn't be an even bigger problem?

**Mr. Jan Piotrowski** - Thank you very much. The doctor analogy is very good, but there is one missing element in the analogy: some of the doctors have been operated on as well as been operating. That's the crucial point here, really. It's not that people are looking at something external to them. You have to get people to agree to change themselves, and, as we all know personally, that is always

the hardest thing to do. But I'll let Ruchita to begin with the answers.

**Ms. Ruchita Beri** - There were a lot of questions which were asked. Do I start with your question about the lottery? Can we go for a lottery for the elected members? I'm not really sure, but there are quite a lot of solutions which are pointed out on this issue, and we can definitely... lottery is a one-time solution for a number of issues, but I don't know whether that could really serve the purpose.

The second issue that I'd like to address here is about the Africans. Why should we comment on the regional representative organization's position? I'm not suggesting it as a personal viewpoint, but, if you look at the debates within Africa, within the civil society, within the academia, missions, there is a diverging viewpoint that which is coming out. Why are the African countries suggesting that they would like to stick with the Ezulwini consensus? Within academia, there are questions being raised that wouldn't it not be better for some of the countries that are being proposed as members in the reformed Council – I'm talking about South Africa and Nigeria – they are questioning whether these countries should not push the larger debate within Africa on rethinking the Ezulwini consensus.

So, I think that's where my position on Africa comes about. Well, whether 2011 was the most representative year, I do agree that it was the most representative year geographically at least, because we had members from Africa, Asia and Latin America together along with the P5 representing. And I do agree that there was no consensus on the Syria issue, and that was one of the biggest challenges that the Council faced at that moment. But I would still like to argue that this was the first time when all of them were there together talking about these issues, discussing

matters relating to peace and security. So, I do not expect any kind of innovative solution from the G4 countries at that point of time. This was the first time they reunited, and this is where they got the taste of how they should deal with the matter. I'm not here to defend any country's position, but I do agree that this was a failure not just for the G4, who were trying to champion their membership, but it was a failure for the UNSC at large, in trying to resolve a crucial issue when it was most representative.

So, that leads us the question that was raised earlier, or the issue that was raised earlier, by the fellow panelist, that whether this whole uniting for peace issue that the UN came into being only because the League of Nations was not really effective in resolving the issue, that brings us to the veto issue. I think, in terms of India's viewpoint, India has always stayed as part of the G4 group that is not in favor of members of the reformed Council having veto. But I'm not sure that is the view of all the candidates of the reformed UNSC. They would all want to have the privilege of veto. But I do agree, to some extent, that a reformed UNSC with all the members having veto powers may become slightly problematic, as has been talked about earlier. So in the end, I will talk about something mentioned earlier, that Brazil was offered a position by the Americans, by President Roosevelt. As far as I know, India was also offered a position in the UNSC in 1963, but the United States, I'm not sure whether you are all aware of that, and Prime Minister Nehru at that time turned down in favor of China. He said that China should be considered a member of the permanent Council to take the place rather than India. So, in the past, India has not been that ambitious in getting a position in the UNSC, and it's only a recent phenomenon that we've been looking for a position. I hope I've addressed some of your questions.

**Mr. Jan Piotrowski** - Thank you very much. Stephen?

**Professor Stephen Schlesinger** - Okay, on the lottery issue, I think you have to remember that the United Nations is a highly political organization, and it's very much related to their domestic problems. Any region has already decided who is going to be the next person on the rotation slot on the Security Council, and they're not going to give it up for some lottery. It is just the nature of the beast, it's the way it's been for decades, so I don't think the lottery thing will ever be played out, but who knows? Donald Trump is running for president. In the 1990s, I would have thought, contrary to the moment, that this would be a time for a new kind of approach to the notion of more permanent members on the Security Council. In fact, the 1990s were fulfilled in Franklin Roosevelt's vision. That the five countries that were permanent members, that the regional world time alliance all came together and voted for the Gulf War, first Gulf War.

So, from that point of view, what do you need to change? Listen, the place is working for the first time, after 45 years, so I don't quite understand how the issue of other new members coming in as permanent or semi-permanent or permanent with veto, permanent without veto would have come into play in the 1990s. It was the time, I think, of kind of a euphoria. The Soviet Union had dissolved, and the UN was back doing what it was supposed to do when it was set up in 1945. Look, in retrospect, sure, it would have been great if all these issues had been addressed, but it just wasn't the moment for them, so I don't feel you should regret it, Bill. Bill's one of the proponents of this proposal. On the Uniting for Peace, remind me again, Uniting for Peace came after the Russians had come back, they had ended their boycott, right? And so, at that point, Uniting for Peace was some way of getting around the Russians in order to produce some sort of peace settlement. But, as I remember, the Russians were furious about this. So if that was true back then, I doubt they would've been happier about it in the

more present day, particularly on the Syrian issue, since they've been supporting Bashar al-Assad for the last four or five years. But it is right, the Uniting for Peace has never been used again, it was one moment in history. There is something to be said that maybe it should be brought into conversations sometime in the future. I wasn't quite clear on your last question, you wanted to enlarge the Security Council, but you wanted to redefine how security works, is that what you meant?

**Mr. Guilherme Casarões** - Is it possible to enlarge the Security Council without debating what security means in the first place?

**Professor Stephen Schlesinger** - I don't know how to answer that question. That is a very profound question. I am really not good at coming up with a solution to that.

**Mr. Jan Piotrowski** - Anybody else? Okay, so let's take some more questions. Representative from the Netherlands.

**Mr. Djeyhoun Ostowar** - Yes, thank you. Thank you for giving me the floor. Since we were talking today amongst others about the importance of prevention, I thought it's good to come back to that particular point and ask a question to the panelists on the other of this table, as I am curious about different views. Maybe my colleague on the left, who served on the high-level independent panel, could answer the question from his particular experience in his vantage point.

One of the key tools that the United Nations has, and that's forgotten in discussions about the Security Council based on that, when it comes to prevention, is much more about the role or so-called special political missions than the peacekeeping operation. They are varied in their size and number and mandates, and there are different clusters, as most of you would know, it was sanction

monitoring missions that others, special political missions consist of envoy of the secretary general.

And then there are also a few based missions. The biggest currently are in Afghanistan and Iraq. There is a diversity of tools, and there is also strength of this particular tool. The reason I bring up this is that it has something concrete to do with the question of responsibility. When we discuss Security Council reform, we often have the tendency to look at the Council to take the responsibility on all of these issues, especially prevention. But this particular mechanism, legally speaking, can also be invoked by the General Assembly. The most recent numbers that I can recall are out of 35 missions recently present, there were 33 that were addressed by the Security Council, only two by the General Assembly. So the question I want to post to the panelists, but also to others, whether we, as General Assembly members, don't take enough of a responsibility, to use or allow the secretary general to use his role more effectively. Is the responsibility for this particular element, prevention, not disproportionately put on the shoulders to move the Security Council? Thank you.

**Mr. Jan Piotrowski** - Thank you very much. Perhaps the gentleman at the back over there.

**Mr. Matheus Azevedo, Pandiá Calógeras Institute** - My name is Matheus, I'm from the Brazilian Ministry of Defense. Since the panel is about the way forward, I'd like to ask just a quick question. In your view, the question is to the panelists. What are the prospects for UN Security Council reform in this scenario of the election of Hillary Clinton and also in the case of Donald Trump, and could you compare it please? I'm asking this, particularly, because I've noticed that politicians tend to contradict themselves, depending

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on their audience and whomever they're speaking to in a primary or general election and so on.

**Mr. Jan Piotrowski** - Thank you very much. William, we will take the last one from you.

**Mr. William Pace** - Thanks, a couple of comments. First, I wanted just to mention about the lottery issue. Harvard did a study on how much small governments make off of being on the Council. There are other reasons why this current system is in place. I think it doesn't work, and, as I've said, we need to put qualifications, merit, some kind of transparency in the elections process. Even though the UN is extremely political, you can still apply values and codes of conduct etc. and principles to election processes.

Secondly, I think on this issue, and this is really more to Stephen Schlesinger's comments, is that I think, by the big powers, there is a massive lack of understanding of the impact and the effectiveness of the small- and medium-sized countries in the reforms, processes since the late 1980s in the international legal order. And it is really to their disadvantage, unfortunately, but I really think the 110-120 countries, small- and mid-power democracies, and others, really are the main hope for the kind of progressive reform, and addressing global issues properly. On some of those issues, Stephen, from the 1990s – we did in fact, two supernational organizations form, one the International Criminal Court, and two the World Trade Organization. But we still need major reforms on international financial regulations, global environmental governance. There is a whole range of issues, including the way in which development was pitted against humanitarian assistance, which were both pitted against peace and security, rule of law, etc. So I think there is a role range of issues and Boutros not only made an agenda for peace, he made

an agenda for development, and an agenda for democracy. So the outline was there, it was just, I think, that western powers said “we’ll bring Russia into the EU, we’ll take a lot of advantage in the dismantling, etc.” I think the geopolitical miscalculations were enormous, and that’s unfortunate.

On the Ezulwini Consensus, I think it actually reinforces the point that I was making earlier today. There’s the African Union coming up with a common position in which they want two permanent members and five non-permanent members, and the two permanent members are going to be selected by the African Union. This is just impossible to achieve in a Charter reform, and I think it reflects as much this contradiction that I mentioned, that while governments in principle don’t want to change the 1945 arrangement, but adding more permanent members in their own region, there is tremendous opposition. Worldwide, well, yes in principle, but not in their own region. And I think that applies, and ought to send a message to the G4 in the long run.

The last point I want to make is something that I think you’re absolutely correct about – that we are in tremendous danger of the growth of a new kind of cold war fracturing. That if India, Brazil, Africa and others are not respected in how the international legal order needs to adapt to the geopolitical realities of this new century, that fracturing could result in a country withdrawing from the UN and creating its own peace and security system, the way it has occurred when the completely irrational U.S. Congress refused to deal with the voting rights, and China and the others created their own bank. But I have to say that I think there is an enormous danger in creating alternative UNs, competing UNs in the international league of order, and I mean an existential threat to us all in that. I apologize for anything I said earlier, I had you thinking that I was trying to be pro-P5, it’s the opposite. I’m much more in favor of democratic human rights based on global walls

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and institutions that apply not only to the smallest of states but to the most powerful states. Not only to the least populous states, but to the most populous states. Thank you.

**Mr. Jan Piotrowski** - Thank you. I will now ask for some answers from our panelists. Ruchita, do you want to start?

**Ms. Ruchita Beri** - Ambassador Schlesinger, maybe you would like to talk, because there were a lot of questions which an American can answer, especially about Trump versus Hillary.

**Professor Stephen Schlesinger** - Prevention missions. It was pointed out that 35 have come from the Security Council, and two had been initiated by the General Assembly. Should we not have more from the General Assembly? Definitely, but as you know, organizing 193 countries around a particular mission is very difficult. I mean, it's not something that is easily put together on short notice, or without a lot of lobbying that has to go on. So, I suspect that this is one of the reasons why it hasn't happened that way, but I would be very much for it. I think it would be a reminder for the Security Council that, in fact, there is another branch of the United Nations that has an equal voice as far as some of these very important peace missions that the UN is supporting.

On the issue of Hillary Clinton versus Donald Trump, let me remind you, a lot of people have forgotten this, but in the 1990s, when the UN was trying to figure out how to refurbish the building, guess who applied to be the contractor to refurbish the United Nations? Donald Trump. And he offered some sort of crazy deal, I don't what it involved, but he was turned down, and this made him furious. He sent all sorts of letters to Kofi Annan, saying he was a disgraceful Head of the United Nations and so on. But, in fact, since then, he sort of wavered back towards the UN, because the thing you have to remember about Donald Trump is he wants

not just to dominate the United States, he wants to dominate the world, and the easiest way to do that is to take over the leadership at the United Nations. I think, in fact, he would use the UN as much as he could, rather than bash it.

As for Hillary Clinton, I think she would very much continue the policies of President Obama, she's intractably involved with all his decision-making in her first term as Secretary of State and very supportive of him in the following years in his second term. So I think she would be a very strong voice for the United Nations, very much the way Obama has been. On the last question of the massive lack of understanding of smaller nations by the P5. I think that's absolutely right. You failed to mention, was it Canada that proposed the landmines initiative? Yeah, that's another example of that.

**Mr. William Pace** - The Canadian and Norwegian foreign ministers, I think, were the conveners of that process. And they took it out of the UN to do it, because it couldn't get through the disarmament committee of the General Assembly.

**Professor Stephen Schlesinger** - So that shows you the importance of NGOs and of smaller countries improving the health and welfare of this world.

**Ms. Ruchita Beri** - I think on the last question, about the alternate structures, we have to witness a grim future, that if there's no reform in the UNSC there could be alternative structures coming. While that could be a possibility in the current reform process, all the countries that are aspiring to be members want the status quo to continue. They would like to reform the UN Security Council from within; they're not really talking of alternative structures as yet. And, also, that's why it's very important that we should utilize this moment and push for early reforms, but whether that

happens or not depends, to a large extent, on the political will of a large number of countries that we've been discussing today. And on Hillary Clinton versus Donald Trump, I'm really not sure. Because I have not been following the American domestic politics, but, if you ask me about Modi versus Rahul and Sonia Ghandi, I would be very keen to answer those questions.

**Mr. Jan Piotrowski** - Thank you, and I remember my question from earlier, the one that I forgot. And it touches on the Hillary Clinton versus Donald Trump issue. Stephen, you mentioned that basically Roosevelt was instrumental in creating the Security Council in the former shape that it has taken and functioned in over the past 70 years. Is there another person of that sort now? Do either of you see a leader of that caliber who could force through change? And to what extent would the new secretary general play a role? Is a strong secretary general important in order to promote change? Or is it a weak secretary general important to promote change? Because I can see arguments for both. A strong secretary general because of the head-banging capacity, but, if he/she is too strong, they might antagonize the P5, whose agreement you need in order to get anywhere. So any thoughts on that?

**Mr. Eugênio Diniz Costa** - It's more a comment than a question. I think it's interesting that Ambassador Stagno Ugarte brought again the remarkable year of 2011. And I do think it's remarkable you mentioned the subject to the point that it was the year when the Security Council was most representative of total world population, or at least they were there. But it was also a year where three of the G4 members, Brazil, India and Germany, were also in the Security Council. 2011 was the year that there was the Syria issue and the Syria vote, but again, there was the Libya vote, where Brazil, India and Germany abstained from the Libya vote. And Russia and China abstained too, and then, when it came to the Syria

vote, South Africa switched vote and abstained. Germany voted for the resolution, Lebanon abstained too, but China and Russia voted against it. The problem is, I think, 2011 is a very important year because I think, while that was the year, as Tourinho mentioned, of constructive ambiguity, I think it was very important because constructive ambiguity was so abused in that circumstances, that Russia and China came to mistrust it. And the way that things were going afterwards, I think it's very representative of that typical paralysis. Constructive ambiguity was blowing their faces. So what I think is this, maybe the problem of repairing this kind of trust is an even more daunting challenge, than, let's say having this or that member within the Security Council. It's just a comment and a point. Thanks.

**Jan Piotrowski** Thank you very much. Ambassador?

**Ambassador Sérgio Eduardo Moreira Lima** Thank you. I would like to make a brief comment on Professor Schlesinger's statement about Brazil's role within the Alliance during the Second World War. I think he suggested that Brazil was not a key member of the Alliance against the Nazis. I believe this could be considered a misperception of historical facts. Brazil's participation in the war solved logistical problems such as the provision of raw materials of strategic importance. It also contributed to ensure the safety of shipping lines to Europe and Africa from Brazilian military basis in the Northeast region of the country. Without those facilities, according to American historians, a serious element of vulnerability would have to be overcome in order to prevent the South Atlantic to be closed to Allied shipping. As Brazil joined the Allies, the Brazilian Northeast was turned into a vast springboard for supplies for the war fronts. Furthermore, over 25,000 Brazilian soldiers, organized in an army division and one air force squadron, assisted the Allies in key victories in the Italian war theater. Over

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1.5 thousand Brazilians died and over 5,000 were wounded in the war. Brazilian ports were bombarded and 39 Brazilian vessels were sunk. I can tell you that Brazil is proud of its participation in a defining moment in the history of Western civilization, when it fought a common enemy and contributed to a struggle of vital importance to humankind. As a matter of fact, Brazil was the only Latin American country that participated in the First World War and fought in the Second World War. The importance of Brazil's participation in the war made US President Franklin Delano Roosevelt travel to Natal (in the Northeast region) in 1943 to meet President Getúlio Vargas. Later, Roosevelt showed his appreciation for our efforts as he expressed support for Brazil being included among the Permanent Members of the Security Council when the Charter of the United Nations was being negotiated.

**Professor Stephen Schlesinger** The idea of Brazil in the deliberations went on in places like Yalta and Dumbarton Oaks, but the others were against it.

**Ambassador Sérgio Eduardo Moreira Lima** At Dumbarton Oaks Conference at Washington in 1944, US Secretary of State Cordell Hull implied that Brazil might even be assigned a permanent seat on the Security Council of the new United Nations. However, US support proved more uncertain after Roosevelt's sudden death in April 1945. At Potsdam, the situation changed and the US concerns over the political boundaries in Europe overshadowed other issues of less importance. I would just like to mention a meeting between Osvaldo Aranha and Roosevelt on this matter. It is telling and is worth further research. The opposition to Brazil did not come from the United States but rather from the Soviet Union, which had suspicions that Brazil's participation would strengthen the US control over that key political organ of the UN in charge of the maintenance of peace and international security. There were also

some reservations on other grounds on the part of the United Kingdom.

Allow me to go back to another point in relation to the question that our chairman raised about the importance of leadership. I would then ask you: to what extent is it a matter of leadership or one of principles? Or both? To my mind, leadership would have to be based on certain concepts and values, which represent moral authority and provide legitimacy. I believe that certain ideas and concepts have been used selectively and as a result their meaning has been weakened. People are confused about what those Western values truly mean and whether they are universal after what has been witnessed, for example, during the war on Iraq. It is important to reclaim the original significance of these values in order to build trust and to improve global governance. If one is not sure about what those concepts and ideas are, then we have a problem. This is an issue of fundamental importance.

Professor Schlesinger also mentioned the question of nuclear weapons, as if having nuclear weapons were an attribute that would enable a country to be a member of that leading group. And then, I think the position of Brazil, as far as I understand it, translates the opposite idea. What we want to represent is new thinking on that issue. Brazil has contributed to the geopolitical stability of South America by peacefully negotiating its borders with our ten neighbor countries. Its credentials are related to peace, cooperation, strengthening of international law, as well as to initiatives such as the establishment of a nuclear-weapon-free zone, which we proposed, along with Mexico, in the Treaty of Tlatelolco, signed in 1967, and later with the UN Declaration on the Zone of Peace and Cooperation of the South Atlantic, approved in 1986. It is also worth recalling that Brazil established, together with Argentina, a paradigm of nuclear cooperation in South America. The two countries have created in 1991 the Brazilian-

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Argentine Agency of Nuclear Materials Accounting and Control (ABACC). It represents a blueprint for regional cooperation based on transparency and mutual trust.

These are the true credentials of a country whose foreign policy has been influenced by diplomatic traditions, international law rather than by the realist doctrine in international relations. In the 21st century the lack of clarity on fundamental values can be a challenge for peace and international security. Furthermore, having signed and ratified the NPT, Brazil is in a position to demand that its Article VI on nuclear race and disarmament be fully complied with by the nuclear powers. I believe this seminar can give a contribution to promote greater awareness of all those subjects and also shed light on the meaning of certain applicable principles.

I also have a comment on why it is important to participate in the Security Council. I am addressing here my Brazilian friends from the academy who have intervened on this issue. The reason is simple: our world is getting more globalized and becoming more interdependent. Decisions that used to be made only internally are now subject to the influence of outside fora. It is not enough anymore to have a democratic system only within a country – one must have also a more democratic international governance. Otherwise, the former might become irrelevant.

This brings us to the critical issue of preventing abuses of power, of having also internationally a system of checks and balances on decisions taken by the Security Council. Humanity has fought against abuses of power even before the *Magna Carta*, which is a landmark on the subject. We are hugely mistaken if we assume we can have an international order that does not recognize values for which the Western civilization has fought throughout

centuries, such as the right to be represented and be heard, as the ambassador of Germany pointed out.

To answer our colleague from the Pandiá Calógeras Institute, of course Brazil's cost for not participating in the Security Council is enormous. First of all, the Security Council has a strong mandate to take action against threats to the peace, breaches of peace and acts of aggression, as conferred by Chapter VII of the UN Charter. It is, therefore, a mandatory prerogative. Theoretically, intervention or sanctions could be easily imposed on countries on an arbitrary basis even without them being represented in the decision-making process. This might correspond to a much higher political and economic cost than simple ordinary budget implications. Furthermore, the question is one of representation to ensure a fundamental right of participation, the protection of a country's interest and ultimately the legitimacy of the Council's decision.

I have already given, in my previous interventions, examples of decisions taken by the Security Council that prompted Brazilian enterprises to close down, causing unemployment and technological setbacks. So, this is not a theoretical issue. We believe that academia should deepen their research on this topic, because of its relevance to fundamental rights and duties. And this notion explains why Brazil has been one of the countries that fulfilled more mandates as a non-permanent member of the Security Council, along with Japan. So, we participate because it is imperative to represent and defend not only our rights, our interests, but also a different perspective on international politics.

Today, our hope is still the same one as Ambassador Pedro Leão Velloso's. Speaking as the head of the Brazilian delegation at the General Assembly debate in 1946, Ambassador Velloso recalled that, considered in the light of the principle of equality of all

States before the Law – which, as I mentioned before, Brazil, with Rui Barbosa, helped to reclaim in 1907 at the II Hague Peace Conference – Article 27 of the United Nations Charter was a very high price that small and medium-sized nations had to pay in order to establish the Organization. In spite of that, Brazil pragmatically decided to place trust in the P5. But this is an exception to the principle and the hope was that history would put the record straight in due time.

**Mr. Jan Piotrowski** Okay, since we're running out of time, there is one question that – no longer? So we'll take the responses, and I think we'll probably be wrapping up this session.

**Mr. Stephen Schlesinger** Okay, just two quick responses. And the question: do we have a new FDR to reshape the Security Council? I don't think we do, because Roosevelt was in a quite remarkable unique position in 1945. He was leader of the most powerful country on earth. There were countries around the world war thorned, and in desperate shape, eagerly wanting to be participating in a new world security body, and they were in many ways willing to make any compromises in order to get to that status and make sure the United Nations came into being. I just don't see that playing out again today, unless we have a third world war, as somebody mentioned. I think that's the real reason, it was a unique moment in history, which is not to be replayed again. As to the issue of Brazil. By the way, I did not mean to suggest that I was defending the argument that these five countries, P5, all have nuclear weapons, that that makes them the most powerful countries on the earth. I was just saying that that is the position of people who argue for the status quo, and I was just repeating that particular presentation, and certainly feel that it would be great to have some countries on it that don't have the nuclear weapons. So anyway, those are my quick answers.

**Ms. Ruchita Beri** I would just like to make one comment about leadership. It's not an issue of whether we have a strong leader or a weak leader, but what is really important is that the leader should be really interested in pushing forward reforms and coming up with innovative ideas of how to deal with this issue. And it's not just the leader, the secretary general that we are talking about, we are also talking about the president of GA or the Chair of IGN, and how the ideal process will move forward, whether we will be discussing as ambassador rightly pointed out earlier. It's the two issues that were discussed in the earlier IGN or would expand to discuss all the five issues that are being proposed to be discussed in the reform process. I think the picture that we have for the future is not as bright as it should be, but I would hope that the new leadership would infuse some dynamism in the process.

**Mr. Jan Piotrowski** Thank you very much, I see that there are no further questions. Oh, there is one? Sorry. Apologies.

**Ambassador Courtenay Rattray** Thank you Mr. Chairman, I just wanted to say something as we wrap up with respect to the way forward. I had said, during my presentation this morning, that I do sense a palpable feeling of cynicism tinged with apathy amongst the membership, about the prospects for reform. But personally, I'm optimistic about the prospects. I was at a dinner, a farewell dinner for one of our colleagues just a couple days ago, and one of the PRs from another country just put the question to me whether I thought we would see reform in our lifetimes. I am an optimist about it, and you know, it was mentioned earlier, about the process that we are engaged in, revitalization of the work of the General Assembly. And through that work, through that committee, which is ably steered by the ambassador of Namibia and Croatia.

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We now, as a General Assembly, have a say at least in giving an audience to prospective candidates, to become secretary general, we never used to have that before. It was all done behind the scenes. I mean, we have sat through what were called interactive dialogues or hearings. We have all of these men and women who have aspirations too, succeed Ban Ki Moon, have come before the General Assembly in three sessions, and we have interrogated them. We have asked everything in the book. That never used to be the case, and, at some point, the Security Council's five permanent members will caucus amongst themselves, and they will, as per usual, throw out a name to us. And say, this is our recommendation, no you do your job, you appoint.

Now, for the first time in history, if what we get is the traditional single name, just one name, we now have a business to say well, we interviewed this person, and we don't think that this individual is the best suited to become the next secretary general. We now, for the first time, have a basis as the General Assembly to throw back that name to the Security Council and to say, either give a slate of names that we can choose from, in terms of a shortlist, or you give a more acceptable name. We never used to have that before. We, as the members, have to exert our authority. I was involved in a campaign managing the campaign of someone who is now Jamaica's sitting judge of the International Court of Justice, and that was a white-knuckled experience, because, believe me, it went to seven rounds. We were up against Argentina. This was just recently, about a year ago, and the Security Council was resolutely behind the Argentinian candidate, and the General Assembly was resolutely behind the Jamaican candidate. And all the other candidates for the ICJ they had their elections, and we were the only ones standing.

So, we were head to head, and the PR had to become involved in two different occasions calling myself and my colleague Pierre

from Argentina, trying to see if we would come to some resolution amongst ourselves, and we were like “no, lets continue the voting process.” And it became a sort of Mexican stand-off between the two organs, the Security Council and General Assembly. And the Argentinians supporting the Council remained unwavering, and the Jamaican candidate started to amass more and more support in the GA. Once it hit 129 member states in support of the Jamaican candidates, that reflected two-thirds of the membership. And, immediately, the Security Council gave way. They recognized that it was no longer tenable for them in the face of overwhelming support.

And the last thing I would mention is this ACT code of conduct. Bruno has mentioned it, there is another one, France, Mexico, there are differences between the two. Because the France-Mexico one has trigger mechanism, and the ACT code of conduct has no trigger. So the France-Mexico one has a trigger in which 50 countries, 50 member states, can bring a matter and say listen, secretary general, we, at least 50 of them, think this is a matter that you should act upon, and then the secretary general can then say, listen, this qualifies as a mass atrocity, and the secretary general can then bring it and say, listen, there's veto restrain. The ACT code of conduct has nothing like that, I don't know how many, but it has a lot of support, and I am hoping that it gets even more support in the future. And I feel there will be some point in time when you'll have overwhelming support of the unconfined membership that want to see veto restraint, voluntary veto restraints. One of the big differences is that act 1 says veto restraint on all E10 plus permanent five. I think the French and Mexican one says veto restraint voluntary just by the P5. I believe that, in the face of an overwhelming show by all of the members of the General Assembly, it's going to be very politically difficult for the permanent members to ignore that. Especially when two out

of those five are already onboard. So I use these three examples to say, you know what? Member states of the United Nation stand up and unite, and exercise your authority. And, in the face of that I am optimistic because I don't feel that five countries, ultimately, can withstand – it's not 193, but withstand the weight of all united and collected membership of the General Assembly.

**Mr. Jan Piotrowski** - Thank you very much. Would our panelists want to add something to this antidote, to the apathy and cynicism that prevails the discussion, but is very welcome and refreshing?

**Mr. Stephen Schlesinger** - I think the ambassador from Jamaica made a very powerful statement. I'm really quite impressed by what he just told us.

**Ms. Ruchita Beri** - I hope that your optimism continues, and that the pessimism or the negativity that was discussed and debate in this forum does not prevail. But I think we should always understand that it's always good to debate both the negative and the positive aspects of an issue, and it's only when we discuss the negative aspects that we can come forward with a positive solution. So, on that note, I think I will also be optimistic and hope that we would see an early reform of the United Nations Security Council in the future.

**Mr. Jan Piotrowski** - Thank you very much, to our panelists, and to everybody else who participated today. I'm not sure exactly who is making the closing remark, I wasn't asked.

**Ambassador Sérgio Eduardo Moreira Lima** - The closing remarks should be to thank you very much for having contributed to our debate. I think the debate was very interesting and that we have a lot of food for thought. I do not follow the United Nations activities

as closely as I did during the three years I worked in our permanent mission to the UN in New York, and it was a unique opportunity to update our knowledge with such a distinguished group of scholars, professors and diplomats. We have learned a lot about procedures and discussed key aspects of this responsibility to maintain peace and security and the extraordinary prerogative granted to the P5 in the signing of the UN Charter.

The power of the Security Council is very broad, and will be questioned if the Permanent Representatives do not use it responsibly, if they do not have the right measure of the exception that power represents in terms of the principle of sovereign equality of States, and the challenge they face to ensure its legitimacy. Then it might create a very difficult problem for the future.

Legality, legitimacy and fairness are necessary attributes to justify the exceptional rule of the Council. Treaties should not be approved as annex to the resolution of the Security Council and imposed on the whole community without its proper consent. This question must be further discussed, because the United Nations was not created to consecrate these procedures of doubtful legality. The Security Council was not created to legislate and abuse its exceptional power. I think that this notion is serious, and we have to go now to our cocktails with the clarity that the subject that was discussed here with the civil society, academics, is a very serious matter for the future of humankind. Thank you.



# **PAPERS**



# **THE EARLY-WARNING IMPERATIVE, PROTECTION OF CIVILIANS AND SECURITY COUNCIL WORKING METHODS**

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*Bruno Stagno Ugarte, Human Rights Watch*

The Security Council has long been failing in terms of early warning. As early as 1985, speaking to the Council on the 40<sup>th</sup> anniversary of the founding of the United Nations (UN), then Secretary-General Javier Pérez de Cuellar had already arrived at the conclusion that:

*as crises have frequently been brought before the Council too late for preventive action, it would seem to follow that the Council might well establish a procedure to keep the world under continuing survey in order to detect nascent causes of tension.<sup>1</sup>*

Nothing, except for political will, has prevented the Security Council from adopting such procedures. According to the UN Charter, the Council is the master of its own procedures: Articles 29

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<sup>1</sup> UN Security Council, Provisional Verbatim Record, 2608<sup>th</sup> meeting, S/PV.2608, 26 September 1985, paragraph 15.

and 30, respectively, allow it to create whatever subsidiary bodies it needs to perform effectively and to provide for and amend, as necessary, its own rules of procedure. In this sense, since 1999, the Council has created a number of working groups with mandates that are directly or closely aligned with the protection of civilians.<sup>2</sup> Moreover, due to the distinction Article 27 of the Charter makes between procedural and non-procedural matters, the threshold for adoption of novel bodies or procedures is lower than that of substantive issues, requiring any nine affirmative votes, and therefore not being subject to the veto.

Yet to this day, the Security Council has not truly embraced procedures of preventive action to “keep the world under continuing survey.” There have been ebbs and flows, but it still is surprising that, after so many lessons learned from major failures by the UN, and the Council in particular, including in Rwanda and Srebrenica, and the pomp surrounding the “Rights up Front” initiative announced in 2013 by Secretary-General Ban Ki-Moon in the aftermath of the Sri Lanka debacle, such common-sense procedures are still struggling to find a firm footing. Moreover, such procedures have been largely cast aside in the never-ending discussions on Security Council reform, which have mainly concentrated on the issue of expansion instead of improved working methods. This is most unfortunate, as such improved procedures require no UN Charter amendments, unlike the highly charged issue of expansion, which would need to overcome the almost unassailable obstacle of Article 108.<sup>3</sup>

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2 At a minimum, in addition to the Informal Working Group on the Protection of Civilians in Armed Conflict, the Working Group on Children and Armed Conflict and the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa address issues that are closely related to the protection of civilians.

3 Article 108 reads: “Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General

This chapter is not a comprehensive background piece on working methods and their development and employment through time.<sup>4</sup> It is an advocacy piece for improved working methods focusing on early warning, the prevention of armed conflicts and the protection of civilians. The first section briefly covers the most salient conflict prevention failures of the UN since the end of the Cold War and the lessons learned or recommended by post facto independent inquiries in regard to early warning procedures. The second section delves into the rise and demise of “horizon scanning” briefings, one of the more promising procedures available for the Council to “keep the world under continuing survey.” The third section looks at the “Rights up Front” initiative and its failure, to date, to turn the receding tide on early warning or horizon scanning briefings to the Council. The conclusion makes the case for a return to “horizon-scanning” briefings and, more generally, more determined recourse by the secretary-general to Article 99 and the authority to bring issues of concern to the attention of the Council, building on the precedents and parameters set by Secretary-General Dag Hammarskjöld.

## NEVER AGAIN AND EARLY WARNING

The end of the Cold War and the coming into view of a “new world order”, in lieu of the “world divided” that had characterized the previous superpower confrontation, seemed to offer a historic

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Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.”

<sup>4</sup> For two excellent background pieces, see Security Council Report, “Security Council Working Methods: A Tale of Two Councils”, *Special Research Report*, Num.3, 3 March 2014 and Christian Wenaweser, “Working Methods: The Ugly Duckling of Security Council Reform”, in Sebastian von Einsiedel, David Malone and Bruno Stagno Ugarte, (Eds.), *The UN Security Council in the 21<sup>st</sup> Century*, (Boulder: International Peace Academy-Lynne Rienner, 2015), pp.175-194.

opportunity to turn words into action.<sup>5</sup> At the first ever summit meeting of the Council, held on 31 January 1992, its members recognized that “the absence of war and military conflicts among states does not in itself ensure international peace and security” and that “non-military sources of instability in the economic, social, humanitarian and ecological field have become threats to peace and security.” They also tasked the secretary-general with providing “analysis and recommendations on ways of strengthening and making more efficient, within the framework and provisions of the Charter, the capacity of the United Nations for preventive diplomacy.” In that regard, they specifically agreed that the analysis and recommendations “could cover the role of the United Nations in identifying potential crises and areas of stability.”<sup>6</sup>

Yet the continued absence of an early warning and intelligence-gathering capacity were some of the damning lessons of two landmark 1999 reports on the failings of the UN in both Rwanda in 1994 and Srebrenica in 1995. Whereas the latter report highlighted “the absence of an intelligence gathering capacity, coupled with the reluctance of Member States to share sensitive information with an organization as open, and from their perspective, as ‘insecure’ as the UN”,<sup>7</sup> the former emphasized the need to “improve the early warning capacity of the UN, in particular its capacity to analyse and react to information.” The Rwanda report also added that it was “essential both to continue to improve the capacity of the

5 Speech by President George H.W. Bush of the United States, 6 March 1991. See Bruno Stagno Ugarte and Jared Genser, “Evolution of the Security Council”, in Jared Genser and Bruno Stagno Ugarte, *The United Nations Security Council in the Age of Human Rights*, (New York: Cambridge University Press, 2014), p.15.

6 Note by the President of the Security Council, S/32500, 3046<sup>th</sup> meeting of Security Council, 31 January 1992, p.3.

7 General Assembly, *Report of the secretary-general pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica*, A/54/549, 15 November 1999, p.105.

organization to analyse and respond to information about possible conflicts, and its operational capacity for preventive action.” It also specifically called on the UN to “further improve the flow of information to the Security Council.”<sup>8</sup> These failures also led then Secretary-General Kofi Annan to lament that “the tragic irony of this age of human rights – where greater numbers are enjoying human rights than perhaps ever in history – is that it has been repeatedly darkened by outbursts of indiscriminate violence and organized mass killings”.<sup>9</sup>

Despite these lessons, and the promises made that such failures would never again occur, a decade later, the absence of early warning was once again one of the main lessons of the next inquiry and report looking into the major failings of the UN response to an armed conflict: this time in regard to Sri Lanka and the brutal final stages of the government offensive against the Liberation Tigers of Tamil Eelam in 2009. Unlike the situations in Bosnia-Herzegovina and Rwanda, which were both already on the Council agenda when the UN failings came about, Sri Lanka was not an agenda item. Tellingly, it never became one.<sup>10</sup>

As the inquiry report highlighted, the situation in Sri Lanka constituted “a grave failure of the UN to adequately respond to early warning and to the evolving situation during the final stages of the conflict and its aftermath, to the detriment of hundreds of thousands of civilians and the principles and responsibilities of the UN.” More specifically, the report pointed to a “systemic failure” based on the absence of an “adequate and shared responsibility for

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<sup>8</sup> Security Council, *Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, S/1999/1257, 15 December 1999, pp.57,58.

<sup>9</sup> Kofi Annan, “No Government has the Right to Hide behind National Sovereignty in Order to Violate Human Rights”, *The Guardian*, 7 April 1999.

<sup>10</sup> Due to pressure from within by then Council members Austria, Costa Rica and Mexico, two “informal interactive sessions” were held on Sri Lanka, but the item was never formally discussed by the Council and no decisions or statements were adopted.

human rights violations” and an “incoherent internal UN crisis-management structure which failed to conceive and execute a coherent strategy in response to early warnings and subsequent international human rights and humanitarian law violations against civilians.”<sup>11</sup>

In drawing lessons and identifying improved early-warning procedures, the report called on the secretary-general to “make more regular and explicit use” of Article 99 to convene the Security Council. It also referenced “horizon scanning” briefings to the Council by the Department of Political Affairs (DPA) as a welcome “recent initiative undertaken by the UN since the end of the war in Sri Lanka”.<sup>12</sup>

As this section has shown, time and time again, as the UN grappled with its worst failings, and independent inquiries pointed to lessons learned, the need for more robust early warning procedures was always highlighted. Every time, following the publication of the findings and lessons by the respective inquiries, the UN apologized for its failings while it, and some of its most important members, made promises that never again would such silence, indifference or impotence be countenanced in the future. Yet the rise and demise of one procedure in particular, horizon scanning briefings, epitomizes to what point the more things changed, the more they stayed the same.

## THE RISE AND DEMISE OF HORIZON SCANNING

Following the Sri Lanka debacle, a number of Council members started to call for early warning procedures. At a Council meeting convened on 16 July 2010 by Nigeria on preventive diplomacy,

<sup>11</sup> Report of the secretary-general’s Internal Review Panel on United Nations Action in Sri Lanka, November 2012, p.28.

<sup>12</sup> *Op cit*, pp.34,30.

Japan, for example, called for the “secretary-general to provide Council members with a regular political and security briefing, focusing on potential risks of conflict erupting or recurring.” In a similar vein, the United Kingdom recommended that “as a practical step, we should minimize the obstacles to action by improving the information flow between [...] the Secretariat and the Security Council.” It furthermore suggested that the Council “must be ready to draw on the Secretariat’s early warning analysis and reporting on emerging conflicts”, calling for the “secretary-general [to] offer regular advice to the Council on potential emerging conflicts – a sort of horizon-scanning exercise.”<sup>13</sup>

Taking the lead, the United Kingdom scheduled the first so-called horizon scanning briefing. It asked the then DPA Under-Secretary-General, B. Lynn Pascoe, to brief Council members in informal consultations on issues over the horizon that may warrant their future attention, if not, concern. Pascoe did not share the content of the briefing in advance, guarding the list of issues to be brought to the attention of Council members closely. This firewall acted as double insulation, allowing DPA to prepare the briefing without suffering undue pressures from Council members or others as to what issues would be covered, and insulating Council members from outside pressure by states concerned they may be included in the list of issues. On 4 November 2010, under the presidency of the United Kingdom, Pascoe delivered a first horizon scanning briefing in consultations.

Not without difficulty, the practice of scheduling horizon scanning briefings by DPA once a month gained ground. Although the United States immediately discontinued the practice during

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<sup>13</sup> Security Council, S/PV.6360 and Resumption, 6360<sup>th</sup> meeting of the Security Council, 16 July 2010. See also Security Council Report, “Security Council Working Methods: A Tale of Two Councils”, *Special Research Report*, Num.3, 3 March 2014, p.19.

its December 2010 presidency of the Council, every other Council member scheduled a horizon scanning briefing during their monthly presidencies of the Council through March 2012. This included both China and Russia, as well as France and the United Kingdom and every elected member holding the presidency: Bosnia and Herzegovina, Brazil, Colombia, Gabon, Germany, India, Lebanon, Nigeria, Portugal, South Africa and Togo. A consensus was building, one that included states with very divergent views regarding the appropriate role for the Council in early warning, yet, once again, the United States broke the cycle with its April 2013 presidency of the Council.<sup>14</sup> Unfortunately, DPA – at the time no longer headed by Pascoe – did not pursue the matter with the conviction that was called for,<sup>15</sup> nor did the Executive Office of the secretary-general (EOSG) provide cover by bringing the briefings under the mantle of Article 99. Instead of defending the exercise as falling within the prerogatives of the secretary-general, DPA and the EOSG deferred to Council members who became the arbiters in deciding whether or not to schedule a briefing. Instead of focusing on fixes, such as improvements on content and format, both allowed the briefings to be subject to the permission and authorization of Council members. With some Council members expressing dissatisfaction with the briefings, judging them not to be useful or insightful, and others expressing concern that they were crowding the already busy agenda of the Council, horizon

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14 As a historical aside, it is worth highlighting that none other than Ambassador John Bolton, not reputed to be a “friend” of the UN, asked DPA to provide a daily briefing during the United States presidency of the Council in February 2006. (see February 2006 programme of work available at <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Programme%20of%20Work%20201%20Feb%2006.pdf>>. Being February, it was a short month, yet DPA made 14 daily briefings.

15 In July 2012, Jeffrey Feltman, the newly appointed under-secretary-general for Political Affairs, had replaced B. Lynn Pascoe.

scanning briefings became the exception rather than the norm.<sup>16</sup> Unsurprisingly, the briefings were eventually discontinued.

### **THE PROMISE OF “RIGHTS UP FRONT”**

With Secretary-General Ban describing the “current state of protection of civilians as leaving little room for optimism,”<sup>17</sup> a reset was necessary. On 17 December 2013, Deputy-Secretary-General Jan Eliasson formally launched the “Rights up Front” initiative in response to the “systemic failure of UN action” identified by the Sri Lanka inquiry. In speaking to the General Assembly, he stated:

*It is irrefutable, and needs repeating, that serious human rights violations are the best early warning of impending atrocities... The need for early action, and the crucial role of responding early to human rights violations, is at the heart of the ‘Rights up Front’ initiative.<sup>18</sup>*

Two days earlier, the United Nations Mission in South Sudan had opened the gates of its compounds to civilians fleeing the violence of the 15 December coup/self-coup that has kept President Salva Kiir and Vice-President Reik Machar at war ever since. “Rights up Front” seemed to be off to a promising, if alarming, start, with protection of civilians being at the very core of the UN response from the very start.

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<sup>16</sup> To its credit, the United Kingdom continued to support horizon scanning regardless. See statement by Ambassador Mark Lyall Grant, 29 October 2013, <<https://www.gov.uk/government/speeches/efficient-and-transparent-security-council-is-in-the-interest-of-all-member-states>>. For a full list of horizon scanning briefings see Security Council Report, “Security Council Working Methods: A Tale of Two Councils”, *Special Research Report*, Num.3, 3 March 2014, pp.20-22.

<sup>17</sup> Security Council, *Report of the secretary-general on the Protection of Civilians in Armed Conflict*, S/2013/689, 22 November 2013, p.2.

<sup>18</sup> See statement delivered by Deputy-Secretary-General Jan Eliasson to an informal meeting of the General Assembly, 17 December 2013: <<https://www.un.org/sg/en/content/dsg/statement/2013-12-17/deputy-secretary-generals-remarks-briefing-general-assembly-rights>>.

Tellingly, the action plan associated with “Rights up Front” included six areas, three of which are relevant to early warning and horizon scanning: “meeting our core responsibility to provide Member States with the information you need in order to respond to human rights violations”; “strengthening our dialogue and engagement with the [...] Security Council”; and “underpinning all these activities will be better information management on threats and risks to populations, both for planning operational activities and for sharing with Member States.”<sup>19</sup> Early warning and horizon scanning seemed to have been given a second chance, yet the promise never actually materialized into a renewal of horizon scanning briefings to the Council.

Instead, DPA opted for a “light” alternative, scheduling informal informational briefings, which, unlike horizon scanning briefings, are not conducted in the consultations room of the Council nor regularly attended by Council ambassadors. Both changes are significant, and the symbolism is important on both fronts. Whereas horizon scanning briefings literally brought issues of concern to the Council, these DPA briefings are held in DPA offices and are dependent on Council members showing up to them. They are a far cry from “strengthening our dialogue and engagement” with the Council as promised by “Rights up Front.”

DPA did start to raise some issues of concern under Council consultations and agenda item “Any Other Business” (AOB). However, most of the increased recourse to AOB was and is due to the need to provide updates on issues that are already on the agenda to break with the stultified monthly programme of work of the Council, which is quite different from horizon scanning. As such, AOB is not a panacea that makes other early warning tools, such as horizon scanning, unnecessary, but a complement,

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19 *Ibid.*

and a rather sad one, as its very name implies. AOB has its own limitations, as there is usually limited time to address issues of concern under AOB as the actual agenda items scheduled for the meeting generally take most of the available time. Moreover, AOB has been available since day one, and has been used with ebbs and flows, both by DPA and Council members, a fact well known both to Pérez de Cuellar when he called for “a procedure to keep the world under continuing survey,” to the various inquiries into the early warning failings of the UN, and to Secretary-General Ban Ki-Moon and team.

### BREATHING LIFE INTO ARTICLE 99

Article 99 grants the Secretary-General the authority “to bring to the attention of the Security Council any matter which, in his opinion, may threaten the maintenance of international peace and security.”<sup>20</sup> Hammarskjöld – who first formally invoked Article 99 – progressively interpreted it to encompass “informal diplomatic activity.”<sup>21</sup> In fact, Hammarskjöld eloquently interpreted Article 99 to mean the “duty [emphasis added] to seek to anticipate situations that might lead to new conflicts or points of tension and to make appropriate suggestions to the governments.” Unfortunately, no secretary-general since has dared or managed to carve a similar space for personal diplomacy and advocacy.<sup>22</sup>

As the political scope of the secretary-general under Article 99 expanded, with significant precedents established

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<sup>20</sup> Charter of the United Nations, Article 99.

<sup>21</sup> Hammarskjöld (2005): p. 98. He strongly adhered to the idea that “Article 99 not only confers upon the secretary-general a right to bring matters to the attention of the Security Council but that this right carries with it, by necessary implication, a broad discretion to conduct inquiries and to engage in informal activity in regard to matters which may threaten the maintenance of international peace and security”, pp. 78, 98.

<sup>22</sup> Myint-U, Thant/Scott, Amy (2007): The UN Secretariat. A Brief History, 1945-2006. New York: International Peace Academy.

by Hammarskjöld, pulling him “into the arena of political controversy” as former Secretary-General U Thant described it,<sup>23</sup> it was only a matter of time before other organs, most prominently the Security Council, at the behest of permanent members, stepped in. Although all permanent members have, at times, been at odds with a secretary-general, the Soviet Union under Nikita Khrushchev, openly displeased with the overt political role played by Hammarskjöld in the Congo in 1960-1961, not only challenged his “political celibacy”<sup>24</sup> but went to the extreme of falsely accusing Hammarskjöld of connivance in the assassination of President Patrice Lumumba.<sup>25</sup> The ensuing very public debate between Khrushchev and Hammarskjöld, and efforts by the Soviet Union to unseat the secretary-general and appoint a troika – challenges unlike that faced by any secretary-general since – were unquestionably won by Hammarskjöld,<sup>26</sup> who remained in office until his untimely death on 17 September 1961 while on a mission to the Congo. Yet there arose a pronounced distrust for independent action by the secretary-general, with permanent members curtailing or overseeing as much as possible any activity by the UN Secretariat that fell within the realm of “informal diplomatic activity”.<sup>27</sup>

Undue pressure and influence by member states are frequent if not constant constraints to the independence and exclusively international obligation of the secretary-general and the Secretariat at large. Whether such influences and pressures

23 Simma et al. (2002): Taken from U. Thant, Die Rolle des Generalsekretärs der Vereinten Nationen, Vereinte Nationen, Vol. 19 (1971), p. 159.

24 Lippmann, Walter (1961): Interview with Chairman Nikita Khrushchev, New York Herald Tribune, 17 April 1961. Chesterman, Simon (2007): Introduction: Secretary or General?, in: Chesterman (ed.), p. 2.

25 Gaiduk, Ilya V. (2012): Divided Together. The United States and the Soviet Union in the United Nations, 1945-1965, Washington DC: Woodrow Wilson Center Press, p. 265.

26 Hammarskjöld (2005): p. 101.

27 Hammarskjöld held his ground on this front, maintaining that “it was possible to be politically celibate without being politically virgin.” Chesterman (2007), in: Chesterman (ed.), p. 2.

led to the secretary-general compromising or betraying the principles of the UN Charter largely depends on the assertiveness and resourcefulness of the member states to generate negative consequences and the resoluteness of the secretary-general and how the latter navigate between “the platform and straitjacket” they are given.<sup>28</sup> If Hammarskjöld is held to be the paramount example of resolve *vis-à-vis* meddling member states, former Secretary-General Kurt Waldheim was derisively described as a “head-waiter.”

In dealing with the tension and friction that can arise between UN principles and specific states when they are not properly aligned, “what ultimately matters is translating principle into practice” and dealing with the “reality of politics as both positive and negative force”<sup>29</sup> in a principled manner. What balance a Secretary-General strikes between principles and principals – after all the Secretary-General is accountable to the member states – when these are not aligned will largely determine whether he/she is, to use the terms employed by Hammarskjöld, an “instrument” of a perceived or alleged principal or a “catalyst” for the principles enshrined in the charter. Probably the most emphatic enunciation of the course that a secretary-general should adhere to can be attributed to Hammarskjöld:

*I am not neutral as regards the Charter; I am not neutral as regards facts [...] In relation to interests, there I do claim that there is no insurmountable difficulty for anybody with the proper kind of guiding principles in carrying through such neutrality one hundred percent.*<sup>30</sup>

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28 Tharoor, Shashi (2007): ‘The Most Impossible Job’ Description, in: Chesterman (ed.), p. 40.

29 Evans, Gareth (2012): Lessons and Challenges, in: Genser, Jared/Cotler, Irwin (Eds.): *The Responsibility to Protect. The Promise of Stopping Mass Atrocities in our Time*, Oxford: Oxford University Press, p. 375.

30 Hammarskjöld (2005): p. 101.

Ultimately, the secretary-general owes himself/herself to the charter in precisely the terms outlined by Hammarskjöld, and the hard lessons the UN has learned after dramatic failures from Srebrenica to Rwanda to Sri Lanka, all point to the charter as the ultimate principal. As the damning 1999 Srebrenica Report concluded, the “commitment to ending conflict does not preclude moral judgments, but makes them necessary.”<sup>31</sup> This does not mean to suggest that moral judgements may not come at a price. In fact, they usually do, as parties to a conflict may react by denying the UN humanitarian access to affected or besieged civilians or by breaking off talks with the UN altogether. Yet, as the Sri Lanka inquiry concluded, “the tendency to see options for action in terms of dilemmas frequently obscured the reality of UN responsibilities.”<sup>32</sup> This usually happens when the UN seeks to keep a safe distance from what is deemed to be “political” and expansively interprets this to encompass any UN action that would provoke criticism<sup>33</sup> from states.

In this regard, while “Rights up Front” is full of good intentions, it has failed, to date at least, to turn the adverse tide on horizon scanning briefings to the Council, nor committed the EOSG into providing cover for DPA under the mantle of Article 99 due to the fear of criticism by one or more states. The “Rights up Front” initiative is unlikely to live up to its promise unless DPA, the EOSG and the UN Secretariat more generally embrace the Article 99 authority and duty that the charter grants the secretary-general.

<sup>31</sup> United Nations General Assembly, Report of the secretary-general Pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica, UN Doc. A/54/549, 15.11.1999, para. 506; United Nations Security Council, Report of the Independent Inquiry into the Actions of the United Nations during the 2004 Genocide in Rwanda, UN Doc. S/1999/1257, 15.12.1999.

<sup>32</sup> United Nations (2012): Report of the secretary-general’s internal review panel on United Nations Action in Sri Lanka, November 2012, p. 27.

<sup>33</sup> Op. cit., p. 19.

It is both bewildering and disappointing that the single substantive prerogative given to the secretary-general in the UN Charter, as the other articles solely address the administrative side of the office, is still to this day considered a “nuclear” option. This is a spineless misread of the UN Charter and does a disservice to the role that, at times, the secretary-general should play in calling attention to situations of concern. As has often been said, the secretary-general has the duty and responsibility to have the Council hear what it needs to know, not what it wants to hear.

Whether or not horizon scanning or other early warning procedures are supported by Council members – with some derisorily using the term “horizon-spinning” – is certainly relevant but should not be the determining factor for them actually occurring. In light of past lessons and the repeated calls for such procedures to be made available, it would seem appropriate for the Council to have the tools at hand, rather than not at all or having them rusting or rotting in oblivion. Of course, these procedures do not, in and of themselves, constitute solutions for action, but they may prove instrumental in allowing the Council to go about its business responsibly. Bringing issues of concern to the attention of Council members, through early-warning or horizon-scanning briefings or more formal Article 99 demarches by the secretary-general, may not lead to any action or decision by the Council due to the resistance of one or more of its members. There are no assurances and no ready-made recipes for Council action, which is, after all, a political body. Even less for action that appropriately addresses situations of concern, as each situation should be considered on its own merits and risks, but action is more than likely the worst of all available options with the exception of inaction. It is the deafening silence of the Council, amounting to indifference, which is both morally and politically damning. Its impotence, if it has exhausted all its available procedures, may

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be tragic but is less damning. The advantage of running through the procedures is that, at the very least, it allows those Council members that are interested in addressing the issues of concern to be on record. It also allows the UN Secretariat to show it did its due diligence instead of cowering to or covering for Council members. This may shame those who are interested in avoiding or stalling the consideration of issues of concern into changing their position.

Avoidance of Article 99 is not only a manifest absence of courage by the secretary-general, it is also a dereliction of duty. With only four months remaining of Ban's second term, and with the UN about to elect a new secretary-general, it is high time for the candidates to take a principled stance in defence of recourse to Article 99 and turning early warning and horizon scanning into more than a vain promise whenever the UN is confronted with a never again apology.

## **MODERATING HIERARCHY TO RESTORE DELIBERATION IN THE UN SECURITY COUNCIL**

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*Marcos Tourinho, Fundação Getulio Vargas (FGV)*

The United Nations Security Council is often described as a site of great power politics. Accounts of the creation of the UN emphasise how the architects of the new organization balanced the concert system of Vienna with the idealism of Versailles. In this view, the organization (and specially the Security Council) is understood as being designed by the powerful winners of the Second World War. Indeed, to some extent, this is a story of great power politics. The negotiations in Dumbarton Oaks, Teheran, Moscow and Yalta were held at closed doors among great powers and were critical to shaping the new organization.

But this narrative is a limited one. The design and working procedures of the Security Council were subject to heavy contestation in San Francisco and beyond. At the conference, most delegates understood that it would be inevitable to have some form of institutionalised hierarchy in the United Nations. Great powers had suffered much during the war and, most importantly, were expected to carry the burden of future peace enforcement missions. But differentiation would have to be limited by other,

more egalitarian rules and working procedures. The result was a Charter that, although deeply hierarchical, was moderated beyond what great powers initially hoped for. Herbert Vere Evatt, the Australian foreign minister at the time, summarised the prevailing view: “leadership is acceptable; domination is intolerable”.

In the last decades, the line between leadership and domination by great powers in the Security Council has become thinner, with robust implications for the effective management of international peace and security. The Security Council is entrusted by the UN Charter (i.e. by its membership) with the task of managing international peace and security. To carry out these broad responsibilities, the body was granted formidable powers. The Council is able to shape International Law, its decisions are not subject to judicial review and are legally binding worldwide. They may be enforced through a number of tools, including diplomacy, sanctions and, in situations judged to be of last resort, military force.

These very exceptional prerogatives were not granted by the Charter to the five permanent members, but rather to the entire Security Council. Brutal inequalities in participation of the Security Council has severely reduced the capacity of elected members to fulfil their role, effectively distorting the equilibrium established in the Charter. As a result, permanent members have acquired for themselves prerogatives and privileges that were not granted by the Charter, transforming the relatively limited power of veto into a day-to-day reality. This has enhanced diplomatic polarisation among veto-wielding states and undermined the work of the Security Council.

## THE IMPORTANCE OF ELECTED MEMBERS

Elected members play an important role in the body's decision-making process. First, decisions taken by the Security Council need nine (out of fifteen) affirmative votes. This means elected members are expected to be a central part of policy-making and that, in practice, they collectively hold a power of veto.

Second, because the Security Council works on the basis of deliberation – in which political persuasion and legal arguments matter – they have an important role in ensuring the quality of the body's policy making. Elected members bring to the table the political, cultural and social character of their own local or regional backgrounds, and often engage in deliberation from a more neutral standpoint, helping to soften polarisation. Aside from relatively few exceptions, elected members are disconnected from the immediate political interests at play in international security crises and can more easily make contributions in the broader interest of peace.

## HIERARCHY IN PRACTICE

There are several ways in which the relatively limited hierarchy imposed in articles 23 and 27 of the UN Charter developed into a full-on system of differentiation and privilege in the body. Those have become structural limitations to the equal participation between elected and permanent members of the Council.

First, elected missions often start their mandates lacking the technical-procedural knowledge to fully understand their prerogatives as members of the Security Council. As a result, in some cases elected members must let "more experienced" (i.e. permanent) members of the Council guide them in their work for full months until they acquire that background and are able

to stand on their own. This is further complicated by the fact that permanent members have more information about the specific crises at hand, and mobilize their institutional memory to push for their proposals and interests.

Second, the political and diplomatic resources of elected members are uneven. While some states, big or small, may have the background and resources to at least follow Security Council decision making closely, others do not and must prioritize issues or themes of interest – effectively letting go of their prerogatives as full members of the Security Council.

These are important limitations that can be addressed through the establishment of collective resources and training. It is in the more recent transformations in the working methods and practices between elected and permanent members that the degradation of Security Council deliberation has taken place.

## **OPEN MEETINGS AND PARTICIPATION OF NON-COUNCIL MEMBERS**

The vast majority of Security Council meetings are closed, even to the membership. Open sessions, which are very important, have largely become theatrical ceremonies for the reading of prepared statements. While it is evident that some of the work of the Council should be confidential, the closure of the Council should not be the standard.

The Charter is fairly explicit (articles 31, 32 and 44) in stating that non-members of the Council (interested parties as affected states, troop contributors) should routinely participate without a vote in Security Council deliberations. And while the decisions to call on them should be considered procedural (and not subject to the veto), in practice the P5 have largely restricted the use of those rights, and affected states are usually only allowed to speak after

decisions affecting them have already been negotiated. There is no dialogue involved.

## PEN-HOLDING

The pen-holding system is probably the most harmful of all procedural distortions in the work of the Security Council. Established first in 2006, but more broadly only in 2010, it consists of a single country “owning” an agenda item in the name of efficiency, and becoming responsible for presenting draft resolutions on that issue.

Pen-holders are almost always permanent members (especially the United States, France or the United Kingdom), who claim exclusive authority over the drafting and leading discussions on specific issues. It is notably common for former colonial powers to be pen-holders in issues in the Council’s agenda relating to their former colonies or where those members have special strategic interests.

This new system affected the entire decision-making process. Resolution drafts, often produced in more junior levels of those missions, are first shared among P5 members and only after an agreement is reached finds its way to the E10 – once all major decisions have been made. A former ambassador to the Security Council stated in a discussion about working methods:

*Quite apart from the fact that it takes quite a while to understand what the concept of penholder is and which member is penholder for which issue, it is difficult to understand why penholding should be basically a monopoly of permanent members with concentration in even fewer fingers.*

## **DELIBERATION AND DECISION-MAKING**

Today, the most meaningful discussions in the Security Council are held outside the chamber and exclusively among the P5. Elected members are included only once major decisions have been made and have few opportunities to provide significant input into policy-making.

As a result, the Security Council chamber has become, as a former diplomat wrote, “either a vehicle of political theatre, when the P5 cannot agree, or a tool for the ratification or formalisation of decisions already taken privately by the P5.”

The power of the veto, a major but limited prerogative designed to make sure no major decision would be taken against one of the major power has become a day-to-day presence, a tool for micromanaging the smallest of details. The real meaning of the veto goes way beyond the formal legal entitlements granted to the P5 in the Charter and permeates the work of the Security Council, disregarding the Charter prohibition of its use on procedural matters (article 25).

Thus, it is clear that permanent members, all permanent members, abuse the power of veto. In practice, the power of veto produced an egocentric institutional exceptionalism that is consistently exhibited by the P5 in the most minor decisions, and especially in the protection and expansion of their procedural prerogatives. The veto has often worked as an all-encompassing justification for under the table negotiations and horse-trading between the P5 and the weakening of actual deliberation in the Council.

## DISMANTLING HIERARCHIES TO RESTORE DELIBERATION

The Security Council has long suffered from an institutional pathology: its working practices produced a system of political hierarchies that harms policy deliberation, promoting the Council's own dysfunction and pushing it further away from the letter of the UN Charter.

In recent years, several initiatives emerged to try to bridge the gap between elected members' responsibilities and capacity at the start of their mandate. Making the Security Council more transparent and informing elected members has been among the objectives behind the establishment of Security Council Report, an organization reporting on Council activities. The government of Finland has long sponsored annual training workshops for diplomats working in incoming Security Council missions. Empowering elected members through knowledge was also the rationale behind SanctionsApp, a smartphone app offering relevant information and analysis of all UN targeted sanctions regimes.

More ambitiously, the Small-Five (S5) coalition sought to significantly reshape the working methods of the Security Council through the General Assembly. They promoted an inspired resolution suggesting procedural improvements to enhance the transparency and accountability of the Security Council, including through an increased participation of non-members in its work. Proposals included, for instance, a demand for public explanations of uses of the veto on the basis of the language of the Charter – a way to constrain merely self-interested uses of that power. The initiative, which gathered very significant support, was undermined by the manoeuvres of permanent members explicitly seeking to withhold their disproportional prerogatives.

The P5 is deeply institutionalized as a group. While there are various and profound divisions and disputes among them on a number of policy issues, they are very much aligned when it comes to their own exceptional powers and prerogatives in the Security Council. When it comes to the working methods, the P5 works together and the E10 is fragmented.

While politically difficult, to institutionalize the E10 as a group is critical to reconstituting its Charter status and obligations. As mentioned above, elected members collectively hold a power of veto, which can and should be used to bargain better working methods. As it is well known, the veto goes far beyond accepting or not a single decision, it is about being respected and having a say at the table. To re-establish balance, perhaps that power will need to be used by elected members as well – a threat or brief strike of elected members could have far reaching consequences to working conditions.

The critical lesson, however, is that procedural reform is slow, incremental. It is perhaps more about vision and persistent pressure than building a huge momentum. An interesting model to emulate is the work of the Like Minded Group in the creation of the Office of the Ombudsperson in the 1267 sanctions regime – the closest ever to a system of judicial review of Security Council decisions. The consequences were immense, in spite of all the resistance. This may be the kind of initiative needed to improve the Security Council for the 21<sup>st</sup> century.

This chapter argued that if the intended purpose of Security Council reform is to improve the prospects for international peace and security, working methods reform may well be the top priority.

The radical and increasing inequalities in participation between permanent and elected members of the Council systematically undermine legal and political deliberation in the

body's decision-making, which is very harmful to the management of international peace and security.

While the various proposals for UN reform promoting changes and improvements of the UN Charter are welcome and can be discussed, a far more urgent concern is simply to restore the political equilibrium of the Security Council as established originally in San Francisco.

## BIO

Marcos Tourinho is assistant professor of international relations at Fundação Getulio Vargas, in São Paulo. His research interests include international institutions, international law and global justice, with an emphasis on international security governance. Tourinho holds a PhD from the Graduate Institute of International and Development Studies (IHEID), Geneva, where he is also a research associate. His recent publications include *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action* (Cambridge University Press, 2016); *Towards a World Police? The Implications of Individual UN Targeted Sanctions*, International Affairs 91:6 (2015) and *Regulating Intervention: Brazil and the Responsibility to Protect* (Conflict, Security & Development, 2014).

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## LIST OF PARTICIPANTS OF THE ROUNDTABLE

1. **Ms. Adriana Erthal Abdenur**, fellow of Igarape Institute
2. **Minister Alessandro Warley Candeas**, coordinator of the “Instituto de Pesquisa de Relações Internacionais” (IPRI/Funag)
3. **Contra-Almirante Antonio Ruy de Almeida Silva**, special advisor to the Brazilian Superior War College (ESG)
4. **Mr. Bruno Stagno Ugarte**, deputy executive director for advocacy at Human Rights Watch, former foreign minister of Costa Rica, co-editor of “The UN Security Council in the 21<sup>st</sup> Century”
5. **Ambassador Courtenay Rattray**, Permanent Representative of Jamaica to the United Nations and former Chair of the Intergovernmental Negotiations on Security Council Reform
6. **Mr. Dawisson Elvécio Belém Lopes**, professor at the Federal University of Minas Gerais (UFMG)
7. **Mr. Demétrio Magnoli**, columnist at “O Globo” and “Folha de S. Paulo”
8. **Ambassador Dirk Brengelmann**, ambassador of the Federal Republic of Germany to Brazil

9. **Mr. Djeyhoun Ostowar**, policy officer at the Multilateral Organizations and Human Rights Department, Ministry of Foreign Affairs of the Netherlands
10. **Mr. Eiiti Sato**, director of the Office of International Affairs (INT) of the University of Brasilia (UnB)
11. **Mr. Eugênio Pacelli Lazzarotti Diniz Costa**, professor at PUC-Minas, president of the Brazilian Association of International Relations (ABRI)
12. **Minister Eugênio Vargas Garcia**, head of the United Nations Division
13. **Lieutenant General Fernando Rodrigues Goulart**, vice-chief of strategic affairs of the Ministry of Defense of Brazil
14. **Ambassador Fernando Simas Magalhães**, vice-minister for Political Affairs-I, Ministry of Foreign Affairs of Brazil
15. **Lieutenant General Floriano Peixoto**, former commander of the United Nations Stabilization Mission in Haiti
16. **Mr. Guilherme Casarões**, professor at ESPM (School of Advertising and Marketing), Getulio Vargas Foundation (FGV)
17. **Mr. Jan Piotrowski**, The Economist's São Paulo Bureau Chief
18. **Ambassador José Viegas Filho**, former minister of Defense of Brazil
19. **Mr. Juliano Cortinhas**, professor at the University of Brasilia (UnB)
20. **Minister Kazuhiro Fujimura**, Embassy of Japan in Brazil
21. **Ms. Leticia Pinheiro**, professor at the Institute of Political and Social Studies (IESP), State University of Rio de Janeiro (UERJ)
22. **Mr. Marcos Tourinho**, research associate of the Programme for the Study of International Governance at the Graduate Institute of International and Development Studies, Geneva

23. **Minister Maria Luisa Escorel de Moraes**, director-general of the International Organizations Department, Ministry of Foreign Affairs of Brazil
24. **Ambassador Martín Vidal**, director general for Political Affairs, Ministry of Foreign Affairs of Uruguay
25. **Mr. Matheus Azevedo**, Pandiá Calógeras Institute
26. **Counsellor Mohamed Bouabdallah**, Department for United Nations, Ministry of Foreign Affairs of France
27. **Ms. Ruchita Beri**, senior research associate of the Institute for Defence Studies and Analyses, New Delhi
28. **Ambassador Ronaldo Sardenberg**, former Permanent Representative of Brazil to the United Nations
29. **Ambassador Sérgio Eduardo Moreira Lima**, president of the Alexandre de Gusmão Foundation (Funag)
30. **Mr. Silvio Queiroz**, columnist at Correio Braziliense
31. **Mr. Stephen Schlesinger**, Century Foundation, New York, author of “Act of Creation: The Founding of the United Nations”
32. **Mr. Thales Castro**, assistant for international relations of the Rector’s Office of the Catholic University of Pernambuco (UNICAP)
33. **Mr. William R. Pace**, president of the Center for UN Reform Education, convenor of the Coalition for the International Criminal Court



# **PHOTOS**





*Ambassador Martín Vidal, director general for political affairs, Ministry of Foreign Affairs of Uruguay; Mr William R. Pace, president of the Center for UN Reform Education, convenor of the Coalition for the International Criminal Court; Ambassador Sérgio Eduardo Moreira Lima, president of the Alexandre de Gusmão Foundation (FUNAG); Ambassador Fernando Simas Magalhães, vice-minister for Political Affairs-I, Ministry of Foreign Affairs of Brazil*



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