

[Home](#) » [Security Council Reform: How to arrive at a more operational text?](#)

## Security Council Reform: How to arrive at a more operational text?

### Security Council Reform: How to arrive at a more operational text?

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*On 11 and 12 February 2015, an impressive number of Member States provided input on how they would like the slow-going negotiations on Security Council reform to proceed, with most statements focussing on the notion of text-based negotiations. However, during this meeting, no obvious agreement seems to have emerged on what kind of text the Chair should produce. Should it be a text in the form of a draft resolution, or a somewhat shortened version of previous texts and new information received?*

#### *Text-based Negotiations*

Ambassador E. Courtenay Rattray of Jamaica, the new Chair of the Intergovernmental Negotiations (IGN) on Security Council reform, convened the meeting to hear Member States' opinions on how the IGN should be structured during this session. Curiously, this gathering was not - as the Chair had explained previously in a letter to Member States - to be seen as a resumption of the IGN, but rather as a preliminary meeting.

As was to be expected, most Member States delved into the issue of text-based negotiations. The President of the General Assembly (PGA), H.E. Mr. Sam Kutesa from Uganda, has been consistently calling for text-based negotiations since he began his term. Kutesa's surprising presence during the first three hours of this meeting probably was meant to indicate that the Chair and PGA really aim to work in tandem. It should be noted that in his statement, Kutesa did not go into any specifics, such as whether the IGN should focus on a new concise text produced by the Chair.

Some Member States seem to forget that there actually has been a text on the table since 2010. As of 2011, however, Member States have not been able to agree on which revision of the text - Rev2 or Rev3 - should have preference. Nor has there been agreement on how to streamline either text. Both versions are about 30 pages long.

During this preliminary meeting, the C10 (see more on the various groupings and their positions below) continued to favor Rev2 as the text that should be abridged by the membership to create a shorter, more operational text. The UfC and Arab Group also seemed to favor Rev2 as a starting point.

L69, however, preferred Rev3 over Rev2 and would like the Chair to produce a shorter text. This preference for Rev3 apparently has to do with the latest version of Rev3 indicating a convergence between L69 and the African common position. In the words of L69: "We would like to raise the point that the position of the L69 Group to fully support the African Common position is only reflected in the Rev3 and not Rev2 ..." The African group, however, does not seem to fully embrace L69's insistence of convergence (see summaries of groupings below).

Besides the G4, a large group of countries from various regions called for a more concise text. But few specifically indicated that such a concise text should take the form of a draft resolution, as the G4 advocated at the meeting. Papua New Guinea called for a 'draft zero text,' presumably something along the lines of the 2013 non-paper.

Permanent Members China and Russia still cautioned against any text, claiming the time is not yet right. France and the United Kingdom felt that text-based negotiations should start, with France favoring the Chair presenting a text. The US was quite vague, saying it looked for Member States to develop new proposals, and furthermore indicated that the Chair could provide some momentum by distributing his views in writing.

What remains surprising is that some Member States aligned themselves with statements from groupings that currently have diverging or competing positions. For instance, Brazil aligned itself with G4 and L69. South Africa, Nigeria, and a handful of other African countries (among them those with large populations that are part of the Indian diaspora) aligned themselves with both C10 and L69. Egypt aligned itself with both C10 and the Arab Group.

Most statements made at the meeting can be found [here](#).

#### *The African Group*

The C10 - the committee coordinating the African common position - did not call for a new text prepared by the Chair. Instead, it called for Rev2 to be abridged by the membership, which must be a damper for all those countries that would like to see real movement. The common position of the large African group - 54 Member States - is undoubtedly key to finding a solution that can garner wide support. It should be noted, however, that a few African countries made statements in their national capacity which suggested divergences within the AU on this matter. Some of these countries are presumed to have been part of the L69 grouping.

The African Union's latest Summit was held in late January 2015 and Member States were eager to find out whether any changes in the AU's common position on either process or substance would be forthcoming. Significantly, the C10, when meeting in Kenya in November 2014, had recommended an extra-ordinary Summit dedicated to Security Council reform. This special summit was expected to take place in between this year's regular January and summer AU Summits. However, the January AU Summit's outcome did not reflect the recommendation for such a special summit. The next regular Summit will be held in South Africa, in June or July 2015. The C10 will meet in Zambia before then.

For many years now, key players have tried to moderate Africa's common - and arguably rather maximalist - position: two new permanent members with veto rights for Africa, to be chosen by the AU, plus a total of five non-permanent African members. Yet, it is abundantly clear that internal divisions in Africa are as pronounced as in the other regions of the UN. It is understood that, by means of 'checkbook diplomacy,' China and others do their utmost to keep the common African position alive - presumably as a way to stall progress. And the G4 apparently does its best to moderate Africa's common position by lobbying some African countries in their capitals. That more than 70% of the AU's funding comes from non-African governments is an issue that the AU has been trying to resolve, recognizing that outside funding too often comes with strings attached. It is telling that earmarked funding for those C10 meetings held at the level of Heads of State and Government - as was apparently decided at the last AU Summit - should not come from an outside source with a G4 agenda not in line with the common African position.

#### *What Will the Chair Do Next?*

It seems clear that the Chair would like to produce a new text. However, combining all positions from Rev2 and Rev3 in a shorter text will not be easy. Moreover, there are those additional and sensible cross-cutting issues that were raised in the 2013 non-paper distributed by then PGA John Ashe. Plus there are new variations of positions that have recently been circulating, such as those detailed in the 2014 non-paper of the G4. It seems quite likely that any new text could in fact turn out to be quite long if it were to do justice to key nuances and linkages, while also containing precise language on possible elections and a review process.

The G4 would like the Chair to create a non-paper in the form of a draft resolution, similar to what PGA Ismail Razali had produced in the 1990s. Razali's resolution did not garner enough support and it is worth noting that the existing positions from the current active groupings are much more multi-layered this time around. As to expansion, Razali simply pushed for new permanent seats without veto rights. At present, this is just one of the many possible variations that have been proposed in the IGN thus far.

In his closing statement, the Chair expressed satisfaction with the high level of interest, with almost 90 speakers taking the floor. He also noted that the incremental process has clearly caused much frustration. He recognized that some Member States expressed caution - such as the need to seek convergences before starting negotiations in earnest - while others believe that convergence need to be sought within the negotiating arena. The Chair felt that a majority of interventions called for text-based negotiations. But, he added, some want a compilation, some want a concise text, some want a zero-draft style text. Surprisingly, the Chair said that he respects 62/557's mandate, yet does not feel "enslaved" by it.

It will be interesting to see whether the Chair - when he drafts his own text - will run it by key groupings first for input, or will just present a new text for the next meeting and see how Member States will react. Either way, it is unlikely that any text will simply remove the intense disagreements and complexities that have prevented progress thus far.

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#### **Current Groupings and Positions**

The **Group of Four** (G4: Brazil, Germany, India, and Japan) advocate for a new permanent seat for each of its members, as well as two such seats for Africa. The official stance of the G4 has been the same for a long time, although five years ago, Brazil, Germany and Japan seemed open to exploring compromise models such as longer-term seats, especially if they could transition into permanent seats at a later stage. But India did not concur. At present, the G4 is believed to be lobbying many capitals with its own non-paper that has the following elements on expansion and the right of veto:

"Membership of the Security Council shall be enlarged in both categories, new permanent members and new non-permanent members.

*Member States should continue discussion on the use of the veto in certain circumstances and, in this context, the following voluntary offer is made.*

New permanent members would as a principle have the same responsibilities and obligations as current permanent members. However, new permanent members shall not exercise the veto-right until a decision on the matter has been taken during a review, to be held 15 years after the coming into force of the reform." (The non-paper also has brief language on the other issues listed in decision 62/557.)

Any new permanent members would technically have all the privileges of the existing permanent members but would agree not to use their veto rights for 15 years. Does this mean that a Charter change would have to take place creating additional permanent members with veto rights that could be reversed during a later review - and if successfully challenged - result in another Charter change removing their veto rights? [See [here](#) for an analysis of the complexities in case of a review]

It seems doubtful that those countries who are willing to have new permanent seats added to the Council - but without veto rights being extended - would accept such a convoluted and risky solution. Because reversing earlier decisions during a review must be extremely difficult, it is quite likely that in such a case, some of those countries might end up preferring longer-term and renewable seats.

**The African Group/C10.** Although the African Group puts a common position forward in the IGN, it hides the same kind of internal divisions found in the other regions. There are self-nominated candidates (South Africa and Nigeria, among others); those that oppose them, including competing large countries and disgruntled neighbors; some that insist on veto rights to be extended as long as veto rights exist; some that are willing to compromise to bring about convergence with the G4; some that want African permanent seats to be accountable to their region, in which case every Council decision might have to go through the African Union in Addis Ababa, giving the whole region a veto; some that prefer

rotating seats rather than permanent seats for individual countries; some that have little to gain and are quite indifferent at this point, etc.

In 2005, South Africa and Nigeria tried to bring about a convergence with the G4 that would allow a final decision on veto rights to be postponed until a future review took place. Resistance to this idea from parts of the African Union was intense and the Committee of 10 was established to act as a focal point on SC reform and to explore convergences with other groupings. The C10 represents the five African regions and consists of Algeria, Congo Brazzaville/Republic of the Congo, Equatorial Guinea, Kenya, Libya, Namibia, Senegal, Sierra Leone, Uganda, and Zambia.

The Ezulwini Consensus asks for two permanent seats with veto rights for Africa - to be elected by the AU - and a total of five non-permanent seats for their region. And while the US insists on knowing which countries would be picked, the African Group has not felt a need to agree about specific candidates because real negotiations have not taken place thus far in the IGN. And there is always the risk that Africa will get just one permanent seat, or that the solution of longer-term and/or renewable seats would turn out to be the only viable outcome. Hybrid options, such as a permanent seat for Africa plus longer-term seats for Africa and other regions, are not being explored, although many Member States recognize that Africa especially should benefit from expansion.

In 2012, a growing convergence between the C10 and L69 seemed to be taking place after the L69 grouping changed its position to include veto rights for new permanent seats to be extended immediately. However, efforts to agree on a common resolution fell through. Suspicions that L69's new position was a mere ploy to break up the African position were rife at the time and some L69 members would openly admit that the 2012 L69 draft resolution was just an effort to create momentum. It seems that most of the 11 African members of L69 are willing to be more flexible about veto rights, belonging to the South African and Nigerian camps. Moreover, the 2012 L69 and 2013 CARICOM draft resolutions included the promise of a dedicated non-permanent and cross-regional seat for small island developing states, which could further complicate matters.

The **P2** (permanent members France and the UK) also publicly favor new permanent seats for the G4 and two African countries. However, its stance differs significantly from that of the G4. The P2 would like to create a new category of longer-term seats that could become permanent seats after a review. Again, any relevant Charter amendments would be rather complex. And the extension of veto rights is left undecided.

France - and maybe the UK - is willing to voluntarily refrain from using the veto in matters involving mass atrocities. It appears that none of those seeking new permanent seats have actively joined this stance, even though it could make extending veto rights more palatable to many. After all, it is the use of veto (or threatening to do so) that has made concerted Security Council action impossible at times. Interestingly, the AU's founding principles include the notion of non-interference, with the exception of situations involving genocide, war crimes, and crimes against humanity.

The **P3** (permanent members China, Russian Federation, and the US) publicly favor moderate expansion with some new permanent members, but they do not agree on which countries exactly, which might be intentional by making it even harder to find a solution. The P3 is unlikely to agree to the extension of veto rights or to leave it to the rest of the UN membership to elect new permanent members. Some sources indicate that the P3 is increasingly willing to consider longer-term seats, but are reluctant - or feel no need - to actively promote such a solution while Member States remain intensely divided. Probably, the status quo is the P3's preferred option.

The **Uniting for Consensus** (UfC) group is opposed to adding any new permanent seats. Instead, they have advocated for adding only non-permanent seats or a new category of longer-term seats. Currently, this grouping is believed to favor possible terms of three or four years that could be immediately renewed once without an interval. In 2005 - during intense negotiations at the World Summit - it was reported to be willing to accept 10-year seats. Its members consist of regional rivals of the G4 and others espousing principled objections to permanent seats. Like any grouping it experiences internal divisions, with some being more flexible than others. It has a core membership of about a dozen members (Italy is the focal point and others are believed to be Argentina, Canada, Colombia, Costa Rica, Malta, Mexico, Pakistan, Republic of Korea, San Marino, Spain, and Turkey) and China and Indonesia take an active part in this grouping as well.

It has come across as a grouping that uses procedural obstacles to stall the negotiations. To be fair, the African Group and some permanent members have often shared their objections on how to proceed. Besides the core group of the UfC, between 20-30 other Member States privately endorse the idea of longer-term and/or renewable seats. Some of these don't like the strategies the UfC employs in the IGN process. Possibly - as long as the G4 overplays its cards or when it would renege on promises made thus far - support for longer-term and renewable seats may significantly increase.

**L69.** This grouping of developing countries consists of about 40 Member States: G4 members Brazil and India, 11 African countries, plus small island states, CARICOM members and a handful of Member States from Latin America. At the IGN, Pacific small island states and CARICOM often make separate statements, but their membership largely overlaps with that of L69.

Interestingly, at a C10 meeting held in Oye last year, the C10 recommended that no African country should belong to any other grouping, but whether this has been acted upon is unclear to the Center at this time.

L69 was the name of a draft resolution that forced the IGN to start and its endorsers remained active, apparently regularly meeting at India's Mission. The original L69 resolution called for expansion in both permanent and non-permanent categories, without specifically referring to veto rights. In 2012, however, the L69 announced at the IGN that it agreed to veto rights extended immediately. Since 2012 - after convergence with the C10 fell through - the grouping continues to have some proponents that firmly believe in veto rights for new permanent members and also includes many that have been willing to be more flexible, in line with the G4. It seems likely that the G4 is lobbying the members of this grouping to endorse the principles of their 2014 non-paper.

Besides the above groupings, the **Arab group** has proposed having its own permanent seat, the **East Europeans** have advocated for a second dedicated non-permanent seat for themselves, and **small island developing states** would like a cross-regional non-permanent seat. These demands complicate those of the G4 and African groupings.

**ACT** promotes better working methods of the Council. ACT (Accountability, Coherence, and Transparency) comprises over 20 countries that

have joined the group by invitation, with Switzerland as focal point. It concentrates on the working methods of the current - not expanded - Council, reflecting widespread skepticism that Security Council reform will happen anytime soon. Arguably, pressure from ACT and the former group S5 has already contributed to improved working methods, but much remains to be achieved. As a group it is not currently active in the IGN. ACT is believed to experience internal divisions similar to the other groupings.

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Center for UN Reform Education • P.O. Box 3195 • New York, NY 10163-3195, USA • Tel. +1 (646) 465-8520 • [inquiries@centerforunreform.org](mailto:inquiries@centerforunreform.org)