Reforming the United Nations

General Assembly. The General Assembly decision represented a severe setback for Germany and Japan after five years of negotiations. Their move to secure permanent seats was judged to have failed. Given the probable difficulty of gathering a two-thirds majority for expansion, it was hard to foresee any increase in Council membership for years to come. Italy welcomed the General Assembly’s decision, arguing that this had eliminated once and for all the threat of a legal anomaly affecting the problem of the majority needed for decisions concerning Security Council reform.

After this decision, there were few changes of views as to which category of membership should actually be enlarged and how. In April 2000, the United States expressed its willingness to consider proposals involving slightly more than 21 members, by which it considered that it was making a significant effort to generate additional momentum for reform. Japan and Germany reiterated their readiness to become permanent members. Germany, however, also noted that it would favour a permanent seat held by the European Union acting as a legal entity that could speak with one voice. Russia supported permanent member status for India. With regard to the veto right for new permanent members, Germany suggested establishing a high-level working group. It also supported periodic reviews of the structure and functioning of the Security Council every 15 years, including the conclusions of the high-level working group on the veto. As an alternative to the concept of rotating non-permanent seats, Italy suggested an expansion of non-permanent seats only, as proposed by the Non-Aligned Movement as a fallback position. The number could increase by five to six non-permanent members for a total of 20 or 21, as compared to previous proposals to add eight to ten new non-permanent seats. A larger increase was now considered likely to result in inefficiency. Compared to the initial expectations, the Working Group had achieved very little. There was an impasse on certain critical issues. During the General Assembly debate in November 2000, the United States noted that as yet there was not even an emerging consensus on how to proceed.

2. NEW REFORM INITIATIVES: THE STRUGGLE FOR LEGITIMACY AND EFFECTIVENESS, 2003 TO 2006

2.1 SEPTEMBER 11, IRAQ AND THE ISSUE OF COLLECTIVE SECURITY

On 11 September 2001, a series of co-ordinated suicide attacks was carried out upon the United States of America, in which hijackers took control of four domestic commercial airliners. The hijackers crashed two planes into the World Trade Center in Manhattan, New York City. Within two hours, both towers had collapsed. A third aircraft crashed into the United States Department of Defense headquarters, the Pentagon, in Arlington County, Virginia, while a fourth plane crashed into a rural field in Pennsylvania. The official count records 2,986 deaths in the attacks. September 11 had profound economic, social, political and military impacts on the United States and many other parts of the world. It had also a major effect on the work of the United Nations.

The United States declared a war on terrorism. The immediate post-9/11 efforts included military action, notably the invasion of Afghanistan by a United States-led coalition to topple the Taliban and pursue Al-Qaida. Within the United States, President Bush created the Department of Homeland Security, representing the largest re-structuring of the United States government in contemporary history. Congress passed a number of anti-terrorist laws, including the Patriot Act on 24 October 2001. The act expands the authority of United States law enforcement for the stated purpose of fighting terrorist acts
in the United States and abroad. Among the laws the Patriot Act amended are immigration laws and banking and money laundering legislation. With respect to terrorism, the act defines the crime category of domestic and international terrorism and related concepts such as terrorist activity and terrorist organization, and provides for the designation of foreign terrorist organizations. These provisions criminalize material support to terrorists and to foreign terrorist organizations. Follow-up included economic and military sanctions against states perceived as harbouring terrorists and increased global surveillance and intelligence sharing.

The World Trade Center attacks strengthened, although perhaps only briefly, the sense of international community. The Security Council responded immediately by passing resolution 1368 on September 12, condemning the attacks and obliging states to ‘combat by all means threats to international peace and security caused by terrorist attacks’ stressing that ‘those responsible for aiding, supporting or harbouring the perpetrators, organizers and sponsors of such acts will be held accountable’. On 28 September 2001, Security Council resolution 1373 called on states to control ‘the financing and preparation of any acts of terrorism’, and to ratify and implement all relevant United Nations protocols and conventions. The United Nations expressed broad international support for and cooperation with the United States in combating terrorism, including military action against the Taliban and Al-Qaida in Afghanistan. This global solidarity reawakened the United States’ interest in multilateral co-operation. President George W. Bush’s address to the General Assembly on 10 November 2001 asked for a comprehensive commitment and a coalition of all member states to fight all terrorism.

But the resolutions adopted by the Security Council in the days following the attacks also sowed the seeds of trouble for the future. The United States did not want its military actions to be curbed by multilateral constraints. Rather, the Security Council had recognized for the first time cross-border military action against terrorists was compatible with ‘the inherent right of individual or collective self-defence’ against armed attack set out in Article 51. Indeed, military action to destroy the Al-Qaida terrorist sanctuary in Taliban Afghanistan was widely accepted as legitimate and necessary. However, this was clearly a break from the past, for the United Nations General Assembly repeatedly condemned retaliatory strikes.

Moreover, the anti-terrorist measures demanded by the Security Council, such as the suppression of the financing and recruitment networks supporting terrorist organizations, had one major shortcoming. There was no common understanding of what constituted a terrorist threat. Indeed, there was a continuing impasse on a global definition of ‘terrorism’. This was to be determined in negotiations of the General Assembly on a comprehensive convention against terrorism. Consensus could not be reached. The United States and allied delegations sought to exclude the activities of regular armed forces from the provisions of the treaty, fearing that military actions that entailed unpleasant ‘collateral damage’ could be accused of terrorism. The Organization of the Islamic Conference emphasized that armed struggle ‘in the situation of foreign occupation’, or national liberation, should be treated as an exception in the definition of terrorism. The United States and many other Western countries were firmly opposed to such an open exception.

In November 2002, the United States Congress and President George W. Bush established the National Commission on Terrorist Attacks upon the United States (also known the 9/11 Commission) to, among other things, make recommendations to safeguard against future acts of terrorism. The 9/11 Commission’s final report, released in July 2004, called for efforts to root out actual or potential terrorist sanctuaries, prevent the proliferation of weapons of mass destruction by strengthening counter-proliferation efforts,