

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia

P. O. Box 3243

Telephone: 5517 700

Fax: 5517844

Website: www.Africa-union.org

**REPORT OF THE COMMITTEE OF TEN PERMANENT
REPRESENTATIVES TO THE UNITED NATIONS**

I- INTRODUCTION

1. This report is being submitted to facilitate the meeting of the Committee of Ten (10) Heads of State and Government, which will be held on the margins of the 12th Ordinary session of the Assembly of the African Union Heads of State in Addis Ababa, Ethiopia from 1st to 3rd February 2009. It is intended as an input into the report of the Committee on the subject at the forthcoming Summit to consider a way forward for the proposed intergovernmental negotiations.

II- BACKGROUND

2. At its Fifth Ordinary Session held in Sirte in July 2005, the Assembly of the African Union adopted the Common African Position on the proposed reform of the United Nations, known as "**the Ezulwini Consensus**", to guide the Continent's participation in the reform of the United Nations, as enunciated in the Report of the Secretary General's High-Level Panel on Threats, Challenges and Change. Regarding Security Council reform, Africa's demand for reform of the Security Council is premised on the inevitable need to reform the United Nations, and in particular, the Security Council in light of the current geopolitical configuration and realities. But more importantly, the widely accepted consensus on the continent's claim for its due representation in the Security Council and the reform of this organ is rooted in the following:

- a) *That, in 1945, when the UN was being formed, most of Africa was not represented and that when in 1963, the first reform took place, Africa was represented but was not in a particularly strong position;*
- b) *That Africa is now in a position to influence the proposed UN reform by maintaining her unity of purpose.*

3. Thus, the Harare Declaration of 1997 provided a cogent platform for the continent to address this historical injustice by adopting the position for Africa to be fully represented in all the decision-making organs of the UN, particularly in the Security Council, which is the principal decision-making organ of the UN in matters relating to international peace and security. Accordingly, Africa demanded five non-permanent seats and not less than two permanent seats with all the prerogatives and privileges of permanent membership including the right of veto. It further provided for the selection of Africa's representatives in the Security Council to be decided by the African Union. *Even though Africa is opposed in principle to the veto, it is of the view that so long as it exists, and as a matter of common justice; it should be made available to all permanent members of the Security Council.*

4. Consequently, the Heads of State and Government of the African Union have consistently reaffirmed their commitment to the Ezulwini Consensus, the Harare and

Sirte Declarations of June 1997 and July 2005 respectively. The Committee of Ten (10) Heads of State and Government established to advocate and canvas support for the African Position enunciated in the provisions of both the Ezulwini Consensus and the Sirte Declaration has pursued that mandate since its creation to date.

5. Since its inception, the C10 has regularly reported on Security Council reform activities in fulfillment of the above mandate at every Session of the Assembly. The last of the reports was presented at the 11th Ordinary Session of the Assembly, held in Sham-El Sheikh, Egypt, in June-July 2008 to which the Heads of State reacted with the following decision (Assembly/AU/Dec.204 (XI):

- a) **Takes note** of the Report of the Committee of Ten Heads of State on the Reform of the Security Council;
- b) **Reaffirms** the Ezulwini Consensus and Sirte Declaration on the Reform of the United Nations as the basis of any inter-governmental negotiations;
- c) **Requests** the Committee of Ten to address other Reform Issues of the United Nations System, and to present a progress Report to the next ordinary session of the Assembly;
- d) **Decides to renew** the directive to the African Permanent Representatives to the United Nations, as stated in the Assembly Decision **Assembly/AU/DEC.184 (X)** of January 2008, relating to their participation in inter-governmental negotiations in New York;
- e) **Endorses** the decision of the Committee of Ten to meet regularly and requests the African Union Commission to facilitate the meetings.

III- IMPLEMENTATION OF MANDATE

6. Pursuant to the above mandate, the Committee of Ten Permanent Representatives in New York, (C10 PR), working on behalf of their Heads of State and Government, participated in wide ranging consultations on the reform at various levels following the July 2008 Summit. These consultations are conducted through such mechanisms as the African Group as a Whole as well as ad-hoc entities such as the Task Force set up by the PGA, the Open-Ended Working Group (OEWG) on the Question of equitable representation on, and increase in the membership of the Security Council and related matters and quite recently, a G-4 initiative referred to as 'Group of Friends' to map out the framework and modalities of the proposed upcoming intergovernmental negotiations.

7. During the intervening period, the Committee has, in its usual collaboration with the African Group as a Whole, continued to advocate and promote understanding of and, support for the African Common Position with a view to also:

- a) Identifying areas of convergence and divergence between the African Common Position and those of other member states and groupings involved in the process and;
- b) Gathering the views of other stakeholders in the reform process on the way forward.

IV- OVERVIEW OF THE ENGAGEMENT AND OTHER INITIATIVES

8. Pursuit of the reform process within the framework of the Open-Ended Working Group as a platform for negotiations has come under intense debate during the period under review. While some argue that it provides a neutral debating and consultation platform for member states, in their individual or group capacities, to express their respective positions on the reform process, others believe that the requirement to adopt decisions by consensus in the OEWG render it unsuitable as a negotiating forum as no consensus can be expected on such a divisive issue like Security Council Reform. They point to the fact, that OEWG has been in existence since 1992 but has made no headway to date.

9. The Taskforce established by the President of the General Assembly to map out the framework and modalities for the upcoming intergovernmental negotiations presented their status report to the membership towards the end of the 62nd session. The ensuing discussions resulted in the adoption of Decision A/62/557 on the Question of equitable representation on and increase in the membership of the Security Council and related matters on 15 September 2008.

10. Decision 62/557 provides for the Assembly to build on the progress achieved during the two previous sessions and requested member states to continue immediately to address, within the Open-Ended Working Group (OEWG), the framework and modalities in order to prepare and facilitate intergovernmental negotiations on the reform. It requires the Chairperson of the OEWG to present results of those consultations to an informal plenary of the 63rd session of the General Assembly no later than 1 February 2009. It further provides for those results as well as positions and proposals made by member states to serve as building blocks for the commencement of the intergovernmental negotiations in an informal plenary of the General Assembly during the 63rd session of the General Assembly but not later than 28 February 2009 seeking a solution that can garner the widest possible political acceptance by member states.

11. The Decision identified five key issues in its realm of negotiables, namely; category of membership, the question of the veto, regional representation, size of an enlarged Security Council and working methods of the Council as well as its relationship with the General Assembly.

12. The on-going work of the President of the 63rd session of the General Assembly has injected a renewed momentum in the reform process. He has accordingly appointed the Permanent Representative of Afghanistan, Ambassador Dr. Zahir Tanin, as facilitator for the upcoming process.

13. During the first meeting of the OEWG on November 11th 2008, Mexico and the Republic of Korea put forth a timetable outlining the way forward, involving discussion on purposes, principles, and parameters for the negotiations. According to this timetable there will be five meetings of the Working Group on framework and modalities of negotiations: Two meetings in November, two in December and January and a last meeting in late January to discuss a final report of the Working Group.

14. The President of the General Assembly has endorsed this timetable in his letter to Member States on November 21st 2008, in which he set out the timetable mandating the Open-Ended Working Group to implement the decision 62/557 by continuing its consultations until early January to discuss framework and modalities for the upcoming intergovernmental negotiations. However, progress on the reform process has been of procedural nature and not substance until perhaps when the process advances into the envisaged inter-governmental negotiations.

15. During the informal debate of December 5, 2008, Argentina and Spain tabled proposals for the procedures, principles and objectives and terms of negotiations arguing that a specific framework should have to be agreed upon by all Member States before embarking on further negotiations, while the G-4 argued that the rules of procedure of the General Assembly could serve as framework.

16. During the meeting of the OEWG on January 19th 2009, Canada and Malta submitted a "draft decision of the General Assembly" which stated, inter alia, that the negotiations shall be based on an agreed agenda and that the principle of "Single undertaking" shall apply in a way that every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. The draft reiterates some elements of the Spain and Argentina Document. A majority of speakers supported the Canadian document.

Areas of General Agreement

17. The consultation exercise has widened the perspective of the Committee on areas of agreement and disagreement on the Security Council reform, particularly relating to the African position. It has reconfirmed that there is general consensus on the need to reform the Security Council to make it more representative, democratic and reflective of the reality of the current world order. Related to this, and of immediate significance to Africa, is that there is general agreement on the legitimacy of Africa's demand for permanent representation in the Security Council.

18. One key area of general agreement is the need to improve on the working methods as an integral part of the reform of the Council in order to make it more transparent and accessible to non-members, in particular, small member states. The driving force behind this aspect of the reform is the Group of S-5 (see table below). However, the Committee observed that some members of P5 hold the view that this is an internal matter of the Council, in accordance with Article 30 of the UN Charter, pertaining to the adoption of its rules of procedures.

Areas of Contention

Size of Expansion

19. While there is general understanding that the Security Council should be enlarged, there still remains no agreement on the size of the enlargement. The African proposal calls for an expansion to 26 members, while the G4 and UFC favour 25. The P5 are open to modest enlargement to accommodate Africa, apart from the UK, which supports 25-26, but with the caveat that the expansion is done on gradual or incremental basis. Some P5 members also have their preferences among countries aspiring for permanent membership of the Council. The S5 has no common position on this aspect of the reform, and some have even expressed pessimism about any meaningful reform-taking place in the immediate future.

The veto

20. The veto is the most sensitive and contentious issue of the reform. Africa's position is that it should be abolished, otherwise, so long as it exists, and as a matter of principle and common justice, every permanent member should be entitled to it. While the P5 are generally understood to be opposed to the extension of the veto to new members, some appear to be flexible, as far as Africa is concerned. The S5 and the UFC believe that extending it to new members will amount to reinforcing the undemocratic nature of the Security Council. The G4 argue that the most immediate task is that of entering the Council as permanent members. They see the extension of

the veto to new permanent members as the next stage of the process to be decided upon in the framework of the review of the mandate.

Regional Representation

21. The G4, S5, and UFC support Africa's prerogative to select its representatives, and would like to explore the possibility of extending this African model to other regions. The P5 have not expressed any common position on this issue.

Categories of membership

22. Further to the current Permanent and Non-Permanent categories, an approach proposing an Intermediary category contained in the Report of the Two Facilitators of 26 June 2007 and enjoyed the support of the then PGA. It states:

"The Intermediary approach entails the creation of a category of membership not currently provided for under the Charter. Within the intermediary or transitional approach, Member States may wish to consider, inter alia, creating extended seats that could be allocated for the full duration of the intermediary arrangement, up to the review; extended seats for a longer period than the existing non permanent seats with the possibility of re-election; or extended seats for a longer term than the existing non permanent seats but without the possibility of re-election.

- *Any of these options can be combined with enlargement in the regular non-permanent category, in accordance with article 23.2 of the Charter.*
- *The options in size range from a limited to a large expansion, a decision which could be adopted either in one step or in stages – i.e., a given number at first and a further expansion in the review.*
- *The length of the extended seats would have to be considered together with their re-election modalities, as appropriate, and the geographic distribution of the new seats. This constitutes an essential negotiable and is also tied to the review".*

23. The African Group observes that the intermediary approach is at variance with the provisions of the Ezulwini Consensus. Some members of the S5 are concerned about the details, while the G4, P5 have not expressed a common position. The UFC favours the intermediary approach but is opposed to creating extended seats that could be allocated for the full duration of the intermediary arrangements. The intermediary

approach is also perceived as an indirect attempt by the big powers to perpetuate the status quo.

V- OBSERVATIONS

24. The Committee has observed the following:

- a) The African Common Position has remained strong, legitimate and viable, and should be maintained for the envisaged Intergovernmental negotiations;
- b) Considering the varied positions on the question of the veto, particularly those of the P5 on its extension to new members, progress in this regard in the near future is a major challenge;
- c) There are narrow differences in the majority of proposals regarding the size of an enlarged Council and a possible compromise may be feasible in the near future. However, the P5 remain reluctant to accept a significant enlargement of the Council;
- d) Following their eagerness to move to intergovernmental negotiations, some member states are currently engaged in a process described as a '*Group of Friends*' in an effort to identify convergence and divergence with a view to speeding up the process of establishing a common ground to take the process to a next level;
- e) The President of the 63rd session of the General Assembly is accelerating the momentum to build on the current progress of the process to ensure necessary continuity towards a breakthrough;
- f) There is growing perception that "Africa seems to be holding the key to further movement on the expansion debate..." as a continent it is the only regional grouping with a consensus on the question.

VI- CONCLUSION

25. As it can be noted from the above the process of consultations is still continuing and has not yet reached the negotiating stage. However, given the mood of the ongoing engagements on the reform, commencement of the intergovernmental negotiations is highly probable. The group positions have remained basically unchanged. The intermediary approach is still on the table.

26. We, therefore, recommend that the Committee proposes the establishment of a mechanism to ensure regular consultations with the Assembly of Heads of State to enhance effective participation of the Permanent Representatives in the proposed intergovernmental negotiations. In accordance with Decision 184 (X) and 204 (XI), once the intergovernmental negotiations kick-off, the role of the Committee of Ten would be required to be reviewed in relation to the negotiating mandate of the Permanent Representatives. In view of the above, the Assembly may wish to consider reviewing the mandate of the C-10 in light of the proposed mechanism with a view to also tapping on the accumulated experience of the Committee on the subject.

27. While the Committee recognizes the other aspects of the UN reform as equally important, the present report has remained silent on those elements on the grounds that unlike the Security Council, the African Group has not articulated a common position on any of the other aspects of the United Nations reform process.

N.B.: The table attached is a summary of the positions of different groups in the Security Council Reform process.

62/557. Question of equitable representation on an increase in the membership of the Security Council and related matters.

At its 122nd plenary meeting, on 15 September 2008, the General Assembly, recalling its previous resolutions and decisions relevant to the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council, mindful of Chapter XVIII of the Charter of the United Nations and of the importance of reaching general agreement as referred to in its resolutions 48/26 of 3 December 1993 and 53/30 of 23 November 1998 and in its decision 61/561 of 17 September 2007 on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council, as well as the ratification process of any amendment to the Charter as stipulated in its Article 108, and taking note of the seven principles presented by the President of the General Assembly to serve as guiding principles for the advancement of the Security Council reform:²²

(a) Took note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council on its work during the sixth-second session of the General Assembly;²³

(b) Noted with appreciation the Chairperson's initiative and efforts in the process of a comprehensive reform of the Security Council, as well as the work done by the Vice-Chairpersons;

(c) Decided, building on the progress achieved thus far, in particular during its sixty-first and sixty-second sessions, as well as the positions of and proposals made by Member States, to continue immediately to address, within the Open-ended Working Group, the framework and modalities in order to prepare and facilitate intergovernmental negotiations on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council. The Chairperson of the Open-ended Working Group would present the results of those consultations to an informal plenary session of the General Assembly, no later than 1 February 2009;

(d) Also decided, taking into consideration the results achieved so far in the Open-ended Working Group, and building on the progress achieved thus far, in particular during its sixty-first and sixty-second sessions, as well as the positions of and proposals made by Member States, to commence intergovernmental negotiations in informal plenary of the General Assembly during its sixty-third session, but not later than 28 February 2009, based on proposals by Member States, in good faith, with mutual respect and in an open, inclusive and transparent manner, on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council, seeking a solution that can garner the widest possible political acceptance by Member States;

(e) Further decided that the basis for the intergovernmental negotiations would be as follows:

(i) The positions and proposals of Member States, regional groups and other groupings of Member States;

(ii) The five key issues: categories of membership; the question of the veto; regional representation; size of an enlarged Security Council and working methods of the Council; and the relationship between the Council and the General Assembly;

(iii) The following documents; report of the Open-ended Working Group on its work during the sixty-first session of the General Assembly;²⁴ Assembly decision 61/561; and the

²² Ibid., 51st meeting (A/62/PV.51), and corrigendum.

²³ Official Records of the General Assembly, Sixty-second Session, Supplement No 47 (A/62/47).

report of the Open-ended Working Group on its work during the sixty-second session of the Assembly;²³

(f) Decided that the Open-ended Working Group should continue to exert efforts during the sixty-third session of the General Assembly aimed at achieving general agreement among Member States in the consideration of all issues relevant to the question of equitable representation on the increase in the membership of the Security Council and other matters related to the Council, taking into account the progress achieved during the forty-eighth to sixty-second sessions of the Assembly;

(g) Also decided that the Open-ended Working Group should submit a report to the General Assembly before the end of its sixty-third session, including any agreed recommendations.

²³ Ibid., Sixty-first Session, Supplement No. 47 (A/61/47).

**VARIOUS POSITIONS ON THE UNITED NATIONS SECURITY COUNCIL REFORM
MAY 2008.**

GROUPINGS	EXPANSION OF THE SIZE	VETO	REGIONAL REPRESENTATION	CATEGORIES OF MEMBERSHIP	WORKING METHODS
<p>GROUP OF 4 (G4) Brazil, India, Germany, Japan</p>	<p>In favour of adding 10 new members for a total of 25, being 6 new permanent and 4 new non permanent members</p>	<p>Opposed to its extension to new permanent members, until the question has been decided upon in the framework of the review of the mandate.</p>	<p>In favour with following allocation Permanent cat. Africa: 2 Asia: 2 GRULAC: 1 WEOG: 1 Non permanent cat. Africa: 1 Asia: 1 GRULAC: 1 WEOG: 1</p>	<p>No common position on the proposed intermediary category</p>	<p>In favour to be implemented in accordance with articles 31 and 32 of the UN Charter pertaining to the participation of non members of the Council in its work, in consultation with member states on a regular basis</p>
<p>UNITED FOR CONSENSUS (UFC) (Pakistan, Italy, Argentina, Canada, Colombia, Costa Rica, Malta, Mexico, Republic of Korea, San Marino, Spain, Turkey</p>	<p>In favour of expansion to 25 composed as follows: 5 current permanent 10 new non permanent in addition to the present number of 10.</p>	<p>Oppose to extension to new members</p>	<p>In favour, and would like to explore the possibility of extending the African model to other regions;</p>	<p>The UFC favours the intermediary approach but is opposed to creating extended seat that could be allocated for the full duration of the intermediary arrangements</p>	<p>In favour of improvement, For the Council to be more transparent, inclusive and accountable</p>
<p>AFRICAN GROUP All 53 African countries</p>	<p>In favour of enlargement to 26 with the 11 additional seats as follows: Permanent seats: Africa: 2</p>	<p>Opposed to the veto in principle, but as long as it exists, it should be extend to all</p>	<p>In favour of equitable regional representation, and for Africa to chose its representatives</p>	<p>Opposed to intermediary category, since African position not covered and could lead to the perpetuation of an historical injustice</p>	<p>Need to engage fully all regions in the work of the Council and to enlist their support.</p>

	<p>Asia: 2 Eastern European States:1 GRULAC:1 Western European and other States: 1</p> <p>Non permanent seats: Africa: 2 Asia: 1 GRULAC:1</p>	permanent members.			
<p>The SMALL 5 (S5) (Costa-Rica, Liechtenstein, Jordan, Singapore and Switzerland)</p>	No common position	Believes veto is not democratic so should not be extended to any other new members	In favour and propose that it should be applied both to the AU and the EU, and the modalities should be clarified	No common position on the intermediary category. Some members expressed concern about the implications of the details	Strongly believe that of improving the working methods of the Council is feasible in areas, such as Relationship with the GA and other principle organs; implementation of Decisions, involvement of non-members in the work of Subsidiary bodies of the Council, the use of veto etc..
<p>THE PERMANENT FIVE (P5)</p> <p>China France United Kingdom United States Russia</p>	Open to a modest enlargement (21), in particular to Africa; Some members preference among countries aspiring for permanent membership;	Generally understood to be opposed to but some appear to be flexible as far as Africa is concerned	No common position France, UK, US are in favour of permanent representation for Africa	No common position	Think it is an internal matter of Council

Rev.10
January 22, 2009

AFRICAN UNION UNION AFRICAINE

African Union Common Repository

<http://archives.au.int>

Organs

African Union Commission

REPORT OF THE COMMITTEE OF TEN PERMANENT REPRESENTATIVES TO THE UNITED NATIONS

African Union

African Union

<http://archives.au.int/handle/123456789/2621>

Downloaded from African Union Common Repository