

Selecting the next UN Secretary-General: a shared responsibility

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Theme

The upcoming election of a new Secretary-General can be a potential turning point for the UN in its efforts to achieve a more transparent, inclusive and gender-balanced administration of its affairs.

Summary

The upcoming election of a new Secretary-General can be a potential turning point for the UN in its efforts to achieve a more transparent, inclusive and gender-balanced administration of its affairs. For this, however, the Security Council should recommend to the General Assembly at least two of the officially nominated candidates, including women, following meetings with each of them and well in advance for its members to have a fair opportunity to choose and share responsibility for the final outcome. Spain, as an elected member of the Security Council, has a unique opportunity to promote woman candidates.

Analysis

Introduction

Over the course of 2016 a new UN Secretary-General is to be appointed.¹ The election of the best candidate for the post will take place at a time when the UN is struggling to manage growing expectations regarding its role in countering climate change and environmental degradation, extreme poverty, protracted conflicts involving mass atrocities, humanitarian crises and mass influxes of refugees, terrorism, and other calamities. According to *1 for 7 Billion: Find the Best UN Leader*, 'More than ever, the UN needs a highly qualified, effective Secretary-General at its helm...' to ensure that its decisions will be implemented effectively.² Finding the most qualified person to be chief administrator of this worldwide organisation is thus considered one of the most important decisions to be made in the UN context this year. But do the rules governing the process guarantee a suitable outcome?

¹ Security Council Report (2015), 'Appointing the UN Secretary-General', *Research Report*, October.

² '1 for 7 Billion: Find the Best UN Leader', Call to Action to Member States of the United Nations: Support a better process for appointing the UN Secretary-General on 27 April, 15/IV/2016.

The ground rules

The drafters of the UN Charter did not spend much ink on the rules for selecting a Secretary-General. The sole provision on the matter –Article 97– provides that the appointment will be made by the General Assembly ('Assembly') upon the recommendation of the Security Council ('Council').

On a first reading, the Assembly appears to be a key decision-making organ. In practice, however, its role will depend on what the Council recommends. If the latter endorses only a single candidate, the relevance of the Assembly's decision is drastically reduced. This uneven power structure between the two electoral organs is reinforced by the fact that the Assembly's decision is not regarded as an 'important question' and thus requires the support of a simple (instead of a qualified) majority of members present and voting (art. 18).³ By contrast, for a Council recommendation to be put forward, nine out of 15 members must vote in favour, with none of the permanent members objecting (art. 27.3). Any candidate put forwards must therefore be agreeable to these five states.

The election procedure was consolidated and specified somewhat further in Assembly resolution 11 (I), adopted in 1946, which endorsed the primacy of the Council, declaring its responsibility to recommend a single name 'for debate on the nomination in the General Assembly to be avoided'. It also affirmed the requirement of voting majorities in both organs, together with the private character of the meetings in which decisions were to be made (although the Assembly thereafter decided that its members would vote by secret ballot in a public meeting).⁴ The same resolution clarified the first Secretary-General's term in office, set at five years, with the possibility of renewal for a further five, while holding that both Assembly and Council would be free to modify the rule for future Secretaries-General in the light of experience.⁵ However, the Assembly chose to remain silent on other pertinent issues, among them what should be the personal and professional qualities of the person to be elected and whether regard should be made to gender balance and equitable geographical distribution.⁶

³ See article 18.2 of the UN Charter according to which 'important questions' include recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new members to the UN, the suspension of the rights and privileges of membership, the expulsion of members, and questions relating to the operation of the trusteeship system, and budgetary questions'.

⁴ But note Rule 141 of the General Assembly's Rules of Procedure according to which it shall 'consider the Council recommendation and vote upon it by secret ballot in private meeting'. Rule 48 of the Provisional Rules of Procedure of the Security Council endorses the private character of its meetings on this matter.

⁵ This solution, while provisional, has become a customary rule although the Council retains the power to modify it.

⁶ Compare, for example, the Assembly election of non-permanent members to the Council. According to article 23.1 of the UN Charter, attention should be paid to equitable geographical distribution.

An enduring arrangement

In all the elections that have taken place since 1946 the Council has recommended a single candidate who has been formally endorsed by the Assembly.⁷ The sole exception was when the Assembly decided to extend the term of Secretary-General Trygve Lie in 1950 in the absence of any prior recommendation because of a deadlock in the Council.⁸ However, the Assembly has never seriously considered turning down a candidate proposed by the Council. Meanwhile, the Council's permanent members have used their veto regularly to oppose different candidates while voting in secret ballots. The practice of casting vetoes has consolidated the general understanding that the power to decide the appointment of Secretaries-General is vested in the permanent members (P-5).

The arrangement remained stable until 1996 when the US communicated that it would veto the reappointment of Boutros Boutros-Ghali. To anticipate the problem, the Council's President proposed the drafting of a set of guidelines (*Wisnumurti guidelines*) that were adopted on 12 November 1996. The guidelines comprise general principles and applicable legal rules, and also recommend the use of colour-coded straw polls to distinguish between the votes of permanent and non-permanent members. According to these guidelines, candidates should be submitted by member states and the final decision should be taken at a private meeting by secret ballot. Following a formal US veto on 18 November, the Council recommended another candidate, Kofi Annan (Ghana), on 13 December. On the following 17 December, the Assembly approved by acclamation his appointment and on 1 January 1997 he assumed both office and functions. The guidelines were believed to have facilitated the outcome greatly.

In the Assembly's view, the events that had unfolded in the autumn of 1996 revealed the need to undertake further reform by enhancing the transparency of the election and rebalancing the established power structure in its own favour. Thus, in [Resolution 51/241](#), adopted in 1997, it endorsed the [Report of the Open-ended High-Level Working Group on the Strengthening of the UN System](#), affirming that it 'shall make full use of the power of appointment enshrined in the Charter in the process of the appointment of the Secretary-General'. Also agreed was that its President 'may consult with Member States to identify potential candidates endorsed by Member States and, upon informing all Member States of the results, may forward those results to the Security Council'. Finally, it was recommended that the duration of the appointment, including the option of a single term, should be considered before the appointment of the next Secretary-General, and that due regard should be given to regional rotation and gender equality.⁹

⁷ The former Secretaries-General are: Trygve Lie (Norway), from February 1946 to November 1952; Dag Hammarskjöld (Sweden), from April 1953 to September 1961; U Thant (Burma, now Myanmar), from November 1961 to December 1971; Kurt Waldheim (Austria), from January 1972 to December 1981; Javier Pérez de Cuéllar (Peru), from January 1982 to December 1991; Boutros Boutros-Ghali (Egypt), from January 1992 to December 1996; and Kofi A. Annan (Ghana), from January 1997 to December 2006. Ban Ki-moon took office on 1 January 2007.

⁸ While this decision was criticised for being illegal in the absence of any Council recommendation, the Assembly justified it by stressing 'the necessity to ensure the uninterrupted exercise of the functions vested by the Charter in the office of the Secretary-General'.

⁹ For a historical overview, see Security Council Report (2015), *op. cit.*, p. 3-7.

As Annan's terms of office was due to expire at the end of 2006, following an uneventful reappointment in 2001, several states expressed their interest in improving the process along the lines that had been proposed by the Assembly in 1997 and decided to nominate candidates, seven in total, whose names were made public in letters addressed to the Council. On 9 October 2006 the Council informed the Assembly that it recommended Ban Ki-moon by acclamation. Four days later, the Assembly appointed him new Secretary-General, also by acclamation. At the end of 2011 he was reappointed to serve a second term, to expire on 31 December 2016.

The 2016 election campaign

Regardless of some improvements in recent elections, civil society actors and states continue to insist on further reforms to rectify the lack of transparency, inclusiveness and professionalism. The Elders, founded by Nelson Mandela, currently chaired by Annan, reminded the UN that the Secretary-General is a post of the utmost significance that requires 'leadership of the highest caliber', lamenting the fact that the post's holder has repeatedly been negotiated by the P-5 in almost total secrecy. As a result, 'the rest of the world is told little about the process by which candidates are identified, let alone the criteria by which they are judged'. This approach, it argued, is contrary to the letter and the spirit of the UN Charter, which requires the Secretary-General to be appointed by the Assembly and only on the recommendation of the Council.¹⁰

Spain, as a non-permanent member of the Council in 2015-16, is a key advocate of reform.¹¹ Notably, in the wrap-up session of June 2015, together with Chile, the UK and Venezuela, Spain manifested its support for putting into practice a more transparent and inclusive process for the upcoming election. At the same meeting it also discussed the possible establishment of a list of candidates and the presentation of candidates 'in sufficient time to allow for interaction with member states'.¹² Indeed, Spain sees itself as having a special responsibility in the selection of candidates 'and takes on the commitment to contribute to the Council by proposing the ideal person(s) for the post...'. In a lead to implement its commitment, on 30 May of 2016, the Spanish Minister for Foreign Affairs held bilateral meetings with several of the officially nominated candidates.¹³

Several reforms have been made since June 2015, making the 2016 elections in some sense unique. For the first time in UN history, the nominations are official and the Assembly has conducted two rounds of informal dialogue, the first in mid-April and the second on 7 June, with the possibility of a third round if further candidates are

¹⁰ The Elders is committed to foster a UN fit for the purpose. With this aim in mind, the organisation has issued several recommendations, such as the need for a more independent Secretary-General.

¹¹ For a review, see Alberto Morales González (2016), 'Nombramiento del nuevo/a secretario/a general de la ONU', Instituto Español de Estudios Estratégicos, *Documento Opinión*, nº 44/2016, p. 16-17.

¹² Security Council Report (2015), *op. cit.*, p. 13.

¹³ Meetings between José Manuel García-Margallo and candidates for United Nations Secretary-General, 31/V/2016.

nominated.¹⁴ The Assembly's President speaks of unprecedented achievements and sees this as a 'game-changing new process'.

The Assembly's renewed engagement must be seen against the backdrop of it seeking to transform itself into a 'chief deliberative, policymaking and representative organ of the United Nations' with a critical role in 'global matters of concern to the international community, including in global governance' (Resolution 69/321 of 22 Sept 2015). The effort to revitalise itself has meant that it no longer sees its function in the election process as limited to formal acts of endorsement (par. 32), but as responsible for ensuring that it is guided by principles of transparency and inclusiveness (par. 34). Also vital is its commitment to promoting professionalism by requesting that the candidates should embody the 'highest standards of efficiency, competence and integrity' and have 'proven leadership and managerial abilities, extensive experience in international relations and strong diplomatic, communication and multilingual skills' (par. 39). Especially remarkable is its pledge to achieve 'equal opportunities for women and men in gaining access to senior decision-making positions, including to the post of Secretary-General, bearing in mind the need to select the best candidates' (preamble), and to ensure an 'equal and fair distribution based on gender and geographical balance, while meeting the highest possible requirements' when appointing Secretaries-General (par. 38).

In an unprecedented initiative, and in line with an Assembly proposal,¹⁵ the Presidents of the Assembly and the Council issued a joint letter on 15 December 2015, inviting Member States to nominate candidates whose names would then be circulated to all Member States on an ongoing basis. The same letter also ensured opportunities for the candidates to participate in informal dialogues and meetings with the Assembly and the Council, although there was no obligation to take part in the initiative and a decision not to participate would not prejudice the final decision.¹⁶

This novel official nomination process has so far led to 11 officially-nominated candidates all of whom have prepared vision statements and participated in informal dialogues. From the outcome of the nomination process it is clear that there is a strong regional claim: no less than eight candidates have been nominated by states pertaining to the Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Montenegro, Serbia and Slovenia. The rest are supported by Argentina, New Zealand and Portugal. The most striking development is that four candidates are women, reflecting the desire and opportunity for the UN members to achieve a more gender-balanced leadership. The appointment of a woman would mean a final break with an outdated paternalistic tradition of thinking that the Secretariat can only be run by males. Finally, several candidates, including female ones, have experience of holding high positions in international organisations.

¹⁴ In line with UNGA resolution 69/321 of 11 September 2015, in which the Assembly commits to hold informal dialogues or meetings with the nominated candidates.

¹⁵ See resolution 69/321 in which the Assembly requests the Presidents of the Assembly and the Council to start the process of requesting candidates for the position of Secretary-General through a joint letter addressed to all member states, containing a description of the entire process and inviting candidates to be presented in a timely manner.

¹⁶ The format of these dialogues and meetings is laid out in the Letter of the President of the General Assembly to all Permanent Representatives and Permanent Observers, dated 25 February 2016.

Selecting the best candidate: a shared responsibility

The progress made so far is limited to the nomination process and the election campaign. Once the Council assumes its role in the process, its members have the upper hand and might even decide to select among candidates who have not been officially nominated. It should be recalled, however, that while the Council in principle has full discretion to proceed as it wishes, its negotiations and outcome are shaped by an implicit interest to reach a decision that is perceived to be legitimate by UN members in the most basic sense. For this, certain informal rules have evolved over time, such as not selecting a candidate from the P-5 to avoid enhancing even further the power of these states. Another rule, less honoured, is to safeguard some form of rotation between regional groups. Finally, the preferred candidate should have prior experience of high office in an international organisation. In this light, a key question is how the Council will approach the growing concerns and preferences of the Assembly, including gender, and if these will be perceived as basic requirements or lofty aspirations.

A potential game-changer is the reactivated role of the Assembly in which the UN's 193 member states are represented with voting rights. The growing conviction that it must have a more decisive role in the election process carries the risk of standoffs. Unlike previous occasions, it is possible that unless the Council recommendation is consistent with the Assembly's outstanding concerns and preferences, the latter's constituents might well decide to exercise their collective right to object. From this perspective, the Council may be well advised to take seriously its growing demands related to the overarching values that ought to govern the selection of the next Secretary-General. Importantly, the Council should meet all the officially-nominated candidates and recommend more than one of the candidates well in advance, with due regard to professionalism, gender-balance and some geographical rotation.¹⁷ A Council-supported recommendation of several candidates, among them women, would give the Assembly a fair opportunity for real choice, and in this way also share responsibility for the final outcome, including the furtherance of gender equality.

Conclusions

Spain, as a non-permanent member of the Security Council, has a unique chance to make a difference as regards the final outcome. As the Security Council Report points out, the 10 elected non-permanent members may well exert a positive influence in the Council's negotiations: 'While not being able to use their majority to affirmatively determine the outcome, they have in the past contributed to the elimination of a candidate during the early stages' since 'any appointee requires the support of a significant number of Council during the straw poll stage',¹⁸ which is currently

¹⁷ The 1 for 7 Billion Campaign promotes 10 reforms that are needed, whereof one is that the 'Security Council should be encouraged to present two or more candidates for the General Assembly to appoint as Secretary-General'.

¹⁸ Security Council Report (2015), *op. cit.*, p. 4.

underway.¹⁹ Spain is a member of the Group of Friends in Favour of a Woman for Secretary-General, comprising 49 countries, including Germany and Japan, which is in the midst of a campaign to promote the four officially nominated women candidates. Spain has made clear, also in writing, that it prefers and will favour female candidates.²⁰ Its foreign policy on gender equality and inclusion is positively received by other UN members, as manifested, for example, by the unanimous adoption of resolution 2242 on women, peace and security on 13 October 2015. Seizing the opportunity to include woman candidates in the Council recommendation would induce trust in the capacities of the Security Council to reform itself spontaneously and strengthen the image of Spain as delivering on its promises.

¹⁹ The Council held its first strawpoll on 21 July. The second strawpoll is planned for the week of 25 to 29 July.

²⁰ España en el Consejo de Seguridad de NNUU. Balance de 2015 y prioridades para 2016, p. 27.