

Presentation of the S-5 Draft Resolution L.42 on the Improvement of the
Working Methods of the Security Council
4 April 2012, NLB CR-3

Excellencies, dear Colleagues,

Introduction

Thank you for joining us today for the presentation of the draft resolution of the S-5 on the Improvement of the Working Methods of the Security Council.

We have convened this meeting after the tabling of our text last Wednesday as Document A/66/L.42. In our circular letter dated 29 March, we informed you of this decision and sent you a copy of the draft resolution.

We would like to use this opportunity to recall once again the motives for our initiative present to you the content of our resolution and describe next steps.

As you are aware, we, the Small Five (Costa Rica, Jordan, Liechtenstein, Singapore, and Switzerland), have been pursuing the improvement of the Security Council's working methods since 2005. Our initiative was triggered by the World Summit Outcome Document, which declared in paragraph 154 – and I quote -: “We recommend that the Security Council continue to adapt its working methods so as to increase the involvement of States not members of the Council in its work, as appropriate, enhance its accountability to the membership and increase the transparency of its work.”

In pursuing this approach, we have placed the present resolution under the agenda item “Follow-up to the outcome of the Millennium Summit”.

Object / Purpose

Allow us to recall the main reasons why we are continuously advocating an improvement of the working methods of the Council:

As well all know, the UN Security Council is the main UN body responsible for the maintenance of international peace and security. Its binding decisions affect all Member States.

We, in our quality of UN members, are expected and obliged to implement these decisions. Since we all are concerned very directly by what the Council decides, we have a fundamental interest in knowing what is going on. For the vast majority of the UN membership, who is not represented in the Security Council, improved working methods mean better information and better understanding of the Council's decisions.

Besides, the General Assembly as the body which elects the majority of the Security Council members, has a right under the UN Charter to present to the Council recommendations on working methods.

Given these strong factual and institutional ties between the Council and the GA, it seems just logical and reasonable for the GA to recommend practical steps on how the Council can interact better with the wider membership.

By improving the working methods we would create a win-win situation from which both the Security Council and the General Assembly would benefit. We are in favour of a strong, efficient and legitimate Security Council. We believe that a better interaction between the Security Council and the wider membership would result in better decisions and therefore in a more efficient and effective work of the Council. Its actions will be better prepared, better understood, politically better supported and thus better implemented. In short, a better interaction between the Council and the wider membership is necessary and beneficial for the UN as a whole.

Our draft resolution is respectful of the competencies and roles of the General Assembly and the Security Council as mandated in the Charter, and recognises the Security Council as master of its own procedures and working methods. We also recognise and commend past efforts by the Security Council to improve and adapt its working methods. We commend former and present Chairs of the Informal Working Group on Documentation, such as Japan and Portugal, for their tireless efforts to improve the working methods and we urge the IWGD to continue its important task. At the same time, we are convinced that the improvement of the working methods undertaken from within would benefit from a clear signal of political support from outside.

Major elements of the draft resolution

We would now like to turn to the resolution itself in order to present its structure and major content.

The text which we present to you today corresponds by and large to the amended version we circulated in June 2011. We have added a few changes of substance and some of editorial nature in order to take into account suggestions from Member States for which we are thankful.

As you will have noted, the document is composed of two parts: A relatively short resolution and an annex.

Let us go briefly through the resolution first:

After recalling the responsibilities of both the Security Council as well as the General Assembly, the preamble acknowledges the significant steps the Council has already taken in order to improve its working methods, notably through the adoption of Presidential Note 2006/507 and its update 2010/507. At the same time, it emphasizes the need for additional measures with a view to strengthening the effectiveness of the Council and the legitimacy and implementation of its decisions. Here, we have changed the wording a little bit and have used the language of the 2005 World Summit resolution (para. 153).

The preamble of the S-5 resolution also addresses the relationship with the comprehensive reform of the Security Council. While reiterating its support for this reform and acknowledging that the improvement of the working methods will help to promote comprehensive reform, the preamble makes it clear the measures proposed in the present resolution do not require any amendment of the UN Charter and are part of an ongoing process. The resolution also stresses that it is without prejudice to decisions on comprehensive Security Council reform. We have underscored this point in comparison to our previous draft by adding a separate preambular paragraph.

In other words, the S-5 do recognize the comprehensive reform and support it. But, at the same time, we make it clear that our recommendations clearly differentiate

themselves from the overall reform by the fact that they do not require any Charter amendments and that they concern only the working methods of the Security Council in its *present* composition. It is obvious that a Council composed of 20 to 30 members would require further changes in its working methods which are likely to be much more substantial than the ones we are recommending in our resolution.

The operational part of the resolution is short. It first invites the Security Council to enhance and report on the implementation of the measures contained in its Presidential Note 507. In fact, the Council has implemented the measures, which it has adopted itself, in a rather inconsistent manner. OP 2 invites the Council to consider further measures which are contained in the annex to enhance the accountability, transparency and inclusiveness of its work. Finally, paragraph 3 invites the Council to report to the General Assembly by the end of 2012 on action it has taken pursuant to its consideration of the present resolution. We included this date because we are of the view that a report by the end of this year would maintain a certain momentum. We also prefer a separate report to focus on working methods rather than asking for inclusion into the general report of the Security Council since there is a risk that the working methods will somehow disappear in the overall report.

The Annex

The Annex to the resolution contains a set of 21 recommendations. There have been only a few modifications in comparison to the text we have circulated informally. The main substantive amendment is the inclusion of a new recommendation # 11 which addresses the so-called "penholder issue": We recommend to distribute the country-specific and thematic lead roles more appropriately among all Security Council members, thereby giving any member, who wishes to do so, an opportunity to take the lead – or at least a co-lead with a P-5 - in preparing and drafting a resolution. So far, this has been the exclusive domain of the permanent members.

The rest of the Annex corresponds largely to the version we circulated among you last June, save for some minor structural and editorial adaptations. As we explained in the introductory part of our presentation, the recommendations aim at *both* improving the working methods *within the Council itself*, and *in relation the General Assembly*. In essence, we aim at better involvement and interaction at all levels: We want to see elected members better involved in the work of the Council, but we also want the wider membership not represented in the Security Council to be better informed and involved in the Council's work. As an example, we believe that the troop or police contributing countries or the Country Configurations Chairs of the Peace-building Commission deserve better participation in the work of the Security Council.

Certain of our recommendations correspond already to current practice of the Council. But we see merit in "codifying" some of the more important working methods in order to create a compendium of good practices and set a standard for future improvements.

The Use of the Veto

Regarding our recommendation on the use of the veto we would like to underline, at the outset, that the S-5 fully respects the Charter-based right to the veto. We have limited ourselves to presenting three recommendations on how the veto could and should *be used*. While we recognize that the issue of the veto is politically sensitive to some, our recommendations contain nothing radical or revolutionary.

The first recommendation to explain the reasons for resorting to a veto is nothing fundamentally new since it is already practiced to some extent by the permanent members of the Security Council.

The recommendation # 20 to refrain from using the veto to block action in situations of "atrocities crimes" (genocide, war crimes, crimes against humanity) is in line with the 2005 World Summit resolution which states, in its paragraph 139, that "the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity." In our recommendation, we limited ourselves to genocide, war crimes and crimes against humanity which are defined by the Rome Statute on the International Criminal Court, whereas the term "ethnic cleansing" is not a legally defined crime under international criminal law.

Finally, recommendation # 21 would allow a permanent member to declare, when casting a negative vote on a draft resolution before the Council, that such a negative vote shall not constitute a veto. This new option presents advantages both for the permanent members as well as for the Council and the UN as whole. It allows a permanent member to dissociate itself from a Council decision while allowing the Council to go ahead with it. This possibility would be a new gradual development of the change of practice which occurred regarding the handling of abstentions of a P-5. Initially such an abstention was treated as a non-concurrent vote, and this was changed in the course of the years. It may well be that a P-5 deems it necessary, for domestic or other political reasons, to cast a negative vote in order to send a signal while not wishing to block Council action altogether. With our recommendation, we open up an option which would allow a P-5 to maintain its national position while allowing the UN to act.

Timing of the tabling /Relationship with the comprehensive reform

As you know, we presented a draft text for a General Assembly resolution about a year ago and have hoped to engage the Security Council on a constructive dialogue about our proposals.

After a year of informal consultations, we believe that the time is ripe to give the General Assembly an opportunity to pronounce itself on the issue.

We are aware that working methods are also part of the comprehensive reform of the Security Council which the General Assembly is discussing for almost twenty years. We, as S-5, are supportive of this reform process. We concentrate on the working methods and do not pronounce ourselves, as a group, on the other issues.

We believe that progress on working methods, while an indispensable part of comprehensive Security Council reform, is irrespective of progress in the enlargement of the Council. The different, while complementary, natures of the two clusters are further illustrated by the fact that improvement in the working methods of the Council is a dynamic on-going process, whereas enlargement, under all models that have been suggested, would require amending the Charter of the United Nations. Our proposals do not prejudge the outcome of these negotiations. But rather than waiting for the outcome of the comprehensive Security Council which is completely open for the time being we would like to improve working methods within the Council and its relationship with the General Assembly here and now.

If the General Assembly is unable to agree on a number of simple and incremental steps on how to improve the working methods and its relationship with the Security Council *now*, we wonder how the much more complex comprehensive reform will be achievable in the foreseeable future.

On the other hand, the endorsement of these rather pragmatic and concrete recommendations by a resolution of the General Assembly may well create a positive momentum for the overall reform process and channel the discussion into more pragmatism, realism and common sense.

Next steps

Since the draft text has been circulating for a year now and we have been consulting with the wider membership extensively we plan to move expeditiously towards an adoption by the General Assembly. We have written to the PGA requesting a date for taking action in May, preferably on 16 May in the afternoon, and we are currently awaiting his confirmation. In the meantime, we will continue to reach out to you and would of course welcome statements and commitments of support.

Conclusion

Excellencies, dear Colleagues

Let me conclude by saying that the only self-interest that the S-5 has in this resolution is to make the UN work a little better. We have come up with a set of recommendations which we believe will be useful for this common goal.

Most of us are members of the Security Council once in a lifetime. Some have never been or will never be. So far, the only influence we can exert on the Council is by electing the non-permanent members. Now, we are offering you a toolbox which allows the wider membership to be better informed and consulted on what is going on in the Council. As technical as this resolution on working methods may look, its adoption will also be an expression of how seriously we want to be taken as UN member States. Would you keep things as they are or would you rather prefer to be treated with some more transparency and openness? The choice is yours!

We thank you for your attention and are grateful for your support!

