



**STATEMENT BY MR. NIRUPAM SEN, PERMANENT REPRESENTATIVE, ON ACCOUNTABILITY, IN PARTICULAR THE RELATIONSHIP BETWEEN THE SECURITY COUNCIL AND THE GENERAL ASSEMBLY, INCLUDING REPORTS OF THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY AT THE SECOND MEETING 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 FEBRUARY 14, 2005**

Mr. Chairman,

We are pleased to see you chairing this meeting. Our congratulations also to Ambassador Paulette Bethel of the Bahamas on her election. We assure you both of our fullest support and cooperation in the performance of your tasks.

Mr. Chairman,

We have been informed that the thrust of this Working Group over the next few days will be the Cluster II issues pertaining to the working methods and decision-making processes of the Security Council. We commend you for this particularly timely initiative, given the feeling among many delegations that the High Level Panel has not paid sufficient attention and focus to what *must* be an integral part of any reform package of the Security Council that is sought to be brought in. The Open-Ended Working Group has played an important role in bringing about some reform in the working methods of UN Security Council but much more remains to be done.

Mr. Chairman,

The Charter of the United Nations has delineated clear lines of responsibility between the General Assembly and the Security Council. Articles 11, 12, 15, 24 and 25 are particularly relevant. Article 24.1 states that member States "*confer*" on the Security Council primary responsibility for the maintenance of international peace and security, *and that the Security Council "acts on their behalf"*, that is in respect of the wider membership represented in the General Assembly. Articles 15 and 24 (3) require Security Council to submit and the General Assembly to receive and consider annual and

special reports. Additionally, various General Assembly resolutions have clarified this relationship, including resolution 377 (V) of 3 November 1950 (*Uniting for Peace*) and resolution 58/126 of 19 December 2003. In discharging its responsibility, it is, therefore, important that the Security Council responds to the mandate embodied in the Charter and to the comments and discussions during the discussions in the General Assembly and is procedurally transparent. The faithful observance of these norms alone can secure and reinforce a healthy constitutional relationship between the General Assembly and the Security Council.

Over the years, there has been an intense debate within the United Nations on this subject; we ourselves have had occasion to air our views; we shall, therefore, restrict ourselves to the main areas of concern.

- The annual report of the Security Council to the General Assembly should be more *comprehensive, substantive analytical and forthright* and not a mere compilation of documents, already circulated. In our understanding, we would expect an institution's annual report to include assessments of (i) *how far its activity or decisions had been helpful; for instance was the political and security situation in a given country or region better or worse because the Council had acted there? and (ii) its own performance as an institution.*
- A shift in Council meetings – *towards fewer closed consultations of the whole and more open meetings*, allowing the participation of non-members in the debates, thereby enabling the views of the wider committee of nations to be heard and taken into account in the Council's consideration of vital issues of global import. We are of the opinion that virtually **all** Council meetings, with the exception of those involving negotiation of, texts or on issues which require confidentiality, could be kept open. It will be recalled that in December, 1994 the UN Security Council held a public debate on its working methods. Some improvement has taken place but in substantial measure the promise of the Presidential Statement following this debate remains unfulfilled. We are yet to see an open debate at a very early stage of considering an issue so that the wider membership can contribute to the final decision taken. Ultimately, it is the purpose that is important and which decides everything else in this area: is the purpose to get some legitimacy and silence criticism or is it to get an input from member States into decision-making so that crucial decisions are truly optimal.
- Unless an item is introduced in reaction to major events of the day, *all open debates involving the participation of the general membership of the organisation, should be notified at the beginning of the month when the programme of work is presented.* Surprise scheduling should be avoided wherever possible and, if absolutely unavoidable, measures to inform all members concerned by way of circular mailer by fax/e-mail or telephonic messaging with the relevant Missions would be desirable.
- *All non-members of the Council desirous of participating under rule 37 of the Council, should be allowed the time they require to convey their views.* If

this is not possible due to the exigencies of the situation, and we believe this should be utilised exceptionally, a standard pre-announced time-limit should be imposed on all, members and non-members alike without any discrimination.

- *The increasing resort to new and fanciful thematic issues as the crowning glory of non-Permanent member presidencies will need to be rationalised and restricted in the interest of time better spent on the consideration of pressing current issues on the maintenance of international peace and security. The need for the Council to spend wasteful time on thematic issues, better left to other UN bodies, is also questionable.* This transgression could even be condoned if the discussions added value. Unfortunately, they add nothing to either the norms set by international law or to its practice. I would like to refer here not to the Report of the High Level Panel but to the High Level Panel itself. One of the leading members, former Prime Minister of Russia Mr. Primakov, afterwards wrote a detailed article in which he specifically said that issues like women, children in conflict, protection of UN personnel and the like should never be discussed by the Security Council but left to the General Assembly.
- *The idea of wrap-up sessions, conceived presumably to allow for stock-taking at the end of a month's work, should not be utilised to advance controversial issues that selectively propel the national agendas of members concerned.*
- Briefing by Council Presidencies of non-members of the Council tend to be arbitrary and ad hoc in their regularity. Some Presidencies tend to attach due importance to this process while many have been indifferent to this requirement. It has been noticed that in several instances, despite scheduling of briefings to the general membership, these either do not take place or are perfunctorily carried out. In fact, briefings to the media are far more comprehensive and regular than those to non-members. Briefings by *Council Presidencies need to be regular, thorough and qualitative if the Council is to fulfill its commitment towards ensuring adequate transparency in its functioning among member states of the Organisation.*
- I shall not speak about UNSC's interaction with TCCs because we have a separate agenda item on this. I would like to say in conclusion that because the Rules of Procedure are provisional, any reform of working methods has a certain fragility. Those opposed to definitive Rules of Procedure claim that the UNSC can then be created. In the area of working methods, we have not seen much creativity and obviously much more creativity is required.

Today, Iraq is in the news in a hopeful and positive sense. Very recently, the International Peace Academy and the United Nations University have brought out a study called "The Iraq Crisis and the World Order: Structural and Normative Challenges". Cluster II issues have nothing to do with this and yet there is almost a page on these issues with some very radical suggestions such as inviting non-members on to Committees. This shows the seriousness of the situation, the substantial inadequacies

in working methods and the need to address these. In conclusion, I would only wish to say that ideas on reform of working methods can only become a material force when there is a critical mass behind these in the UNSC and of course in the OEWG.

I thank you, Mr. Chairman.

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