



**STATEMENT BY MR. NIRUPAM SEN, PERMANENT REPRESENTATIVE, AT THE THEMATIC MEETING ON THE ROLE OF THE GENERAL ASSEMBLY IN THE SELECTION OF THE SECRETARY-GENERAL – AD HOC WORKING GROUP ON THE REVITALIZATION OF THE GENERAL ASSEMBLY ON APRIL 19, 2006**

Mr. Co-Chair,

We thank both of you for convening these discussions. It is still the season of Easter and we can look forward to the resurrection of the General Assembly. Obstacles that appear big and formidable when an institution is on its knees, disappear when it rises to its feet. In an earlier discussion, there was a reference to the absence of media attention (to the General Assembly). The media is attentive when the General Assembly discusses something important: even before we have begun our discussions today, there is an article in today's Financial Times. This is another indication of how the GA can revitalize itself.

It is important for us to identify the problems and address these. Our point of departure is the actual situation. On the one hand, there is a sense of alienation and disempowerment among the broad majority of Member States, made worse by the Security Council's continual encroachment on the prerogatives of the General Assembly. On the other, is the clear lesson of the Volcker Report on the Oil-for-Food Programme that the Secretary General's lack of authority was not because of any management problem but because the Security Council (specially its permanent members) did not let him have any (incidentally, this has implications for his managerial authority, important in the context of management reform). Both these point to the necessity of a Secretary General who would be independent of such pressures and this can only be if he is elected by the General Assembly not just *de jure* but *de facto*. This would also establish through action the primacy and authority of the General Assembly. Only then would he truly address the interests of the downtrodden and uphold the sanctity of the Charter. As Albert Einstein said: "Problems

cannot be solved by the level of thinking that created them". That is why a new approach is necessary. That is why the views of Security Council as communicated by you are totally inadequate in terms of addressing these problems.

Quite clearly, there is Security Council pressure on the Secretary-General and on the General Assembly. The Secretary-General often has to be a Secretary vis-à-vis the Security Council and a General vis-à-vis the General Assembly. This has to be reversed. It is, therefore, necessary to ensure that a future Secretary-General would always be a General vis-à-vis the Security Council and a Secretary vis-à-vis the General Assembly. General Assembly Resolution 11/1 of 1<sup>st</sup> February, 1946 belongs to the past. Let the dead bury the dead. At that time, it was necessary to straddle the East West divide (as the distinguished Permanent Representative of Mongolia also argued) and the mode of selection facilitated this. Today, it is necessary to straddle the North South divide and the current mode of selection certainly does not facilitate this. What we are *de facto* doing is forgetting the objective instead of changing the selection process.

There is an obvious need for amending and improving upon the selection procedure of the Secretary-General to bring it in line with current realities, which will allow the organization to better respond to the challenges that it faces. In contrast to the necessity of a new Secretary-General responsive to the aspirations of the broader UN membership, in particular developing countries, and one who comes to office backed by the legitimacy of a wider support base, the current arrangements are cloaked in secrecy and devoid of formal procedures, which is a great disservice to the principles of transparency and democracy. Who the candidates are is often as much of a mystery as how they are considered, a subject of intrigue and much speculation by the media. This process works to keep many qualified candidates - from getting due consideration. This needs to change.

The distinguished Permanent Representative of Canada said that the UN Security Council proposes and the General Assembly disposes, echoing the proverb that Man proposes and God disposes; this is only on the surface: in reality, the General Assembly proposes and the Security Council, godlike, disposes. We need to shift the focus from the Permanent Members of the Security Council to the Permanent Members of the General Assembly, from the P 5 to the P 191. Incidentally, where the P 5 played a role we have the PBC and where the P 191 played a role we have the HRC. The difference is palpable

and does not need to be laboured. Such a process (inclusive, transparent and General Assembly-driven) would make Article 100 a reality. Abstract *de jure* approval can be done by a rubber stamp. A real *de facto* selection can only be done by a truly empowered body. The UN Security Council may claim to be on the side of the angels. We can agree so long as we understand the angels to be fallen angels.

In the process of UN reforms, the difficulties in management reforms or mandate review or budget, should be placed in the context of the General Assembly whose concrete actions, such as that on the establishment of the Human Rights Council, demonstrate its movement towards a revitalized status and the importance of transparency. The time is, therefore, ripe for a greater *de facto* and not just abstract *de jure* General Assembly involvement in the selection of the Secretary-General.

The selection process is far too important to be left entirely to the Security Council. The Secretary-General's election should not be limited to merely "consulting closely with other Security Council members to reach agreement on a candidate" followed by approval by acclamation by the UNGA. At the same time, it should not be allowed to become a divisive issue between the two bodies. The need for the General Assembly to address this issue arises from the fundamental purposes of Charter – to address peace and security as well as development. A predominant Security Council role during the selection process neither provides legitimacy of the wider membership nor the crucial ownership in addressing development issues. Without addressing the development problems besetting the vast majority of UN membership, security in its full sense cannot be achieved either. It is thus imperative to address both development and peace and security in a balanced and self-sustaining manner.

The practice of the General Assembly accepting the Security Council's recommendation and appointing the Secretary-General by acclamation - has to be seen against the legal requirement under Article 97 of the UN Charter, which recognizes that "The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council". After all, the General Assembly adopted resolution 51/241 on 22 August 1997, one of the most important for the revitalisation of the General Assembly through action on a specific issue of special political importance and some urgency. Paras 56, 57 and 60 of this Resolution are worth recalling: "56- the process of selection of the Secretary General shall be made more transparent"; "57- The General Assembly shall make full use of

*the power of appointment enshrined in the Charter in the process of the appointment of the Secretary General and the agenda item entitled "The Appointment of the Secretary General of the United Nations": "60 – Without prejudice to the prerogatives of the Security Council, the President of the General Assembly 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".*

No progress has been registered in the role of the General Assembly in the selection process since the adoption of resolution 51/241 almost a decade ago, because, so far, no concrete step was taken, especially the amendment of Resolution 11(1). This working group should, therefore, consider amending resolution 11(1) of 1946 for consideration by the General Assembly to improve the selection process of the next Secretary-General. This is the key to immediate action; the other aspects are secondary.

The amendments to resolution should propose that "it would be desirable for the Security Council to proffer a panel of at least three candidates for the consideration of the General Assembly." It is not for the General Assembly to send any names to the Security Council; it is for the Security Council to send a panel of names to the General Assembly which is the deciding authority, as clearly mandated by the UN Charter. The role of the General Assembly President is clearly defined in paragraph 60 of resolution 51/241. He could conduct consultations with regional groups on the panel of names to allow for a consensus to emerge around one candidate or at least a clear majority to emerge around a candidate. There could also be opportunities for the candidates themselves to meet members.

With great respect to my distinguished colleague from Canada who has done much to highlight this issue, I must respectfully but very firmly and fundamentally disagree with him. If we follow his prescription, we would not revitalize the General Assembly or achieve our objective of a quick change in making the selection process inclusive and transparent leading to an optimal choice of candidate: we would dissipate our energies on long-term matters that cannot be brought to a conclusion quickly such as the term of office, the setting up of a search committee and the like. We would thereby lose the interest and momentum available in the year of reform. Let me emphasize that we have no problem at all with these ideas; our central problem is with not amending 11(1) which clearly shows the net effect and direction of the Canadian proposal. It is important to concentrate

on the selection procedure and limited criteria through amending 11(1) which can be brought to a conclusion quickly. The Canadian proposal in its totality will give us an impression of revitalization without real revitalization, a substitute for the real thing, engage us in much ado about nothing now, in debate on what cannot be implemented now. In short, while the Canadian proposal is undoubtedly fruitful for the future, it is a blind alley for the present. My distinguished friend said that the process has not begun. It has not because 11(1) was not amended.

It would be appropriate that a new Secretary General be sensitive and responsive to the development imperatives of the developing world. The existing practice of regional rotation could be incorporated among these principles, which would contribute in some measure to reducing the arbitrariness of the selection process. Resolution 51/241 of 22<sup>nd</sup> August, 1997 in para 59 clearly refers to "due regard to regional rotation and gender equality". In so far as the timing is concerned, the General Assembly could rapidly adopt these measures during its 60<sup>th</sup> session and well in time for the selection of the new Secretary-General towards the end of the year.

What is proposed is concrete but extremely modest. The contradictions of the SG's role are Charter-based but have been made worse by the P 5. How can the SG be an honest broker if he is sometimes broken into being the P-5's official executioner? While his independence may be strengthened through a single term it can only be consolidated through direct and actual election by the General Assembly. Only then would he have the moral courage to resist pressures. Only then would we have an individual who combines an inner sense of justice with sensitivity to social injustice; individual creativity with sensitivity to the developmental aspirations of the vast majority of countries; individual diplomatic and intellectual skill with respect for cultural diversity; an ability to communicate with a greater ability to listen; originality with the common touch and a sense of the common purpose.

I thank you, Sir.

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