



STATEMENT BY MR. NIRUPAM SEN, PERMANENT REPRESENTATIVE, AT THE 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 AT THE 62ND SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON SEPTEMBER 02, 2008

Mr. President,

Thank you for finally convening this meeting of the Open-Ended Working Group to discuss its draft report for the 62nd GA.

GA Decision 61/561 gave a clear and unanimous mandate to the President of the General Assembly to commence intergovernmental negotiations at the 62nd GA on the basis of progress achieved and the proposals of all the member states. Yet, with less than 2 weeks to go for the conclusion of the 62nd session, this mandate so far remains unimplemented. The report may do its best to give the impression of movement without real movement and give the mask of progress but nothing can conceal this failure. It was amply clear in the 61st session that we cannot have a unified internally consistent initial basis for negotiations. Hence the unanimous mandate 61/561 at the end of the 61st session. The 62nd session has tried the same experiment and failed with the same failure, only more ingloriously - instead of implementing a clear unanimous mandate which envisaged an initial internally inconsistent basis for negotiations which was envisaged to become more coherent and consistent through the process of negotiations. In place of such an implementation, all this elaborate machinery – overarching groups, seven pillars, task forces – has only meant so many diversions, false trails, red herrings, obstacles and impediments rather than concrete implementation of a unanimous mandate. Instead of going down the main road, all this rushing down blind alleys has inevitably meant coming to dead ends.

The draft OEWG report ignores the factual observation of even the Task Force Report that all delegations are in favour of commencing inter-governmental negotiations. It ignores the views of the small and island states grouped around Resolution L69 who have repeatedly called for the commencement of inter-governmental negotiations. In

short, it ignores the views of the majority and is simply an attempt of a tiny and unrepresentative minority to again delay inter-governmental negotiations and to redefine and dilute the unanimous mandate of the 61st session. As in previous sessions since 1994 the draft text seeks to push this issue to the next session: as a radical thinker once wrote, history repeats itself, the first time as tragedy, the second as farce.

The same thinker in the same text said that when we do real things then the content goes beyond the phrase. When we do not do anything real, then the phrase is more than the content, in fact the phrase is everything and the content nothing. The draft that is before us today has been selectively discussed with a few chosen delegations. How can we build in an open, inclusive and transparent manner on something whose basis is non-open, non-inclusive, non-transparent, crafted by a narrow group of four who cannot be considered representative? This is not democratic but anti-democratic, not transparent but opaque, not inclusive but exclusive, not open ended but closed to the overwhelming majority. Further, the views and amendments of a minority have been incorporated, while ignoring those of the overwhelming majority. Their aspirations are clear – commence intergovernmental negotiations now, in an informal GA plenary, without preconditions, so that the long delayed comprehensive reform of the Security Council can begin. This majority does not understand why intergovernmental negotiations have not yet started; it questions why the mandate of the OEWG must be renewed year after year, when it is clear that its deliberations are not moving the process forward; it rejects attempts by a few to block commencement of negotiations through obfuscation.

As mentioned in the "Alice in Wonderland"/"Alice Through the Looking-glass" books, we have been running very fast in order to stay where we are, in fact to regress. We have been wandering not even in wonderland but in a wilderness. The draft OEWG report is but the stamp and seal of approval on this bare-faced mummery, the finishing touches on this make-believe, looking-glass world. We cannot be a party to this. There is a clear unanimous mandate given by the 61st session. We should implement it. There is still time to commence intergovernmental negotiations during this session. It is with this hope that I will outline some of our concerns with the draft report presented by you. Let me also reiterate that we cannot accept a report that does not address these concerns.

Mr. President,

Despite the serious misgivings that many colleagues articulated at the last OEWG meeting about the 'seven principles', the draft report and the draft decision repeatedly refer to these principles as having been supported and their relevance being reaffirmed. This is far from accurate. The 'seven principles' may have been generally accepted as useful in the context of OEWG only but they most emphatically do not apply to inter-governmental negotiations. Out of deference to you, Mr. President, we, like the silent majority, had not theoretically challenged these principles on earlier occasions when

you had referred to them though we had clearly said that life had moved on and that these principles in any case cannot supersede Decision 61/561. Most important of all these have never been inter-governmentally agreed on and therefore cannot form part of the basis for inter-governmental negotiations. Many of the principles are irrelevant at this stage, and some principles appear to be there only for misuse by some Member States. They certainly cannot be a basis for intergovernmental negotiations.

There is little point in using language about "general agreement" from the Resolution setting up the OEWG. At that time it was expected to promote such agreement and facilitate reform. Over the last fifteen years has it done so? It has become a prolonged excuse for doing nothing, a mere talking shop, an ersatz for reform, a justification of inaction. Did we follow this path for the PBC or HRC? No. That is why we have these bodies rather than mere talk about how to set up these bodies. Attempts to straitjacket the negotiations under the term "general agreement" cannot hide the true intent of its proponents, i.e., the desire of a small minority to block the yearning for change of the overwhelming majority. The reference to this term has been extracted out of context from some previous resolutions. Let us not forget that Decision 61/561, adopted not only by general agreement but unanimously, has not yet been implemented. If we need to specify the degree of support required in this process towards reform, let us use a term that has been accepted, i.e. 'the affirmative vote of at least two thirds of the Members of the General Assembly' from GA Resolution 53/30. We would insist that the term 'general agreement' be deleted in the chapeau of the draft decision as well as in para (c), and it be replaced with the above agreed formulation.

Let me now refer to what many will argue is the 'progress' achieved in this draft decision over previous OEWG reports, i.e., para (e) that purportedly 'decides' to commence intergovernmental negotiations. Yet, this para does not talk of when such negotiations are to begin or even where they are to begin. Moreover, the draft decision also includes various erroneous and irrelevant references, which will only serve to put pre-conditions on any negotiations rather than move them forward. Actual commencement of negotiations remains a chimera.

If we genuinely want to commence negotiations, we need to be more specific, and eliminate all pre-conditions. We still have a little less than 2 weeks in this session - we would propose that we mandate negotiations to commence within one week of the adoption of the draft Decision, in an informal plenary of the GA, which is the only place for such negotiations to be conducted if they have to be open, transparent and inclusive. Further, intergovernmental negotiations, as the name suggests, should be on the basis of proposals of member states, clustered around key issues. These changes would permit us to salvage something from this session by actually commencing negotiations during this session.

That takes me to para (d), which attempts to define the basis for negotiations. It is not clear why we have to indulge in a selective identification of issues and documents,

which are irrelevant to the commencement of negotiations. Once we have decided that the negotiations are to be based on the proposals of member states i.e. para (d) (1), there is absolutely no need for sub-paras (d)(2) and (d)(3). On the contrary, these can only serve to put road-blocks to the commencement of negotiations. We seek deletion of these two sub-paras. The draft decision on the draft OEWG report was first made public at a lunch in the appropriately named Racquet Club hosted by the distinguished Permanent Representative of San Marino. At the lunch, many Permanent Representatives, including those of South Africa and Singapore (the Chair of the Federation of Small States) called for the deletion of these paragraphs. Their advice has been ignored. The advice of many African states and small and island states who cosponsored the L69 Resolution has also been ignored. In short, the principle followed is to set aside the views of the majority and go by the views of a tiny minority. At lunch, there were about forty members present but this was considered unrepresentative and therefore the number was reduced to four (to make it more representative) in order to consider and craft the draft decision. The game therefore shifted from the Racquet Club to playing tennis without rackets and without nets, in fact without rules, especially the democratic rule of majority. As a Roman writer said of fifth century Gaul "*Ibi totum licet*" (There, anything goes).

We also presume that the reference to 'a basis' rather than 'the basis' at the end of para (d) is but a typographical error, which must be rectified.

A final point, Mr. President. Originally, you had correctly placed para (f), dealing with the report of the 63rd session OEWG, after current para (c). Yet, apparently at the instance of one country, its location has been changed. A similar construction in Decision 61/561 allowed some countries, quite disingenuously, to argue that since the paras before and after para (d) in that Decision referred to the OEWG, para (d) also implicitly referred to the OEWG. This was despite the clear understanding at that time that para (d) referred to negotiations in the GA plenary. We do not wish to see history repeat itself – let me be clear on our request that para (f) must be repositioned after para (c), while paras (d) and (e), which do not refer to the work of the OEWG, must be placed thereafter.

I have circulated, along with the written version of my statement, a summary of the textual changes that we are seeking. We request you to take these into account and make the necessary amendments. We remain hopeful that intergovernmental negotiations will be commenced during this session, so that a reform of the Security Council, including an expansion in permanent and non-permanent members, reform of its working methods and access for small and island states, sees the light of day. On an earlier occasion, I had referred to the great seventeenth century scientist Pierre Fermat who discovered the principle of least action. We should not go better and discover the principle of no action. It is also worth remembering that the General Assembly cannot be revitalized except through action. The debate therefore is not over

phrases but over action: the choice is between language that leads to action and language that merely leads to further talk and inaction.

I thank you, Mr. President.

Amendments sought in the draft OEWG report

- Para 8: Delete the phrase “that were accepted” after the phrase “... seven principles” in line 9.
- Para 13: Delete the phrase “and reaffirmed their support for the seven principles” after the phrase “Member States exchanged views” in line 2.
- Para 15: Delete the phrase “the relevance of the seven principles and” after the word “reaffirmed” in line 3.
- Chapeau of the draft decision should be amended to read as “Mindful of the importance of the affirmative vote of at least two thirds of the Members of the General Assembly on the Question of Equitable Representation on....”
- Para (c) of the draft decision should be amended to read as “...the General Assembly aimed at achieving the affirmative vote of at least two thirds of the Members of the General Assembly in the consideration of all issues ...”
- Sub-paras (d)(2) and (d)(3) : Delete these sub-paras.
- The last line of para (d) should be amended to read as “form the basis for intergovernmental negotiations”.
- Para (e) should be amended to read as “Decides also, building on the progress achieved so far, particularly during the sixty-first and sixty-second sessions, as well as the positions of and proposals made by Member States, to commence, within one week of the adoption of this Decision, intergovernmental negotiations on the basis of the positions of and proposals made by Member States clustered under key issues, in an informal plenary of the General Assembly, 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 Security Council, with the objective to seek a solution that can garner the affirmative vote of at least two thirds of the members of the General Assembly”.

- Para (f) to be repositioned between current paras (c) and (d).

**Extempore remarks by Ambassador Nirupam Sen, PR in exercise of
Right of Reply at the OEWG meeting on September 2, 2008**

I regret that the distinguished Permanent Representative of Italy is not in the Chamber. First of all, let me welcome him to New York, to this family of Permanent Representatives with all my heart and in all sincerity. I am glad that he is continuing the debating tradition of Marcello at whose departure I was worried that I was losing a debating partner. I am afraid that the distinguished Permanent Representative of Italy misinterpreted my statement. At no stage did I say that I do not want minority views reflected in the document. My demand was much more modest - that majority views should also be reflected in the document, that minority views should not displace majority views. Incidentally, by identifying with the minority, the distinguished Permanent Representative of Italy admitted to the fact that the UFC is in a minority.

There were also a couple of factual inaccuracies when he spoke on the earlier reform process. Contrary to what he said both PBC and HRC were set up by a vote. The UNSC voted on the PBC and the GA voted on the HRC.

We have no difficulty in discussing regional seats. The point is not whether to discuss or not discuss regional seats. The point is whether to simply go on discussing regional seats or put this to the test of negotiations. Of course it is safer to just talk about regional seats. One could talk about them forever.

Apropos of the remarks of one of his UFC colleagues, I admit to being part of "the forces from multidimensional sources". The meaning of this may be obscure the rhyme is indisputable. I suppose when one is going away, one tends to be a little poetic.

As for divergences, Decision 61/561 is clear. It mandates negotiations on the basis of these divergences and implicitly envisages these being watered down and a more coherent and more cohesive text emerging through the process of negotiations. But this cannot happen if we do not even begin to negotiate.

I agree that to reform UNSC comprehensively is ambitious. I suppose those seeking to prevent this are guided entirely by lack of ambition and altruism. I suppose they do not have ambition because, as Shakespeare said, ambition is made of sterner stuff.

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