



The Permanent Mission of the Republic of Kenya
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SECURITY COUNCIL BRIEFING

THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

WEDNESDAY, 26 OCTOBER 2022 (3:00PM)

STATEMENT BY MS. CATHERINE NYAKOE, LEGAL COUNSEL

Thank you, Mr. President,

I thank Under-Secretary-General, Mr. Miguel de Serpa Soares, for his briefing.

I also thank the Russian Federation for initiating this meeting. It provides an opportunity for Member States to assess the challenges and opportunities of a strong and independent Secretariat, particularly in regard to the good offices of the Secretary General.

Mr. President,

Humanity needs a strong independent Secretariat and good offices of the Secretary General that are credible and respected. They are needed to intervene, to mediate, offer relief in conflict situations and emergencies worldwide, and to respond to the urgent call for development.

Over time, the demand for the Secretary General's good offices, whether expressly provided for, such as under Security Council Resolution 2646, or through his envoys, have been growing.

In regard to the war in Ukraine, which is the reason for today's meeting, the Secretary General's good offices were consequential in achieving the important Black Sea Grain Initiative. However, they have not been engaged in negotiations to end the war.

One of the reasons for this, in our view, is the impact of years of member states questioning the Secretariat's impartiality and eroding its independence. The most powerful states, including some members of this Council, have played a disproportionate role in this unfortunate trend.

Prominent examples of this situation, during our present term on the Council, are the claims and counter-claims of compromised impartiality when the Secretariat is reporting on disarmament, proliferation and banned weapons in Syria. It appears that there is now a fully formed view that the Secretariat's impartiality equals standing on the halfway line between conflicting parties. However, this is not what the Charter means by impartiality. Instead, the Secretary General and the Secretariat are an independent organ whose first and last loyalty is to the upholding and defence of the Charter.

Mr. President,

Even as we push for urgent Security Council reform, we acknowledge that a more urgent task is the membership rededicating itself to the principles of the Charter. Otherwise, multilateralism, as expressed in the United Nations, is unlikely to come close to meeting its promise.

We propose that the most important starting point is to renew our respect and utilisation of the Secretary General's good offices for the prevention and resolution of conflicts.

And we propose **three ways** to strengthen those good offices.

The first is to redefine impartiality and protect the independence of the UN Secretariat. The reason Article 100 protects the Secretary General and the staff from external influence or instruction is not just to be a neutral referee. It is to enable them to speak truth to power in the defence of the letter and spirit of the Charter. In practice, this means the membership appreciating that the Secretary General is not partial to a party in a conflict when he speaks up about its outrages against the Charter.

The Secretary General must be **fully partial** to the Charter, and he should fully exercise Article 99 without regard for the approval or disapproval of any state, no matter how pivotal in global affairs. His or her doing so is a duty that cannot be shirked and therefore his good offices should not be marginalised from the mediated settlement of conflicts. This should be the case in regard to the war in Ukraine or other wars involving members of this Council.

Second is the appreciation and use of the Secretary General's fact-finding capabilities. In order to strengthen the role of the UN and enhance its effectiveness in maintaining international peace and security, Member States adopted resolution 46/59 in 1991. The resolution recognises the need for the Security Council to have knowledge of all relevant facts in performing functions relevant to its mandate. It further recognises the Secretary General's fact-finding capabilities, requires him to monitor the state of international peace and security for early warning and share relevant information with the Security Council, making use of the information-gathering capabilities of the Secretariat.

The Security Council needs to make use of the reservoir of capabilities under the Secretary General to contribute to the effectiveness of our discussions and decisions.

In the situation in Ukraine, rather than argue about the facts on the ground here in the Council, where most members have no independent means to ascertain their veracity, we **challenge** the conflicting parties to agree to UN fact finding and verification. This would be key to preventing and minimising actions contrary to the Charter and International Law.

Third is on the need to continually strengthen regional good offices. Article 33 recognises the important role of regional agencies and arrangements in dispute resolution. Strong regional mechanisms have increasingly played a key role in preventing escalations of conflicts and their termination in the Security Council.

We are proud of Africa's Peace and Security Architecture and its deployment of multi-layered and coordinated good offices. From the Chairpersons of the Union and the Commission, the Panel of the Wise, and the regional economic communities, it offers options and redundancies in the protection of peace and security.

Strengthening the good offices of the Secretary General and linking them operationally and strategically to Africa's improving architecture would be an

immense win for peace. We urge other regions to take steps to develop and deploy similar regional arrangements for early warning, prevention and resolution of disputes.

Finally, Mr. President,

I reaffirm Kenya's commitment to the purposes and principles of the UN Charter and our support for independence and impartiality of the Secretary General and his staff.

Thank you