



PERMANENT MISSION OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS

Open-ended consultations on Security Council reform, 20 February 2007

The size of an enlarged Security Council

Statement by Mr. Patrick Ritter, Deputy Permanent Representative

Mr. Facilitator

When we spoke at the first meeting of the Open-Ended Working Group, we made it clear that a proposal on Security Council enlargement must meet a number of criteria and benchmarks. Among other things, such a proposal must be achievable and ratifiable. What we mean by that is that such a proposal must find the largest possible political support in the General Assembly, which is necessary in order for the proposal not only to be adopted, but also to enter into force thereafter. The adoption of a proposal by barely the necessary majority in the General Assembly could lead to a prolonged stalemate in the ratification process and thus create a situation that is potentially even less desirable than the status quo. There are several elements that play a role in this respect, and the question of size ranks prominently among them. This is therefore an important element of our considerations on the topic at hand, while not the overriding one. We continue to use the relevant parts of the outcome document as a yardstick for any enlargement model.

The increase in the membership of the United Nations is often quoted as the reason for the need to enlarge the Security Council. While this is certainly not the only reason, it does indeed constitute a strong incentive for enlargement. A quick look at the numbers in question makes it clear that it is impossible to bring the percentage of the membership serving on the Council in line with the ratio at the early days of

the United Nations, because we would then end up with a Council of more than 50 members, far from the number contained in any enlargement proposal ever entertained. So if this cannot be the goal of enlargement, what should be?

The Security Council is, for better or worse, clearly the UN organ which makes the most essential contribution to the public face of the United Nations. While it occupies a central place in the perception of the States as well as of a broader public, it is also very often criticized – usually for lack or even absence of action on a particular topic or situation. Many of us deplore the power of the hidden veto, the failure to draft unambiguous mandates – but rarely is the view expressed that the Council is not performing better, because it is too small. So the main reason for enlarging the Council is indeed representation – a term also found in the outcome document 2005 and one that we at least believe to have two meanings.

First, there is of course the principle of equitable geographical representation and there is no other UN body where this principle is observed in such a lopsided manner. Clearly, the regional groups representing the South need to be given a stronger voice, including through stronger numerical representation. Second, we also believe that “representation” means a reflection of the view of the membership as a whole which flows naturally from the mandate given to the Council to carry out its task also on behalf of those States that do not serve as members. This is more difficult to solve and can certainly not be addressed through enlargement only. Measures such as those suggested by the S-5 for stronger involvement of non-members in the work of the Council are therefore a necessary complement.

It is an open secret that the Security Council in some ways revolves around a topic that enlargement proposals never address and indeed should not address: The existence and position of the current members of the Security Council. Much is said about the need to create a new balance of power in the Council, and indeed this should be an overriding consideration in any enlargement proposal. While this topic is of course related mainly to the cluster dealing with categories of membership, we

cannot separate it entirely from the question of size either – as indeed all five baskets are interrelated.

Based on the above considerations, our position on size is as follows: The enlargement of the Council should be moderate in numbers and perhaps be limited to six new seats. We do not see *per se* a necessity to enlarge the category of non-permanent seats as currently provided for under the Charter, even though this would be in our self-interest as a small State. However, we believe that an increase in the non-permanent category would enhance the chances of serving as a non-permanent member only marginally – for us nationally and for many others as well. And it would certainly do nothing to achieve the goal of creating a new balance of power. We therefore believe that the six new seats should be limited to a new category of membership, on the nature of which we will express ourselves at a later stage during the informals. Such an enlargement must be accompanied by a review clause which is mandatory and specifies some of the aspects a review – to be held after enough experience has been gained with the enlarged Council –should encompass, such as categories of membership, size, veto and perhaps others as well. A ratio of five permanent, six long-term and ten non-permanent members seems to us a very good point of departure for creating a different balance of power within the Council. No institutional change can guarantee such a change in balance of power anyway. Whether or not the intended effects are achieved will depend solely on the performance of the Security Council members, chief among them the States which would occupy "new category" seats.

I thank you.

Open-ended consultations on Security Council reform, 21 February 2007

Regional representation

Statement by Statement by Mr. Patrick Ritter Deputy Permanent Representative

Mr. Facilitator

Under the heading we are discussing today, there are three dimensions we would like to briefly address:

First there is the notion of equitable regional distribution, enshrined in the UN Charter. Clearly, the current composition suffers from an under-representation of some regional groups, in particular from the South. We believe that the enlargement of the Council must rectify this situation and are also of the view that the African region in particular should benefit from any enlargement, given that a majority of the situations on the agenda of the Council are situations on the African continent.

Secondly, we must also consider the possibility of regional positions being represented in the Council either by the representatives of regional organizations or comparable entities or by individual States speaking on behalf of such organizations and entities. The latter, of course, is already practiced, while in a rather ad hoc manner and not linked to membership in the Council. While models of regional representation might become interesting in the future, we do not believe that the moment has come yet to seriously consider such models. We must gain more experience with the role of regional organizations as players in international organizations before making such novel and radical decisions. The possibility of admitting organizations as members of the Council would also entail legal difficulties and obstacles that have never been considered in depth.

Last but not least, there is the question of closer cooperation between the Security Council and regional organizations. In this area, we believe indeed that much improvement is possible and that both regional organizations and the Security Council could benefit from enhanced cooperation, both formally and informally. There have been numerous occasions where regional organizations have been playing leading roles on issues that fall under the competence of the Security Council – most prominently peace-keeping and other peace operations. The authorization for the conduct of such operations must always rest with the Security Council, but in many instances the interests of the Council might be best served, if such operations are to be carried out by regional organizations. Again we would like to draw your attention to the draft resolution tabled by the S5-countries last year, which also contains a recommendation for the enhanced cooperation between the Council and regional organizations.

I thank you.

Open-ended consultations on Security Council reform, 21 February 2007

The question of the veto

Statement by Mr. Patrick Ritter Deputy Permanent Representative

Mr. Facilitator

The question of the veto is clearly central to all discussions on Security Council reform. The veto, its use and the indirect effects of the (even unspoken) threat of its use play an eminent role in how the Council operates today and how we should consider its reform, including enlargement. It is safe to say that there is a strong opposition among the membership to the sheer existence of the veto. Many States opposed its introduction in San Francisco and have not changed their position since. Others believe that the reasons for which the veto was designed by the founding fathers no longer exist and that the veto is therefore anachronistic. Clearly, the existence and the use of the veto run counter to any understanding of democratic decision-making. This, however, sits rather well with the inherently undemocratic character of the Security Council, as it is. In the context of the discussions on reform, the most devastating effect of the veto might well be that it is not limited to the decision-making of the Council, but also extends to changes in the Charter and therefore the veto itself. This quickly leads to the sobering analysis that Security Council reform cannot deal with the existence of current veto rights. One can then either conclude that a reform that does not address a question of central importance is not worth undertaking or that a pragmatic approach to Security Council reform is to be taken which does not purport to reform the Council comprehensively by dealing with all possible aspects of reform. We strongly believe that Security Council reform is indispensable for the long-term credibility of the United Nations and therefore advocate the latter. This does not mean that we do not believe that the entire question of the veto must not or cannot be taken up.

New veto rights?

The question of the creation of new veto rights is of course inextricably linked to the question of creating new permanent seats. We do not believe that the creation of new permanent seats is feasible and we doubt that it is desirable. But even if we were to embark on that course for enlargement, it seems that the creation of new veto rights is highly counterintuitive, to say the least: If a majority of States believes that the veto and the current practice regarding the veto are a largely negative element for the credibility, legitimacy and effectiveness of the Security Council, how could the creation of new veto rights possibly remedy or even improve the status quo? To our mind, there is no convincing answer to that question, and combined with our analysis that there is strong numerical opposition to new veto rights this leads us to the conclusion that new veto rights are neither desirable nor achievable.

Changes in the current practice of the use of the veto

We do believe that changes in the use of the veto are possible and that they are in the interest of the Security Council itself. Incidentally, they are also incumbent on those who hold the veto under the Charter and who have both a special interest in and responsibility for the effective functioning of the Security Council. The current practice is largely arbitrary and defies even the most modest standards of accountability – and accountability is to our mind not a political imperative, much rather it is enshrined in the current wording of the Charter which makes it clear that the Council carries out its functions on behalf of the membership as a whole. Credibility and legitimacy of Council action can only come if a certain level of accountability is guaranteed – as acknowledged in the 2005 Summit outcome document – and accountability is therefore in the enlightened self-interest of those who have a special role and special powers in the Security Council. As a member of the S-5, we therefore tabled a resolution on the working methods of the Security Council that also made some very modest recommendations on the use of the veto.

One was that permanent members should explain their reasons for casting a negative vote which would at least contribute to limiting frivolous use of the veto. Another one was a commitment not to cast a veto in situations where genocide, crimes against humanity and other crimes considered among the most serious ones are involved. As is well known, this recommendation was taken from the High Level Panel on Threats, Challenges and Change and would give the permanent members a possibility to make a commitment which is largely symbolic, but indeed entail an eminent political symbolism. We also believe that it would be possible for the Council to take a further step: The Charter, as is well known, does not use the term veto – which has become the customary way we colloquially refer to this special right of the permanent members under the Charter. Much rather, the Charter itself requires the "concurring" votes of all permanent members of the Security Council for a decision to be adopted. Both legally and politically, nothing prevents a permanent member of the Security Council to declare, when casting a negative vote, that this negative vote is not a non-concurring vote in the meaning of the UN Charter. This would in fact soften the practice of the veto and also give the permanent members an additional tool to make the veto a more acceptable and therefore more legitimate tool.

The case for a review

Any enlargement proposal must, to our mind, be equipped with a clear review clause which provides for a mandatory review of the new arrangement and specifies several aspects of the Security Council. One of these aspects should be the veto in all its aspects. The veto was indeed designed against the background of a specific geopolitical situation in 1945, and we should enable ourselves to regularly review these circumstances in order to make the Council a true reflection of the current realities.

I thank you.

Open-ended consultations on Security Council reform, 22 February 2007

Categories of membership

Statement by H.E. Ambassador Mr. Christian Wenaweser

Mr. Facilitator

The question under consideration today was at the heart of the enlargement efforts before the 2005 Summit – the efforts that were ultimately unsuccessful. The initiatives launched at the time made it clear that there is a deep divide among the membership whether or not the creation of more permanent seats on the Council is desirable – irrespective of whether or not such seats would be equipped with the veto power. It is not easy to assess the two camps numerically, because many States feel the most comfortable if they do not have to express themselves on this question – which is again an expression of the discomfort that such proposals elicit.

This situation leaves us with several options: First, the creation of new permanent seats can be proposed (again) and tested in a General Assembly vote. Whether or not the required two-thirds majority for such a proposal existed in 2005 can be discussed *ad nauseam* and is a question of pretty much exclusively academic relevance. In the end, it comes down to a question of personal belief and the fact is that we will never know. What appears clear, however, is that even if the required majority existed, it would clearly be a very narrow majority and that it would not include the support from all the permanent members whose support is not needed for the adoption of a proposal, but certainly for the ensuing ratification process. It seems inadvisable to deal with the complex issue of Security Council reform in a manner that is not comprehensive and might in the end not lead to the Charter amendment which is required for any reform proposal to enter into force. The two (or even three) steps required cannot be looked at in disjunction, but must be viewed as a whole. Our analysis of the past and current situation leads to the

conclusion that the proposal to create new permanent seats would not, in the end, achieve enlargement of the Security Council.

Second, it can be proposed to enlarge the Council in the non-permanent category only. This would, to our mind, not take into account that legitimate interests of those countries and regions which have expressed their willingness to serve as permanent members of the Council. Also, it would do nothing to enable a change in the balance of power in the Security Council which is necessary in order to achieve the goals contained in the outcome document.

The third option obviously consists in the creation of a third category of membership, an idea that has been entertained in various forms over the past few years. It is worth pointing out at this juncture that the old G4 proposal – by all accounts the model that was closest to finding the support from two-thirds of the UN membership – itself provided *de facto* for the creation of a new category: A number of States could serve on the Council permanently, but without the right to exercise the veto which of course is one of the most prominent features of permanent membership as we know it today. However, this approach does not take into account the issue of accountability in that it grants a permanency that is tantamount to eternity unless the membership decided otherwise – again by a two-thirds majority which is of course a very high hurdle. We therefore believe that a solution should be considered which allows six States, according to the regional distribution provided for under the G4 model, to serve on the Council permanently, if the membership so decides on a recurrent basis. This new category would be given long-term seats of for example ten years which would be renewable. The longer duration of membership would offset some of the clear disadvantages that come with the traditional two year terms and also enable a State to demonstrate to the membership as a whole in a very clear manner what policies and practices it would pursue on an ongoing basis and thus make a convincing case for re-election and thus *de facto* permanency. Incidentally, it would also give regions that favour a

rotational agreement an opportunity to work out pertinent modalities and have various countries occupy such seats on the basis of an informally agreed scheme. Running for a long-term seat would automatically disqualify a State from running for a two-year term, not only for simultaneously held elections, but also for a number of elections to follow.

I thank you

Open-ended consultations on Security Council reform, 23 February 2007

**The working methods of the Security Council and the relationship between
the SC and the General Assembly**

Statement by H.E. Ambassador Mr. Christian Wenaweser

Mr. Facilitator

Today's topic goes to the heart of the initiative of the so-called S-5 group of which we are a proud member. The substance of our initiative is well known and I will not present them in any detail here today. But indeed today's discussions offer a welcome opportunity to outline the rationale behind our ideas

As we all know, diplomatic language is quite cryptic and sometimes far removed from colloquial use of language and at times inaccessible. As far as UN English is concerned, the word of the year 2006 may well have been "encroachment", due to the unfortunate peak of the controversial discussions of the relationship between the Security Council and the GA. In most instances, the term was used in order to deplore too assertive a role of the Security Council. However, the reverse also occurred – much less frequently of course – and as a member of the S5 we were certainly accused of interfering with the inner workings of the Council. We continue to believe that a competition between the Security Council and the General Assembly is both harmful and unnecessary. The delineation of competences under the Charter is quite clear, and it should be observed by both organs. The most notable transgressions in the past have been in the area of legislative work which we strongly believe cannot and must not be carried out by the Security Council. However, the best way for the GA to assert its intended role is to perform according to legitimate expectations. A wide perception seems to be that there is a pie to be distributed between the GA and the SC – the bigger the piece one gets, the smaller is the piece that is left for the other. We do not concur with this view and would argue instead that a more efficient and effective GA can easily coexist with a stronger and more effective SC – and this should be the goal of our reform efforts.

One important cornerstone of the relationship is that the SC has primary responsibility for the maintenance of international peace and security, but not exclusive one. Both the relevant provisions of the Charter and past practice are quite clear – in particular in cases where the SC is unable to take action for whatever reason, the GA does indeed have a role to play and has done so successfully in the past.

Second, there is the issue of accountability – the term is slightly overutilized these days and may lead to erroneous connotations. However, the outcome document makes it clear that we have all subscribed to the Council becoming more accountable. Reference of course is usually made to the provision of the Charter which makes it clear that the SC carries out its functions on behalf of the membership as a whole. Clearly, this entails that the SC is answerable to those on whose behalf it carries out its functions. As in other instances, we believe that such accountability should be performance-based and that the best moment for a discussion of the performance is the annual report of the Security Council. This, however, necessitates both a different kind of report from the Council and a different format for discussing it. We also believe that the Council might benefit from submitting special reports in accordance with article 24 to the General Assembly – a tool which the Council can utilize in addition to open debates of the Council with the participation of the membership as a whole.

Mr. Facilitator

Most importantly, we believe that the Council should make better use of the views of States that do not serve as Council members for its deliberations. This applies particularly, but not exclusively, in cases where the decisions of the Council have a direct impact on such States, such as for example targeted sanction measures. Given the ever-expanding scope of work of the Council, there is a clear need for such stronger involvement. This is obviously without prejudice to the decisions the Council will make in the end, and more than anything else it can enhance the quality, legitimacy and effectiveness of its activities. A case in point is the issue of delisting procedures and due process in connection with targeted sanctions: This was a somewhat novel area of work for the Security Council and therefore resulted in delisting procedures which were clearly insufficient under all standards of due process. After months and indeed years of comments from States who pointed out their domestic differences in connection with the relevant practices, the 2005 Summit agreed, after difficult negotiations that fair and clear procedures for delisting should be designed. And it was another fourteen months before the Council finally agreed on the establishment of a Focal Point which was given a mandate that falls far short from what many of us had asked. This does certainly very little to illustrate the much-praised efficiency of the Security Council and in fact does damage to its legitimacy and effectiveness. There are formal and informal ways in which the Council can enhance the involvement of non-Member States and the S5 initiative offers a set of possible measures.

Mr. Facilitator

Proposals on enlargement that were tabled in the past also contained provisions on working methods. This is mainly due to the traditional approach in the OEWG whose work was divided up into two clusters. A reading of the old OEWG reports is in fact particularly worthwhile with regard to working methods – it is quite

astonishing to read what was agreed upon in principle, while never fully endorsed by the GA or by the Council, and to compare that to what is actually applied in the Council today. The gap could not be more glaring. A comparison of the relevant parts of the enlargement proposals with the S5 initiative reveals a similar gap, and understandably so: The proponents of resolutions on enlargement were keen to find the strongest possible support from the membership and in particular the acquiescence from the Permanent members. This approach of course resulted in language on working methods that would have very limited, if any, impact in practice. We see of course that enlargement is the “sexier” topic with the potential to make headlines in the media and get attention at the highest level. We do not agree, though, that it is the more important part of SC reform, quite the opposite. We therefore believe that working methods can only be dealt with seriously when dealt with on their own right. Ideally, we would adopt two resolutions in the General Assembly in the same meeting, one dedicated to enlargement and one to working methods. In addition to the political reasons for proceeding so, there are also strong conceptual considerations that lead to the same conclusion. Our former colleague John Bolton used to say that reform is not a one night-stand. In some ways, that is actually not true with regard to enlargement, because enlargement is a one-time event. Indeed, it is an unusual one night stand in that it leads to a life-long commitment, but at least we are aware of that before we engage in it. Not to mention the fact that we can still have second thoughts in the ratification process. But with regard to the working methods of the Council, John Bolton was certainly right on target: Indeed, the improvement of the working methods can only be an ongoing process, carried out according to the overall developments in the Security Council. So adopting one resolution will do little to bring about effective change, and an institutionalized dialogue between the Council and the membership as a whole is necessary to achieve this goal – indeed a relationship as opposed to a one night stand.

Mr. Facilitator

Working methods are the ugly duckling of Security Council reform. We believe that this is a mistake and that the effectiveness, credibility and legitimacy of the Council depends as much on working methods as it does on enlargement. Only a Council that truly reflects the collective political will of the membership will be effective on the long-term. On the other hand, of course, we do not mind, because we know the potential of the ugly duckling and that it prevails in the end and silences those that have ignored it in the past.

I thank you