



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Swiss Confederation

*Check against delivery*

General Assembly  
66<sup>th</sup> session

## **Follow-up to the outcome of the Millennium Summit**

Small Five Statement

presented by  
H.E. Mr. Paul Seger  
Permanent Representative

Permanent Mission of Switzerland  
to the United Nations

New York, 16 May 2012

Mr. President,  
Excellencies, colleagues,

On behalf of the Small Five group (Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland) I have the honor to present the draft resolution L.42 /Rev. 2 submitted under agenda item 117: "Follow-up to the outcome of the Millennium Summit".

When our leaders were united here at the World Summit in 2005, they all agreed, in resolution 60/1, adopted by consensus, to improve the working methods of the Security Council in order to enhance its accountability to the wider membership and increase the transparency of its work.

Our resolution aims at starting a process which would ensure that the solemn pledge we made seven years ago to enhance the accountability, transparency and effectiveness of the decisions of the Security Council does not remain a mere phrase, but a substantive commitment.

Mr. President,  
Excellencies, colleagues,

Have you ever wondered as a neighbor of a region in crisis what the Security Council is discussing and how it is assessing the situation? Have you ever, as a police- or troop-contributing country hoped for more substantive and timely information about a Council mission because the men and women your country sends on the mission are risking their lives? Have you ever as a country under consideration of the Peacebuilding Commission or chair of a configuration asked to assist in consultations of the Security Council to better understand the Council's thinking? If the answer to any of these questions is "yes" you should support us in our endeavor to make the Council's working methods more transparent and open.

The decisions of the Security Council affect us all. We are obliged by the Charter to implement them. Is it too much to ask to be better informed about and more involved in the Council's decision shaping and decision making?

By improving the working methods we would create a win-win situation from which both the Security Council and the General Assembly would benefit. We believe that better interaction between the Security Council and the wider membership would result in better decisions and in a more efficient and effective work by the Council. Its actions will be better prepared, better understood, politically better supported and better implemented. In short, better interaction between the Council and the wider membership is necessary and beneficial for the UN as a whole. Article 10 of the UN Charter specifically provides that the General Assembly may make recommendations to the Security Council within the scope of the Charter. It is within this constitutional framework and in this constructive spirit that we have elaborated a limited number of pragmatic proposals.

Our draft resolution is respectful of the competencies and roles of the General Assembly and the Security Council as mandated in the Charter, and recognises the Se-

curity Council as master of its own procedures. We also recognise and commend past efforts by the Security Council to improve and adapt its working methods. We commend former and present Chairs of the Informal Working Group on Documentation, such as Japan and Portugal, for their tireless efforts to improve the working methods and we urge the IWGD to continue its important task. At the same time, we are convinced that the improvement of the working methods from within would benefit from a clear signal of political support from outside.

I repeat that the Council's working methods can and should be improved *here and now* through a set of pragmatic and concrete recommendations. During our numerous presentations and consultations we have found that nearly all Member states reacted positively to the content of our draft resolution. We appreciate this continuous support and thank everybody for it.

Mr. President,  
Excellencies, colleagues,

We are aware that working methods are part of the comprehensive reform of the Security Council which the General Assembly has been discussing for almost twenty years. We know that a structural reform of the Council, if and when it happens, will require a structural reform of its working methods.

Yet, we also believe that progress on working methods of the Council, as it is now, is independent from the comprehensive reform. The different but complementary natures of these two tracks are further illustrated by the fact that improvement in the working methods of the current Council is a dynamic, ongoing process, whereas enlargement, based on all models proposed, would require amending the Charter of the United Nations.

If you read carefully through the wording of our resolution this should be clear from the outset. But in order to dispel remaining doubts among some Members we have revised our draft resolution twice to make it even clearer that we are only recommending a limited number of pragmatic steps for consideration and are not embarking on the issue of overall reform. The last revision concerns the deletion of recommendation 21 in the Annex which invites permanent members to consider the possibility of casting a negative vote, while stating that such a vote would not amount to a veto. Even though we are firmly convinced that such an option, which would be left to a permanent member's discretion, would not imply an amendment of the Charter, we have removed it in order to make the pragmatic approach of our recommendations absolutely clear. There can be thus no doubt whatsoever that L.42 rev.2 does not entail any amendment to the UN Charter.

The legal discussions of the past days have been complex and at times confusing. But in essence, the situation is very simple: Decision 53/30 that has played such a prominent role in these discussions deals with decisions that have implications of Charter amendments. This is what the decision itself says, and this is what article 108 of the UN Charter says. Our resolution does not have any such implications and therefore falls under the well established practice of the General Assembly to establish resolutions by simple majority.

Not only is the UN Charter left completely untouched by our recommendations. This is also true for the overall reform of the Security Council which we entirely support.

But let's take one step at a time: We are only proposing to fix certain deficiencies in the functioning of today's mechanics of the Council. The big reform is still a work in progress – or should I rather say a work without progress? – and our proposals neither compromise the position of any interest group nor prejudge the outcome of these negotiations. The resolution stresses this explicitly in OP4. But rather than waiting for the outcome of the comprehensive reform of the Security Council which is completely open, we would like to improve a certain number of working methods here and now.

Our recommendations also differ from the overall reform because they only concern the working methods of the Security Council in its *present* composition. It is obvious that a Council composed of 20 to 30 members would require further changes in its working methods which are likely to be much more substantial than those we are recommending in our resolution.

Our proposition is as simple as making recommendations to the Security Council based on the rights granted to all by Article 10 of the Charter. It is a basic exercise of those rights.

An overwhelming majority of member states are small or medium size countries and will be serving on the Council once in a lifetime or even never, even after an enlargement of the Security Council. For most of us, therefore, the improvement of its working methods will have a more positive impact than the increase in its membership.

Besides, what does it mean for the much more complex comprehensive reform, if the General Assembly is unable to agree on a number of fairly simple recommendations on how to improve the working methods of the Security Council and its relationship with the Council?

Mr. President,  
Excellencies, colleagues,

Allow me now to turn to the resolution itself to present its structure and main content.

The document consists of two parts: A relatively short resolution and an Annex. Let us go through the resolution first:

The resolution L. 42 Rev. 2 is entitled "Enhancing the accountability, transparency and effectiveness of the Security Council". We have changed the title in Rev. 1 to reference our resolution even clearer to the World Summit Outcome Document of 2005.

After recalling the responsibilities of the Security Council and the General Assembly, the preamble acknowledges the significant steps the Council has already taken in order to improve its working methods, notably through the adoption of Presidential Note 2006/507 and its update 2010/507. However, it emphasizes the need for additional measures to strengthening the effectiveness of the Council and the legitimacy and implementation of its decisions.

The preamble of the S-5 resolution also addresses the relationship with comprehensive reform of the Security Council. While reiterating its support for this reform and acknowledging that the improvement of the working methods will help to promote comprehensive reform, the preamble makes it clear that the measures proposed in the present resolution do not require any amendment of the UN Charter and are part of an ongoing process.

The operational part of the resolution is short. It first invites the Security Council to enhance and report on the implementation of the measures contained in its Presidential Note 507. In fact, the Council has implemented the measures, which it has adopted itself, in a rather inconsistent manner. OP 2 invites the Council to consider further measures which are contained in the Annex to enhance the accountability, transparency and inclusiveness of its work. Paragraph 3 invites the Council to report to the General Assembly by the end of 2012 on action it has taken pursuant to its consideration of the present resolution. Finally, the resolution stresses in its OP 4 that it is without prejudice to decisions on comprehensive Security Council reform. We have moved this paragraph from the preamble to the operational part to underscore this statement.

The Annex to the resolution contains a set of 20 recommendations which are divided into seven chapters.

In the first chapter of the Annex on the relationship with the General Assembly we formulate a number of recommendations to allow the membership to be better informed of the Council's decision and be more involved in its work. For instance, we recommend issuing a standing invitation to the Chairs of the country-specific configurations of the Peacebuilding Commission to participate in relevant debates and, in an appropriate format, in informal discussions.

Another set of recommendations aims at improving the transparency, the legitimacy and the distribution of work within subsidiary bodies of the Security Council. Among other things, we make a recommendation which addresses the "penholder issue" where we suggest distributing the country-specific and thematic lead roles more appropriately among all Security Council members.

The next chapter concerns operations mandated and on-site missions carried out by the Security Council. Here, we specifically recommend to the Council to inform Member States more fully about relevant developments regarding the planning, preparation, conduct and termination of operations and to enhance participation of troop- and police-contributing countries and other States with particular engagement in United Nations operations.

The recommendations on Governance and accountability aim, inter alia, at ensuring the consistent implementation of its agreed working methods including by adopting rules of procedure and including an analytical section in its annual report. The brief paragraph on the appointment of the Secretary General asks no more of the Council than to contribute to the implementation of the measures contained in General Assembly resolution 51/241 of 31 July 1997. It basically means that the Council should involve the wider membership in the appointment process because it is the Secretary General of the whole 193 member states after all.

Regarding our recommendations on the use of the veto we would like to underline at the outset that the S-5 fully respect the Charter-based right to the veto. We have limited ourselves to presenting two recommendations on how the veto could and should *be used* as the General Assembly has done on previous occasions in its history.

The first recommendation, to explain the reasons for resorting to a veto, is not fundamentally new since it is already practiced to some extent by the permanent members of the Security Council.

The recommendation # 20 to refrain from using the veto to block action in situations of "atrocities crimes" (genocide, war crimes, crimes against humanity) is in line with the 2005 World Summit resolution which states, in its paragraph 139, that "the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity." In our recommendation, we limited ourselves to genocide, war crimes and crimes against humanity which are defined by the Rome Statute on the International Criminal Court, whereas the term "ethnic cleansing" is not a legally defined crime under international criminal law.

Mr. President,  
Excellencies, dear Colleagues

The last few weeks have been very intense. We have given it a lot of thought before deciding to bring this issue before you. Especially, the P-5 have put considerable pressure upon us not to submit our draft for action. They tell us that our proposals are divisive and could be directed against them. Let me assure the P-5, once again, that our objective is quite the opposite. The S-5 want the General Assembly and the Security Council to work closer with each other, not against each other.

We are only five states, but we have invested a lot of our efforts and energy to present to you what we believe to be simple, sensible and reasonable recommendations, because like most of you we are small and like most of you we need a strong United Nations. The saying goes: "The only failure in life is the failure of not trying". We have therefore tried hard to present to you a set of ideas which we hope would make the UN work a little bit better.

We ask you, to look into our text as it stands and judge it by what it says. What we propose is not at all revolutionary or radical, but only right and reasonable. Imagine yourselves stepping outside this building for a moment, handing out our text to ordinary people on the street and asking them what they think about it. What would their likely reply be? I bet they would react with a shrug and a comment that it is nothing extraordinary, a little bit dry and technical, but on the whole it makes sense.

If common sense is indeed the common denominator of this Assembly this resolution should easily pass by consensus. Yet, during the last few days, we've heard several of you coming to us and tell us: "We support your ideas in substance, we are committed to working with you on improving the working methods of the Security Council, but we feel not ready to take action on this resolution. Please be reasonable and do

not insist on a vote.” It seems that increasing pressure from various corners and the threat of procedural and legalistic maneuvers has created a spirit of uncertainty and unease. Not only have we been confronted with legal arguments according to which our resolution should be submitted to a qualified majority of all member States under resolution 53/30 which we find, with all due respect, utterly wrong and biased, but we were also confronted with procedural maneuvers today that would engulf the whole membership and would leave everybody confused and frustrated. We leave it to you to judge such machinations.

We find it unfortunate but also telling how a set of practical recommendations addressed to the Security Council could meet with such emotions and even animosity from certain of its members. What does this tell us as sovereign members of the United Nations? We were committed to make a contribution to a better functioning and effective Security Council, which we have a vested interest in, and facilitate a better relationship with the General Assembly for the benefit of us all. As a basis for such a dialogue, we suggested an agenda, a number of measures for discussion between the membership and the Council.

From what we have heard during the last days and hours it seems that the membership as a whole is not ready to follow us on this course of action, not yet at least. Although we are somewhat disappointed we accept that. But success, as the saying goes, is measured by how you cope with disappointment. We have listened carefully to the permanent members of the Security Council that they are ready to seriously consider our recommendations and we hold them to their promise with you as witnesses. We also have heard expressions from many in this room, including those who are not prepared to take a decision today, to advance the agenda on working methods. We look forward to see the products of their efforts. The submissions to us to defer action on our text have been numerous over the past few days. We have, in the end, decided to heed those calls and to avoid a procedurally very complex discussion in this room – which would have been unavoidable. We wish to thank the numerous delegations who were determined to go with us until the very end and hope that they understand our decision to avoid a procedural battle in the GA Hall. If we see some real substantive progress starting within the next months, our efforts will not have been in vain. With that hope and this promise the S-5 withdraws resolution L. 42 Rev. 2.

Once again, we thank all those who have followed us in this common cause. We felt very encouraged by your expressions of support. This is not the closing of a chapter, but the opening of a new one.

I thank you!