

STATEMENT BY H.E. MR. KAMALESH SHARMA, AMBASSADOR/PERMANENT REPRESENTATIVE OF INDIA TO THE UNITED NATIONS ON THE REPORT OF THE SECURITY COUNCIL (Agenda Item 11) ON OCTOBER 15, 2001

Mr. President,

Let me begin by congratulating Bulgaria, Cameroon, Guinea, Mexico and the Syrian Arab Republic on their election to the Security Council, whose report we are considering. If we had to describe it one word, we would call the report elephantine - it is huge, ponderous and, like the blind men of Hindoosthan, we can make little sense of it. We heard the caveats from two of our colleagues now across the moat - the Permanent Representatives of Singapore and Colombia - and we compliment them on their candour at the formal meeting of the Security Council on 18 September 2001 when it adopted this report.

Article 24 (3) of the Charter only required the Security Council to submit annual, and when necessary special, reports to the General Assembly for its consideration, but Article 15 stipulated that they “shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.” Because the Council did not do so, General Assembly Resolution 51/193 called upon it to include in its reports, inter alia, information on its consultations of the whole; to highlight the extent to which it had taken into account in its decision-making resolutions of the General Assembly; and to strengthen further the section on the steps it had taken to improve its working methods.

The annual “account” which Article 15 asked of the Council was clearly meant to be both narrative and reckoning, but it gives neither, and this is the most serious flaw in its report. As I said, while speaking on this agenda item in 1998, over and above what Resolution 51/193 asked the Council to do, we would have expected an institution’s annual report to include assessments of

- how far its activity or decisions had been helpful; for instance, was the political and security situation in a given country or region better or worse because the Council had acted there? And

- its own performance as an institution.

We hope the views of the membership will receive more serious attention from the Council than appears to have been the case hitherto. The latest report, like its predecessors, is still merely a compilation of documents already circulated. It has no analysis or substantive reporting. It duplicates the annual compilation of its Resolutions and anticipates the Repertoire of the Council's practice, but, even as an expensive anthology, it is sometimes inadequate, because the summaries are not always accurate reflections of resolutions and statements.

The shortcomings of the report are symptoms of the larger malaise in the Council. It does not respond to the repeatedly expressed wishes of this Assembly because, in its composition, particularly that of the permanent membership which wields the real power, it no longer represents the wider membership, as it should. It is prevented from reporting on substance, because its negotiations are held in secret, in a format not envisaged in its own Rules of Procedure; it can presumably claim that it is not reporting on these meetings because they have no existence. And yet the Secretariat services these phantom meetings, budgets for them, reports to them, keeps minutes on them. Both meetings and records exist, but like women under the Taliban, veiled and locked away. What you hear, Mr. President, is the long lament of a disconsolate General Assembly pursuing and paying for a chimera.

At the very least, the time might have come to ask some questions about Rules 55 to 58 of the Council's Rules of Procedure:

- If the informal consultations are to be financed by member states, should they not be considered "private meetings" under the terms of Rule 55? In that case, we would expect the Council, under that Rule, to issue communiqués through the Secretary General at the close of these meetings, and to include them in the Report to the General Assembly.
- If we are told that the informal consultations are not private meetings, should the

General Assembly not ask for access to the minutes which are maintained in the office of the Secretary General? Rule 56 gives the Security Council a veto on access to the records of private meetings, not on these.

- If only to fill out the record, which is all the Report of the Security Council now is, should it not, in pursuance of Rule 57, report on the records and documents that it has declassified each year?

Mr. President,

It must be one of the wryer paradoxes of our times that, as the Iron Curtain fell, the Council should set one up and retreat behind it. Throughout the years of the Cold War, it conducted even its most serious business in the open; as the world emerged into an era of cooperation, openness and democracy, the Council turned into what many have called a Star Chamber. When the General Assembly asked it to be more transparent, its response was to hold the “open debates”, on which it has reported, but which are an empty ritual for three reasons:

- The Council has turned itself on the average of once a month into a debating society. This was not what the Assembly wanted, nor is it a useful way for the Council to spend its time and the Organisation’s money, unless the debates find a reflection in the Council’s work.
- The Council decides in advance, in its customary opaque fashion, what the outcome will be. The statements made by non-members are therefore an irrelevance. We wanted the Council to take our views into account in its decisions on the issues central to its work; that has not happened.
- Because the Council wants complete freedom on the core issues of peace and security, it picks for the open debates themes the General Assembly should consider, much more than the Council. Projected as responding to the

Assembly's wishes, these debates actually undermine it.

When it holds these open meetings, the Council claims to be acting under the powers given to it by Article 24 (1) "for the maintenance of international peace and security". Chapters VI-VIII of the Charter, however, give it the responsibility to settle disputes, to stop both threats to the peace and conflicts when they break out, and the power, under Chapter VII, to use military and other means to bring this about. The Council does not have any powers or role in the management of conflict or the conduct of war, except when it oversees a peace enforcement operation. The conduct of war is governed by the Geneva Conventions, with its norms for protection supplemented by a variety of human rights instruments; none of these give a role to the Security Council.

When the Security Council spends so much time, therefore, on issues like women and armed conflict, children in armed conflict, or the protection of civilians in armed conflict, all of which pertain to the management of conflict, it steps into areas outside its mandate. That could be condoned if its discussions added value, but in fact they add nothing to either the norms set by international law or to its practice.

Any audit of the Council's performance, therefore, would have to conclude that it has not done too well. On two of the gravest threats to peace and security, Afghanistan under the Taliban and terrorism, which, like snakes, coil in the same pit, striking together or independently, the Council recognised the dangers, but did too little too late. Resolution 1269 of October 1999 was on the impact of terrorism on international peace and security, Resolution 1267 addressed the terrorism emanating from the Taliban-held areas, but very little was done to implement them. It took a year and more for the Council, in December 2000, to set up a Committee to examine how to monitor the implementation of its sanctions against the Taliban. It then took Council and Secretariat nine months to appoint a Monitoring Mechanism. The cost of this unconscionable delay has been so high that it is imperative for the Council to ensure that Resolution 1373, adopted last month, is quickly and fully implemented.

The Council's management of peacekeeping operations has also been unsatisfactory, and bears close scrutiny. Peacekeeping is a costly instrument; this year, peacekeeping outlays will be more than twice the regular budget of the UN. Yet the general membership, which pays the bills, and for whom the peace is expected to be

kept, has little information on how peacekeeping operations are run, on the problems they face, on why certain mandates are set or changed, or on when and why they are strengthened, scaled down or ended. There is not one word on this in the Report. This is presumably how the armed forces act in military regimes, but no Ministry of Defence in a democracy could get away with an attitude as negligent as this.

But there is more that ails peacekeeping. As most peacekeepers are contributed by non-Council members, who put the lives of their troops at risk to serve the cause of international peace, common sense would dictate a partnership between the Council and the Troop Contributing Countries (TCCs). This, however, is not the case. In February, realising that there was a crisis brewing, the Council established a Working Group on UN Peacekeeping Operations, but this too has worked, as the Council and its bodies do, *sub rosa*. Resolution 1353, the fruit of its hidden labours, disregarded the views expressed by members of the Special Committee on Peacekeeping Operations during a meeting in May this year. It was adopted on the day when, by ironic chance, the Council's President and two of his Council colleagues were discussing these very issues with the Open-ended Working Group on Security Council Reform, where a number of delegations protested at the Council's rushing the resolution through. All this will have an impact on the conduct of peacekeeping, but there is almost nothing on this in the report.

Mr. President,

It would, I think, be a fair comment that the Council needs to make better use of its time. It should focus on its core mandate, but, when budgets are tight, it must also assess the cost-effectiveness of the operations it has set up. Some are being scaled back, others, serving no purpose and merely a drain on the UN's resources, need to be shut down. The General Assembly expects a ruthless scrutiny of every programme brought to it for financing under its results-based budget. The Security Council must do at least as much, lopping off deadwood.

Mr. President,

Most of those who speak here will be dissatisfied with the Council's work and its report, but, under the terms of Article 12 of the Charter, the General Assembly can

neither replicate its discussions nor compensate for its shortcomings. Apart from anything else, the political problems that prevent action in the Council would come into play in this Assembly, which would simply go through an ultimately sterile reprise.

As we have said before, Mr. President, many of the flaws in the functioning of the Council are structural. Its composition is demonstrably out of touch with ground realities. The Council neither reflects nor represents the aspirations and views of the larger membership. The solution lies in reforming and restructuring the Council. The inclusion of developing countries in the permanent membership, and the expansion of the Council to bring in more non-permanent members from the developing world, would not only make it more representative, it would, we are sure, make it much more responsive to the needs and wishes of the general membership.

However, for the moment, we are dealing with a Council that is, in every sense of the word, unreformed. In the dying days of the 55<sup>th</sup> General Assembly, we went through detailed and inconclusive discussions on how the Council's report should be handled, if it was not satisfactory. Our recommendation would be to let the Council draw its own conclusions from this debate, and trust, once more, to its better judgement. Without it, more agonising here would be time ill spent, and another resolution as ineffective as its predecessors.

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