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CHECK AGAINST DELIVERY

**IAHWG ON THE MANDATE IMPLEMENTATION REVIEW –
BRIEFING ON “OBSERVATIONS FROM THE PERSPECTIVE OF A MEMBER STATE”
H.E. CHRISTIAN WENAWESER - AMBASSADOR, PERMANENT REPRESENTATIVE**

Thank you so much to both of you. It is a pleasure to be here.

Thank you for the invitation to talk about our experience in putting resolutions forward, and both on mandate design and implementation.

We have, over the past nine years, put forward five resolutions in the General Assembly. In chronological order, the first in 2016, the creation of the so-called ‘IIIM’ accountability mechanism for Syria. Then, in the times of the lockdown, first, the so-called ‘Laguna Group resolution’ – I am pleased to see some of the members of the group in the room. That was a resolution on solidarity in the times of COVID-19. Third, again, during the lockdown, a procedural decision on electronic voting in the General Assembly in 2021, a resolution on the situation in Myanmar, and finally, and maybe best known, the ‘Veto Initiative’ in 2022.

The first resolution on the IIIM, obviously, created a mandate. In fact, it created an entity that is now located in Geneva. Interestingly, it did not at the time of the adoption, create a PBI even though that entity has now an annual budget of about 20 million USD. That happened for technical reasons, that would be too lengthy to go into – but if somebody wants to take this up in the Q&A, I will be happy to go a bit deeper on it. So, this mechanism was first financed through voluntary contributions, then moved to the regular budget, and today for better or worse, it relies again heavily on voluntary contributions but still has core funding from the regular budget.

The COVID-19 solidarity resolution, as has been cited by parts of the UN system, did not create a mandate and did not mean to create a mandate. I will not go deeper on this resolution, therefore, because we are talking about mandates here.

The Myanmar resolution in 2021 was primarily a political resolution in the absence of action in the Security Council, advocating for action after the unconstitutional military seizure of power, and again, and – actually intentionally – did not create a mandate either but was an impactful text, nonetheless.

The other two texts are perhaps, from a mandate perspective, the most interesting ones. While they did not directly mandate specific activities, they did create overarching mandates that can be triggered and then also result in costs. The decision that we put forward during the pandemic, and for those who were not here, this was a time when obviously were not able to meet in person, the General Assembly continued its work, but because we were not able to meet in person, the view emerged that only resolutions that found consensus in the membership could be adopted, and we found that to be with many other an untenable situation for the Council to be subject to a permanent threat of veto de facto by one member of the organization. This is why the e-voting procedure was introduced. So today, if for whatever reason we are not able to meet in the General Assembly, we are nonetheless able to vote without being in the same room together. This is a mechanism that was technically complicated to develop and that was done certainly with the help from the Secretariat, and it has not since been used and triggered. If it were to be used, of course, it would lead to costs in application, but it did not incur a PBI or had any sort of costing attached to it at the time of adoption.

The Veto Initiative - and it may be good to read out the technical title of the resolution; it is called the 'standing mandate for the General Assembly debate when a veto is cast in the Security Council' – end of title. Obviously, this creates a mandate, but it did not incur any cost because the costs only arise, if and when the General Assembly meets as a result of a veto. That means, the costs incurred are actually caused in the Security Council, and through the veto cast in the Security Council. There was for this reason also no PBI and no costing attached to this resolution.

As for us has become clear in the discussion, one of the problems that we have is that sometimes it is unclear what counts as a mandate and what does not. For the resolutions I have talked about – our resolutions – we do believe that this is clear; while some people may question whether mandate is the correct term to describe the e-voting procedure, we think it is, but maybe this is up for discussion. But I think one of the things that we certainly need to get clarity on is what is a mandate, what creates a mandate, and that should be a building block of how we move forward on mandate creation.

In other cases, and I will use the IIIM here, it is clear that there is a mandate created and literally people working for a body laid out by a resolution. So, in our view, the IIIM and the Veto Initiative clearly create mandates, and I have already talked about e-voting with respect to whether that is a mandate or not.

For us, a key observation is that the strength of resolutions relied, in our case, very heavily on the extensive consultations we had with the relevant parts of the UN system, sometimes also with outside actors. That was the case to a very significant extent for the IIIM, where we talked very extensively with the Commission of Inquiry established by the Office of the High Commissioner, the Office of the High Commissioner itself, and other parts of the UN system, but also with independent experts on international criminal law from the outside. Also, importantly, after the adoption of the mandate, we were part of the implementation, in particular in the discussions on the terms of reference with OHCHR. I really cannot overemphasize how important that is and how important that conversation is, both, at the phase of the creation of the mandate and thereafter.

Similarly, for the e-voting decision, we consulted very closely with the relevant parts of the Secretariat, in particular, DGACM on feasibility and technical modalities, and without the active support and the positive mindset from the Secretariat we would not have been able to create this mechanism either.

We also engaged very extensively with the Secretariat on technical and practical questions raised in the drafting of the Veto Initiative. One of the questions I think that are key here are fragmentation and maybe, more importantly, duplication. If there are ways to address these issues from a terminological perspective, using AI tools, that is great; but the tools we have do not yet, in our

view, manage to do this, partly because mandates can be arrived at with many different turns of phrase in a resolution. So, we should at the phase of drafting a mandate, again, I think benefit in particular from the input from the Secretariat and have an overview of what is already happening. One thing on mandate implementation that we can clearly do is to give guidance to the SG to determine who carries out what mandate. Part of the duplication appears to come from a reality today where departments look for mandates to implement. There is a bit of a place for that, but we do believe it is more important to have the SG use the discretion vested in her office, to give guidance to the system. And we think that is certainly key in avoiding duplication and it is something where drafters of resolutions and those who have ownership over them can play a significant role.

On a side note, I think worth noting, that both the Myanmar and the Veto Initiative resolutions were aimed at the same goal, namely, to have the GA act on issues of peace and security when the Council is unable to do so in line with the Charter's mandate. The GA of course does adopt many resolutions with mandates for peace and security, which we believe the Secretariat implements accordingly.

With respect to the recent report of the SG, one resolution that comes up relatively often is of course the GA revitalization resolution, which recommends shorter, action-oriented texts, something that is clearly beneficial and the introduction of expiration clauses where appropriate. This has double benefit of making mandates clear, so they can be delivered more effectively and reducing the amount of text being processed.

On the issue of periodicity – again, I think a key aspect of our conversation – what is certainly interesting and probably unusual, is that all the resolutions that we presented were one-off resolutions. None of them needed to be adopted again to be in force or to have an impact. We do not really have the capacity as a small state to put forward five resolutions a year and we are certainly very happy that we do not have to, because otherwise that is how we would be spending our time. But that is not the main reason why we drafted the resolutions this way. We simply did not feel that it was necessary or, in fact, helpful even though in context of a couple of them it was discussed, and I really want to encourage States to think about this when they present resolutions, that one-off resolutions certainly can be as meaningful, as impactful as other resolutions. As a minimum, I believe, we should move away from this prevailing logic that the default position in a

resolution is an annual resolution. I think that is clearly wrong. I see actually pretty much no reason for that and there are in the end, if you look at everything together, a minority of resolutions where that is in fact justified.

On a similar note, there is not per se a need to ask for an SG report every year. Again, I think there is a certain automaticity in how we think about this. You write a resolution so obviously the last para you write is you request a report from the SG, and that does not necessarily mean that you know why you want the report, except that this is the basis for the discussion we have next year. So again, none of our resolutions did have a report, and we do not think they are any less meaningful for that matter. Of course, they are a bit *sui generis*, at least some of them, but again, I think it is extremely important to think about this and also to think about the proposal made by our colleague from Costa Rica here, that perhaps at the beginning, when you have a new mandate, it may be helpful to have an SG report that helps you frame the discussion, but it does not mean that you have to have a report every single year or at the very least you should ask for something more specific.

A primary point that is rarely clear at the point of the adoption is how much a resolution might cost in terms of budget. We think that, as a matter of transparency, every resolution should be costed and that this should happen as a matter of course, so we know how much we are spending.

A last point on the interrelated nature of mandate creation, implementation and review. The tools we use to build a mandate are inextricably linked to the overall design of the mandate and the purpose for which we build it. So, we should not separate these two things, and if you write a mandate, if you write a resolution, you should at the same time already think about the implementation, and again, that is why the dialogue with the Secretariat is so important.

So, in conclusion, just the takeaways from our perspective. The first is that a one off resolution can be fine. Some of the most famous resolutions that the General Assembly in particular has adopted, of course, were adopted one time only and that maybe is something that is worth thinking about, be it 2625, 3314 or many others. At the very least we should look, and that is the second point, at the periodicity of a resolution on the basis of the merits of the text at the time of creation. An SG report is not required to mandate action or, in our view, to make a resolution impactful. As a minimum it should be understood there is no automaticity in asking for an SG report. We should

have an estimate of how much a resolution may cost, including if provisions are triggered by another body or by a Member State later. In our case, the example given was the Veto initiative. And certainly, Member States should engage very extensively with the Secretariat on products and to achieve different purposes, to improve the quality of resolutions, but also of the mandates; to ensure that a mandate is well understood in the Secretariat, and implemented accordingly, and probably most importantly, to avoid duplication and to know what is already happening. Finally, there is a responsibility for follow-up and implementation, with a view to ensuring that the Secretariat has the assistance and the guidance needed to process a mandate as efficiently as possible.

Thank you so much.