



ACABQ and Fifth Committee Negotiations on the Joint Office

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EXECUTIVE SUMMARY

The developments around the 2010 United Nations budgetary process for special political missions represent a significant battle won for the development of the norm of the Responsibility to Protect (R2P). The final result of this process was the approval by the Fifth Committee of three regular posts for the Office of the Special Advisor on the Prevention of Genocide (OSAPG) as well as the inclusion of language in the budgetary resolution that references the work of the Office on war crimes, crimes against humanity and ethnic cleansing.

The Secretary-General's report *Implementing the Responsibility to Protect*, 2009, and his subsequent report *Early Warning, Assessment and the Responsibility to Protect*, 2010, outlined the details of the budgetary negotiations for a joint office and the institutionalization of the collaboration between the special adviser for the prevention of genocide and the special adviser for the conceptual, political, and institutional development of the Responsibility to Protect. These changes aimed to support the UN in anticipating, preventing and responding to situations where mass atrocity crimes are occurring or a risk.

The Secretary-General's budgetary proposal was preliminarily reviewed by the General Assembly's Advisory Committee on Administrative and Budgetary Questions (ACABQ). The ACABQ's deliberations provided the first signs of the politicization of the administrative and budgetary discussion. A November 2010 ACABQ session witnessed a first victory for R2P. While only one of the three requested positions was approved, the ACABQ explicitly referred to the ongoing collaboration between the two special advisers as an important factor justifying the request for additional resources.

Negotiations for the joint office in the Fifth Committee started on 15 December 2010 with a formal debate on Special

Political Missions. During the process, Cuba, Nicaragua and Venezuela sought to remove all references to war crimes, crimes against humanity and ethnic cleansing included in the Secretary-General's budget proposal. A vote was recorded on an amendment put forward by the Venezuelan representative. This spoiling amendment was lost by 68 votes against, to 17 in favor with 51 abstentions. There immediately followed a vote on Section XIII of draft resolution L.22 on Special Political Missions called by Cuba. The Fifth Committee now approved section XIII of draft resolution L.22 by a recorded vote of 130 in favor, 9 against, and four abstentions.

This outcome of the Fifth Committee process represents a significant institutional development in the implementation of the norm of R2P. The results of the two recorded votes related to the OSAPG and R2P also prominently reiterated the trends that had become clear in the 2009 and 2010 General Assembly debates on R2P. The same countries that in the two previous years had vocally opposed R2P again reiterated their objections. Those objecting to R2P represent a small minority of countries. The total number of abstentions, 51, on the vote to amend the language, however, is not insignificant. The continued advance of R2P will require constant mobilization from its supporters. There should be no complacency since the group of abstainers is an advocacy target for opponents as well as supporters.

INTRODUCTION

The publication of the United Nations (UN) Secretary-General's report *Implementing the Responsibility to Protect* in January 2009 set the stage for budgetary negotiations that laid the foundation for a joint office on genocide prevention and the responsibility to protect. Behind these administrative negotiations lay a critically important piece of R2P's intended institutional architecture.

The Secretary-General's intention to institutionalize the collaboration between the special adviser for the prevention of genocide and the special adviser for the conceptual, political, and institutional development of the responsibility to protect (R2P) by establishing a shared office and staff was first signaled in a letter addressed to the Security Council in 2007.¹ The full details of this proposal were presented to member states in the Annex to the Secretary-General's 2009 report.² Then in 2010, in his report *Early Warning, Assessment and the Responsibility to Protect*, the Secretary-General again reminded member states of his determination to proceed with this plan.³

The Secretary-General's intent to institutionalize collaboration between the two special advisers for the purposes of efficiency and effectiveness through a joint office had thus been set forth on a number of occasions. Indeed, over the past three years, the idea of the joint office has been the subject of multiple discussions and debates. These date back to a first round of budgetary negotiations in 2007, in which the joint office proposal suffered some setbacks. A formal debate by member states in the General Assembly took place in July 2009, along with an informal interactive dialogue on "Early Warning, Assessment and the Responsibility to Protect" in the Summer of 2010. Over the past three years, the tenor of these deliberations has clearly shifted from initial obduracy to pragmatism, as reflected in the views voiced more recently in both the General Assembly and the budgetary negotiations.

From the outset, the Secretary-General's proposals for the institutionalization of the collaboration between the two Special Advisers via the creation of a Joint Office—together with the establishment of a new convening authority—had been intended to strengthen the UN's capacity to act as one in the face of mass atrocities.⁴ As stated in the Annex to the Secretary-General's 2009 report and again in his 2010 report, these institutional innovations are intended to help the UN anticipate, prevent, and respond to situations likely to involve the occurrence of mass atrocity crimes, to facili-

tate system-wide coherence, and to make possible a broad based UN response to crises relating to the responsibility to protect.

In line with this design, in mid-2010 the Secretary-General submitted the proposed 2011 budget (A/65/328 and Add. 1-5) with the estimates for special political missions, good offices, and other initiatives, as authorized by the General Assembly and/or the Security Council, to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) for the period from 1 January to 31 December 2011.

The budgetary proposal itself was the result of intense consultations within the Secretariat, which was divided over whether or not to proceed with requesting funding for a joint office. There were those—including the two special advisers—who were ready to capitalize on the positive outcome of the 2010 General Assembly interactive dialogue on early warning and assessment, and those who favored a more cautious line.

The final agreement was a straightforward proposal requesting the regularization—in the Office of the Special Adviser for the Prevention of Genocide (OSAPG)—of two current positions (one P-5 and one P-3) and the appointment of a new P-4 official, who would be responsible for early warning and emergency convening functions.⁵ Notably this proposal included references to all four crimes falling under R2P's remit—genocide, war crimes, crimes against humanity, and ethnic cleansing—rather than solely to genocide.⁶

THE ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS

The General Assembly's Advisory Committee on Administrative and Budgetary Questions (ACABQ) was the first body to consider the Secretary-General's budgetary proposal. This Committee met with representatives of the Secretary-General to further clarify the budgetary proposals. The review process lasted nearly three months, beginning in the autumn, and concluding in December 2010 with the publication of the committee's final report.

The ACABQ's deliberations provided the first signs of the politicization of the administrative and budgetary discussion. The dynamics soon revealed a spectrum that ranged from staunch supporters to outright skeptics.

By the end of October 2010, some contentious issues—especially regarding the role of voluntary funding for the

OSAPG's staff and activities—had been brought to the fore in the ACABQ. The questions raised by the committee on the Secretary-General's proposed budget actually provided the special advisers with new opportunities to make their case for the strengthening of the OSAPG, and for R2P more generally. The additional written submissions of the special advisers clearly reiterated the arguments in favor of all three positions and expounded upon the shift in the office's working methods toward R2P.

In an early November 2010 executive session, the ACABQ signaled its decision to approve only one of the three positions requested for the OSAPG. In a clear victory for R2P that position was the P-4 official responsible for early warning and emergency convening functions. While some committee members objected to the approval of a new post, and to the specific terms of reference attached to the P-4 position, forceful intervention from R2P supporters led to the securing of the position.

The ACABQ's final report issued specific recommendations on the resource requirements of all the claimants, including those of the OSAPG. In paragraph 24 the report referred to a number of missions—including the OSAPG—and asserted that “by their nature, they should be of limited duration and aim at accomplishing specific tasks.”

As for the OSAPG's budgetary proposal, the report noted that three additional positions had been requested to address “additional” functions of the Office related to the ongoing collaboration of the Special Adviser on the Prevention of Genocide and the Special Adviser who focuses on the responsibility to protect.” It also noted the increase in demand for the services provided by the OSAPG to entities within the United Nations system and member states. Although the report did not in principle object to all three positions, it resolved to only recommend the approval of an additional P-4 position, for R2P functions. It also asked for clarification on voluntary funding contributions.

From a budgetary point of view, the ACABQ's decision to recommend only one of the three requested positions was disappointing. Yet, from an R2P perspective, the decisions contained in paragraphs dedicated to the OSAPG seemed promising. Not only did they contain no objections to the office's R2P mandate, they explicitly referred to the ongoing collaboration between the two special advisers as an important factor justifying the request for additional resources. Equally significant was the ACABQ's recommendation that the new P-4 position be approved. The functions envisaged

for this official precisely matched the early warning, assessment, and emergency convening functions described in the Secretary-General's 2010 report.⁷

In sum, the Secretary-General's budgetary request was an important step forward for the institutionalization of R2P, with a clear connection between the terms of reference for the P-4 position and the functions envisaged for the recently established UN convening authority for mass atrocity prevention. Behind what appeared to be a mere bureaucratic plan was a critically important piece of R2P's intended institutional architecture.

THE NEGOTIATING PROCESS IN THE FIFTH COMMITTEE DECEMBER 2010

1. Formal Session on Special Political Missions

Negotiations in the Fifth Committee started on 15 December 2010 with a formal debate on special political missions. The UN controller, Jun Yamazaki, together with the Under-Secretary-General for political affairs, Lynn Pascoe, presented the Secretary-General's budget proposal. Informal sessions followed the next day with a question and answer meeting.

The formal debate was soon overtaken by a challenge led by Algeria with the support of Cuba, Nicaragua, and Venezuela, which questioned the Secretariat's very authority to institutionalize the ongoing collaboration of the two special advisers.

The possibility that a vote could be called on this particular question—and thus in theory on the authority of Security Council mandates—prompted a strong reaction from all five permanent members: China, France, the United Kingdom, Russia and the United States. The scope of the Security Council's authority had already been raised by Tehran's call to reject the budget request for a panel of experts on Iran. Cuba's endorsement of Iran's request for a vote at once brought to the fore the balance of power between the council and the General Assembly.

The United States and China devoted repeated efforts to find a formula that addressed the concerns of R2P opponents and supporters and thus could keep the option of consensus afloat. Generally, the informal negotiations of late December were dominated by compromise language—which risked the return of the budgetary proposal to the Secretariat for additional clarification. As efforts to sustain a consensus failed, the prospect of a vote became harder to avoid.

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Member states again met in plenary session in late December for the closure of the Fifth Committee's negotiations. In these sessions, member states approved budget requests for a number of items, including: UN missions in the Central African Republic, Chad, Cyprus, the Democratic Republic of the Congo, Haiti, Lebanon, and Sudan; and the International Tribunals for the former Yugoslavia and Rwanda. On 24 December the plenary moved on to consider the program budget for the biennium 2010-2011. At the point of addressing the 19 sections contained in resolution A/C.5/65/L.22 (L-22), the Iranian and Venezuelan representatives presented amendment proposals.

2. Question and Answer Session

The Q&A session of mid-December was expected to address a variety of issues. However, as much as 60 to 70 percent of the three-hour discussion was spent on deliberations about the OSAPG. This was the result of a vocal and coordinated attack by a small group of R2P detractors.

Algeria, Cuba, Nicaragua, Venezuela, and Egypt questioned the OSAPG's mandate. Algeria—claiming to speak on behalf of the African group—opened by contesting the mandate to proceed with the office's request, on the ground that the agreement reached in General Assembly resolution 63/308 was clearly limited to the continued consideration of R2P. Venezuela followed, recalling President Chávez's denunciation of the 2005 World Summit Outcome Document.

The attack by Algeria, Cuba, Nicaragua, and Venezuela was countered by a notable response by Francis Deng, special adviser for the prevention of genocide, and by a fairly coordinated group of supporters.

Mr. Deng highlighted as the sources of OSAPG's mandate: the 2005 World Summit Outcome Document; the exchange of letters between the Secretary-General and the president of the Security Council on the appointment of Edward C. Luck as special adviser on R2P; and resolution 63/308 adopted by consensus in the General Assembly in October 2009.

Further elaborating, Deng called attention to two particular aspects of the 2005 World Summit Outcome Document. First, he reminded those present that in paragraph 138 member states had pledged to support the UN in establishing an early warning capacity for genocide, war crimes, ethnic cleansing, and crimes against humanity. Secondly, he pointed to the commitment reached by member states in paragraph 140 to "fully support the mission of the Spe-

cial Adviser of the Secretary-General on the Prevention of Genocide." Deng then made the link between the responsibility to protect and genocide prevention. By emphasizing that genocide is often preceded by violations and crimes that may well include those relating to the responsibility to protect, Deng spelled out the obvious connection between the two mandates. This connection established the rationale for the joint office. He then went on to explain that the OSAPG was already working on the four crimes, and accordingly made the case for all three requested positions.

Venezuela, Cuba, Nicaragua, and Algeria questioned Deng's arguments. Venezuela enquired about the somewhat hidden reference to an assistant Secretary-General (Edward C. Luck's position) mentioned below a table of OSAPG positions contained in paragraph 63 of the Secretariat's budget proposal.⁸ In Venezuela's opinion, resolution 63/308 only embodies an agreement to continue the consideration of the responsibility to protect, and in no way should be regarded as providing a basis for an expanded mandate.

Cuba, in turn, referred to genocide and the responsibility to protect as two distinct concepts, and called into question what it perceived as an attempt to broaden the understanding of genocide. In addition, Cuba challenged the apparent intention to rely on a Secretary-General's report as a source for a mandate.

Nicaragua followed suit, contesting an exchange of letters between the Security Council and the Secretary-General as a sufficient basis for a mandate. It denounced what it saw as a stratagem that had already failed in 2007, with the Secretary-General's attempt to expand the OSAPG's remit to mass atrocities. Turning to issues of efficiency, the Nicaraguan delegate then pointed to the likelihood of duplication in the work of the two special advisers and asked whether the Secretary-General was planning to eliminate one of the positions.

The Canadian expert, speaking on behalf of CANZ⁹, (Canada, Australia and New Zealand) swiftly returned to the question of whether the exchange of letters provided a basis for a mandate. Responding to the questions posed by Cuba, Nicaragua, and Venezuela, the CANZ expert pointed to the mission for the Central African Republic, recalling that this mission had also originated in an exchange of letters between the Secretary-General and the then acting president of the Security Council.

CANZ's positive comments about the OSAPG and R2P were followed by South Korea, Costa Rica, the United States, the United Kingdom, Switzerland, and notably Kenya. One by one, as they asked about the terms of reference for the three envisaged positions, these delegations focused their interventions on the administrative nature of the request. Moreover, the sequence of questions posed by R2P supporters enabled Deng to effectively make the case for the three positions.

Deng's second set of responses was clearly on target. While refuting the assertion that he had suggested that a report by the Secretary-General could provide a basis for a mandate, he again reiterated his understanding of the mandate. In his view it clearly originated in the 2005 World Summit Outcome Document, the exchange of letters, and General Assembly resolution 63/308. While agreeing that resolution 63/308 only embodied an agreement to continue the consideration of the responsibility to protect, he noted that continued consideration needed work and the capacity to do that work. Deng then described his own understanding of the genocide prevention mandate as not being restricted to identity-driven conflicts. And, addressing arguments of efficiency, Deng highlighted the advantages of the collaboration established between the two special advisers.

A number of other countries and regional groupings participated in the Q&A session. Their interventions, however, did not query the budgetary proposal for the OSAPG. They included: Brazil, China, Italy, Japan, Kenya, Lebanon, Mexico, and Syria, as well as the European Union (EU).

The question of extra-budgetary funding—mentioned in paragraph 16 of the ACABQ's report—was addressed by the United States and Switzerland.¹⁰ The United States questioned the fairness of allegations singling out the OSAPG for lack of transparency in the use of voluntary contributions. Switzerland also asked about other UN offices of a similar size that may currently rely on extra-budgetary contributions to fund staff performing core functions.

As the session drew to a close, interventions by Algeria and Kenya made clear the degree of polarization. Algeria again went on the attack, enquiring about the scope of the genocide prevention mandate and the specifics of the collaboration between the two special advisers, and questioning the wisdom of “naming the baby before it is born.” In the delegate's view, a special adviser for R2P had been appointed before member states had actually agreed to the concept.

The swift intervention by Kenya—speaking on behalf of the African group—helped change the tone of the discussion. The Kenyan delegate praised the work of Francis Deng and his office and supported the OSAPG's worthiness of a unique mandate. He proceeded to ask about the details of the assessment methodology and the early warning mechanism. This question allowed Deng to make clear that the genocide prevention mandate had not changed and to explain that what had changed was the creation of the joint office to cater to the work of the two mandates. He then again referred to his efforts to demystify genocide, to elaborate on the office's early warning work, and to describe in more detail its framework of analysis.

The United Kingdom's attempt to bring the discussion back to where it belonged—to the meeting's agenda of the UN system's precise financial needs—was countered by a final offensive by Cuba, Nicaragua, and Venezuela. One by one, these countries insisted on: the lack of a mandate to restructure the office; the Security Council's irregular working methods, with an exchange of letters now presented as sufficient basis for a mandate; and, in the words of Venezuela, the simple fact of the lack of agreement around a concept that remains the object of debate in the GA.

3. Informal Negotiations December 2010

Following the challenge to the OSAPG's mandate in the Q&A by Algeria, Cuba, Nicaragua, and Venezuela, the process of formal negotiations opened with the proposal by these three countries to tackle the office's “logical framework.” Concretely, the proposal submitted by Cuba, Nicaragua, and Venezuela sought to remove all references to war crimes, crimes against humanity, and ethnic cleansing that had been included in the Secretary-General's budget proposal. The immediate effect of this move—intended to circumscribe the office's “logical framework,” as originally conceived—was to polarize the negotiations around the budgetary request for the OSAPG.

CANZ submitted a counterproposal that “took note” of the ACABQ report and welcomed the Secretary-General's budget request. In doing so, the Canadian delegation automatically endorsed all three positions requested by the Secretary-General (one P-3, one P-4, and one P-5). This proposal was then taken up by Kenya as an initiative endorsed by the African group.

As the negotiation devolved into a zero-sum game—i.e., the three requested positions or nothing—other delegations were prompted to take sides. Paradoxically, the politiciza-

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tion of the negotiating process forced those countries and groups—including Mexico and the EU—that for budgetary reasons had decided to endorse the ACABQ’s recommendation in favor only of the P-4 position to now support the call for all three positions and thus the joint office.

As a result, Argentina, Chile, Costa Rica, Guatemala, Haiti, Panama, and Uruguay also joined the group of countries that endorsed the proposals put forward by CANZ and the African group on behalf of all three positions and the Joint Office.

In response, Cuba, Nicaragua, and Venezuela started to mobilize. They first sought support from their remaining regional allies (Bolivia and Ecuador) and then targeted members of the African and Arab groups, as well as Russia and China.

As Cuba, Nicaragua, and Venezuela signaled their intention to call for a vote, a second front was opened.

This was characterized by an attempt—led by the EU and some permanent members of the Security Council—to keep the consensus afloat. China’s efforts to mediate with Cuba, Venezuela, and Nicaragua were especially notable. At this point, delegations considered compromise language in exchange for the three requested positions. The proposed language of compromise noted the “concerns expressed by a few/some member states” and requested the Secretary-General “to review the logical framework of the OSAPG in order to ensure that their programmatic aspects and resource requirements are consistent with mandates of the General Assembly and the Security Council, and to report thereon to the Assembly no later than the early part of the second part of its resumed sixty-fifth session.”

Beyond the perceived advantages of proceeding by consensus, the Security Council’s permanent members—and more specifically the United States and China—made clear their uneasiness about the implications of proceeding with a vote. They were concerned with the possibility of losing the vote, which would then create a precedent by which the General Assembly could claim the right to interpret and give an opinion on mandates emanating from the Security Council.

4. The Vote

Although by midnight on 23 December efforts to strike a compromise deal seemed possible, no such compromise was reached. As the General Assembly saw its time to complete the first segment running out, the Fifth Committee re-

turned to the plenary. This indicated its readiness to adopt and/or vote on the resolutions that had been negotiated during the intense interactions of the previous days.

One by one a number of resolutions were adopted by consensus, but this trend was interrupted first by Israel—calling for a vote on resolution L-20—and then by Iran and by Venezuela on resolution L-22. Teheran asked for the floor and proposed an amendment (to section 18), objecting to the Secretary-General’s request for funding for a panel of experts on Iran. Venezuela, in turn, submitted new language to be considered for insertion in section XIII of draft resolution A/C.5/65/L.22 on political missions, good offices, and other political initiatives authorized by the General Assembly and/or the Security Council.

The Venezuelan delegate voiced concern over the modifications observed in OSAPG’s logical framework. In her view, both the expansion of the office’s mandate to include concepts that did not enjoy intergovernmental agreement along with the attempt to operationalize R2P through the OSAPG represented a serious failure in administrative procedures. She again insisted that the only agreement reached within the General Assembly—as embodied in resolution 63/308—was to continue consideration of R2P. She contested the match between the logical framework under consideration and the guidelines presented in the Secretary-General’s report on early warning and the responsibility to protect. Venezuela then called attention to the primary responsibility of the state to protect its population and to the constructive role that the international community can play in supporting these efforts—but warned against a trend that entailed ignoring the root causes that too often lead to armed conflict. Venezuela then proceeded to read the proposed amendment and called on other member states to “rectify the problems of mandate reflected in the current document.”

The language proposed by Venezuela was in effect a call to edit out all references to the four R2P crimes; to re-establish the 2009 “logical framework” of the OSAPG; and to request the Secretary-General to issue a report on the “logical framework accepted by the GA in its resolution 64/425 as contained in the Secretary-General’s report A/64/349/Add.1.”¹¹

Venezuela’s call for a vote immediately prompted CANZ to request a recorded vote, urging all member states to vote against the proposed amendment. This move was swiftly seconded by the Netherlands.

In her intervention the Dutch delegate explained that while the Netherlands did not agree with the narrative proposed by Venezuela, the main motivation behind the decision to call for a recorded vote was procedural. According to this view—which was also echoed by Belgium on behalf of the EU—the Fifth Committee is the main committee of the General Assembly entrusted with the responsibility for administrative and budgetary matters. In their view, the substance of the proposed amendment went beyond the function of the Fifth Committee.

In light of these reasons, the Netherlands requested a recorded vote, inviting other delegations to vote against the Venezuelan proposed amendment. The interventions by CANZ and the Netherlands were then followed by Cuba.

The Cuban delegate denounced the way in which delegations had been forced—during both informal and formal sessions—to consider certain issues and were now compelled to vote. In addition to criticizing what he perceived as a shameful attempt by European and North American delegations to lobby delegates from the South, the Cuban delegate condemned the proposals concerning the OSAPG as a clear violation of assembly rules of procedure. In his view it was unacceptable that matters still under consideration in the General Assembly were now presented as part of OSAPG's established mandate. The Cuban delegate then questioned the existence of an agreement to support the view that the notion of R2P is part of the OSAPG's mandate. This was followed by a chain of references to standard concerns often repeated by R2P skeptics: from the risk of manipulation, to the need to fully respect the UN Charter, to the challenges of implementing R2P in a fundamentally unjust international order. As the Cuban delegate closed his remarks, he warned that “those pushing for resources” should be aware that the “Secretariat has poisoned the process in the General Assembly.”

Nicaragua then joined Venezuela and Cuba in what the delegate described as a “matter of principle.” In addition to criticizing the trampling of the mandate, Nicaragua also denounced the attempt to use a Secretary-General's report as a basis for a mandate. In the view of Nicaragua, given that the report had not been the subject of any action by the assembly, the Secretariat's attempt to rely on this document to proceed with the envisaged changes amounted to a “self-mandate.” Along with Cuba, Nicaragua warned that pushing the changes in OSAPG's mandate through a back door had endangered the R2P dialogue initiated in the General Assembly. In Managua's view, the attempt to force consensus

on R2P had pushed them to a vote. Nicaragua called on other delegations not to accept such impositions.

The forthright interventions by Cuba and Nicaragua were then followed by a brief but sharp statement by Belgium on the EU's behalf. Calling attention again to the administrative and budgetary responsibilities of the Fifth Committee, Belgium reminded all delegates of their responsibility to ensure that the OSAPG is adequately funded so that it can effectively implement its mandate. In the view of Belgium and that of the EU, the activities of the OSAPG—as proposed by the Secretary-General in his report on political missions—are fully justified on the basis of decisions taken by the General Assembly and the Security Council. Accordingly, the Belgian delegate announced that the EU would vote against the Venezuelan amendment.

Despite efforts to persuade a country from the South to accompany CANZ and the Netherlands in their call for a vote, none seconded this motion.

The Venezuelan amendment received: 17 votes in favor; 68 votes against; and 51 abstentions. Fifty-six delegations were absent.

Once Cuba, Nicaragua, and Venezuela saw their amendment lose, Cuba asked for the floor to call for a vote on section XIII of the resolution on special political missions. Although Cuba explained that its call for a recorded vote on section XIII did not reflect lack of support for all the other political missions (in particular those taking place in developing countries), this vote in effect corresponded to the entire section devoted to the OSAPG.

As was the case before, Cuba again saw this vote lose, but this time by an overwhelming margin. A total of 130 countries voted in support of section XIII; 9 countries joined Cuba voting against this section; and 4 decided to abstain.

In a brief intervention, Brazil made clear its understanding of the logical framework of the OSAPG presented in the document A/65/328.1 as broadly corresponding to the mandate given by the General Assembly. Moreover, the Brazilian delegate went on to add that in her view OSAPG's logical framework did not prejudge the discussions currently underway in the General Assembly. Nonetheless, the delegate explained that Brazil shared the concerns expressed regarding the design of the strategic frameworks of the special political missions, and the lack of review of those frameworks by an intergovernmental body. Brazil concluded by

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highlighting that the current budgetary process of special political missions does not allow for proper intergovernmental consideration of the logical strategic frameworks.

CONCLUSION

In many ways, the outcome of the Fifth Committee process, namely the recorded votes, was a significant battle won for R2P, notwithstanding the reservations expressed by some delegates—notably those representing the permanent members of the Security Council—about the recourse to a vote. The results of the two recorded votes related to the OSAPG and R2P also prominently reiterated the trends that had become clear in the 2009 and 2010 General Assembly debates on R2P.

The same countries that in the two previous years had vocally objected to R2P again presented their views. From the perspective of Cuba, Nicaragua, and Venezuela—and less vocally, Algeria—the agreement on the R2P does not extend beyond the decision to continue its consideration in the General Assembly. With the Venezuelan amendment, the three leading opponents led the motion in favor of the vote against R2P. This prompted those countries that had expressed similar concerns to vote in favor of the amendment.

As was the case in the assembly debates in 2009 and 2010, the vote made clear that those objecting to R2P represent a small minority of 17 countries. They can in no way claim to represent the whole membership. Indeed, their assertion that there is no consensus on R2P ought to be countered with the correct point—namely, that by “consensus” they can mean no more than unanimity.

Along with Algeria, Cuba, Nicaragua, and Venezuela, those who voted in favor of the proposed amendment were: Bolivia, the Democratic Republic of Korea, Ecuador, Iran, Lao People’s Democratic Republic, Libya, Mauritania, Myanmar, Qatar, Solomon Islands, Sudan, Syria, and Zimbabwe.

In stark contrast, 68 countries voted against the Venezuelan amendment, thus supporting R2P.¹² While this group comprised a significant number of Northern and European countries, it would be difficult to claim that this is a homogeneous bloc. Equally significant was the vote against the Venezuelan amendment from Latin American countries—including Argentina, Chile, Costa Rica, Guatemala, Mexico, Panama, Peru, Uruguay, and notably Brazil.

From Africa, four countries voted against this anti-R2P

amendment—Benin, Liberia, Nigeria, and Rwanda. From Asia Pacific half a dozen countries did so too, including Australia, Singapore, East Timor, and India.

The total number of abstentions, however, is not insignificant—especially as it was concentrated around African and Caribbean countries.¹³ Two possible explanations come to mind. In the first instance, delegates attending the Fifth Committee negotiations are often experts on administrative and budgetary matters who are not always in control of more substantive issues, such as those reflected in the Venezuelan amendment. As a result, abstention may have well been perceived as the safest option. A second possible explanation of the voting trends is that through their vote experts expressed the fact that they felt disconcerted at having been forced to discuss substantive issues in a forum that is only expected to deal with administrative issues.

In sum, a battle was won—but not easily so, thus indicating that the continued advance of R2P will require constant mobilization from its supporters. There should be no complacency—the group of abstainers is an advocacy target for opponents as well as supporters. Worth mentioning were the abstentions of China and Egypt, given their special importance on the world stage.

NOTES

¹ In a letter of 31 August 2007 addressed to the president of the Security Council, the secretary-general made clear his plans to strengthen the UN's role in the prevention of genocide and mass atrocities. He referred to the foundations of the genocide prevention mandate as outlined in resolution 1366; to his decision to appoint Francis Deng as his new special adviser for the prevention of genocide and mass atrocities; and to the more recent recommendations provided by the Advisory Committee on Genocide Prevention. His intentions to upgrade Deng's position to the level of under-secretary-general, to strengthen his office, and to designate Edward Luck as special adviser on the responsibility to protect at the level of assistant secretary-general were justified on three bases: the agreements embodied in paragraphs 138 and 139 of the 2005 World Summit Outcome Document; the obvious link between large-scale atrocities and threats to peace and security; and the recommendations of the Advisory Committee for the Prevention of Genocide. In this letter the secretary-general underscored that due to the "complementarity of the prevention of genocide and mass atrocities and the responsibility to protect," and for reasons both of "efficiency and of the complementarity of their responsibilities, they [the two special advisers] will share an office and support staff." See UN document S/2007/721, 7 December, 2007.

² In paragraphs 6 and 7 of this Annex, the secretary-general reminded member states of the explicit recognition granted by the 2005 World Summit Outcome Document to the relationship between two "distinct but closely related mandates." The logic of such a close relationship was established by including genocide as the first of the four crimes and violations encompassed by the responsibility to protect, and by the inclusion of the expressed commitment of member states to support the mission of the special adviser on the prevention of genocide, under the provisions relating to the responsibility to protect. In addition, the secretary-general confirmed that in the "interests of efficiency and effectiveness" and due to the complementarity of their mandates, the two special advisers would also share an office and support staff. See *Implementing the Responsibility to Protect*, Report of the Secretary-General, UN document A/63/677, 12 January 2009.

³ *Early Warning, Assessment, and the Responsibility to Protect*, Report of the Secretary-General, UN document A/64/864, 14 July 2010.

⁴ The first details of an emergency convening authority were provided in paragraph 5 of the Annex to the secretary-general's report *Implementing the Responsibility to Protect*. The creation of this convening authority was justified by the need to guarantee system-wide coherence in policymaking within the Secretariat and to facilitate an "early and flexible response tailored to the needs of each situation." An inter-agency and interdepartmental mechanism was thus conceived to consider policy options to be presented to the secretary-general and—subsequently to the relevant intergovernmental bodies.

⁵ The P-3, P-4 and P-5 positions refer to the professional categories established by the United Nations Common System of Salaries, Allowance and Benefits. According to this system there are five grades, with P-1 at the junior level and P-5 at the senior level.

⁶ The main tasks described for the P-5 position—a senior political affairs officer—include: the design and management of a development of strategy, together with the office's work-plan, and support the special advisors in their interaction with member states and international nongovernmental organizations. The P-3 position was in turn envisaged for an information officer responsible for collecting and managing information from a wide variety of sources for early warning purposes. Last but not least, the functions considered for the new P-4 position involve ex-

panding the existing early warning and assessment functions, and providing support for the emergency convening functions described in the secretary-general's report (UN document A/63/864.)

⁷ *Early Warning, Assessment, and the Responsibility to Protect*, Report of the Secretary-General, UN document A/64/864, 14 July 2010.

⁸ A/65/328, Add.1, p. 24

⁹ CANZ is an informal grouping of three countries, Canada, Australia, and New Zealand, that in the UN and in some other multilateral fora work closely on issues ranging from security issues, human rights to cooperation on the environment.

¹⁰ In paragraph 16 of its report, the ACABQ stated that the budget presentation for special political missions should include information on all resources available from different sources of funding in order to "allow for a clear and transparent analysis of the resources proposed as compared with capacity available from all types of funding and the needs identified." The report mentioned the OSAPG as a case in point. Although subsequently all relevant information was made available, the report underlined the failure to disclose all information related to extra-budgetary resources that had helped cover the costs of certain positions. See "Review of the efficiency of the administrative and financial functioning of the United Nations," Programme budget for the biennium 2010-2011, General Assembly, A/65/602, items 128 and 129, 8 December 2010.

¹¹ Venezuela's proposed amendment read as follows: "Requests the Secretary-General to review the logical framework of the Office of the Special Adviser of the Secretary-General on the Prevention of Genocide, taking into account the concerns expressed on the variation of the narratives as contained in paragraphs 44, 46, 50, 52, 53, 56-59, 61, and 63 of the report of the Secretary-General (A/65/328/Add.1 and Corr.1 and Corr.2) from the strategic framework of the Special Adviser of the Secretary-General on the Prevention of Genocide in the report of the Secretary-General A/64/349/Add.1, in order to ensure that its programmatic aspects and resource requirements are consistent with the legislative mandates of relevant intergovernmental bodies, and to issue a technical review and report thereon to the General Assembly no later than the early part of its first resumed part of its sixty-fifth session, based on the logical framework approved by the General Assembly in its resolution 64/245 as contained in the report of the Secretary-General A/64/349/Add.1"

¹² These included Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bosnia-Herzegovina, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Kazakhstan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, the Maldives, Malta, Mexico, Monaco, Montenegro, the Netherlands, New Zealand, Nigeria, Norway, Panama, Peru, Poland, Portugal, the Republic of South Korea, the Republic of Moldova, Romania, Rwanda, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Macedonia, East Timor, the Ukraine, the United Kingdom, Uruguay, and the United States.

¹³ The abstaining countries were: Antigua-Barbuda, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Dar-Salam, Burundi, China, Congo, Cote D'Ivoire, Djibouti, Dominican Republic, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Grenada, Guyana, Haiti, Indonesia, Jamaica, Jordan Kenya, Kuwait, Lebanon, Lesotho, Malaysia, Mali, Mongolia, Morocco, Namibia, Nepal, Niger, Oman, the

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Philippines, Russia, Saudi Arabia, Senegal, South Africa, Suriname, Thailand, Trinidad-Tobago, Tunisia, Uganda, the United Arab Emirates, Tanzania, Yemen, and Zambia.

ABOUT THE CENTRE

The Global Centre for the Responsibility to Protect was established in February 2008 as a catalyst to promote and apply the norm of the “responsibility to protect” populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Through its programs, events and publications, the Centre is a resource and a forum for governments, international institutions and non-governmental organizations on prevention and early action to prevent and halt mass atrocities.

