

SPECIAL REPORT

NEW PEACE AND SECURITY COUNCIL WORKING METHODS DURING THE COVID-19 SUSPENSION OF PHYSICAL MEETINGS

AMANI AFRICA

Media and Research Services

28 APRIL
2020

AMANI AFRICA REPORT NO. 6



NEW PEACE AND SECURITY COUNCIL WORKING METHODS DURING THE COVID-19 SUSPENSION OF PHYSICAL MEETINGS

I - INTRODUCTION

The measures required for containing the new global pandemic known as the novel coronavirus 2019 (COVID19) require, among others, avoiding physical contact and observing social distancing. These measures necessitate the freezing of activities that bring together a group of people in one place. The result of this is that business meetings, political or religious gatherings are banned, schools are temporarily closed, and in some cases work stopped.

Within the context of the foregoing, the regular functioning of both national and international institutions has been disrupted. This extraordinary situation has led to the closing of the doors of the headquarters of the United Nations (UN) in New York, and hence the suspension of the meetings of the UN Security Council (UNSC) in person. The African Union (AU) and its Peace and Security Council (PSC), the highest decision-making body of the AU on peace and security matters,¹ also halted activities that require travels and meetings.

These measures give rise to the issue of how institutions like the PSC can adapt and introduce working arrangements that ensures minimum level of continuity in their work. This special research report seeks to provide an analysis of the working methods of the PSC in this extraordinary period during which the PSC could not convene its meetings in person.

¹ The PSC is established under the Protocol to the AU Constitutive Act on the Establishment of the Peace and Security Council of 2002 (PSC Protocol). The PSC Protocol came into force in 2003 and the PSC commenced work in March 2004 before its official inauguration on 25 May 2004.

The report is based on a technical analysis paper that Amani Africa prepared as input for the PSC Chairperson of the month to inform the exploration of new formats best suit to enable the PSC to continue with its critical work. The report also draws on the rules and practice of the PSC relating to the organization of its work.

The rules and practice relating to the organization of work of the PSC, including the format of PSC meetings are drawn from the PSC Protocol, the Rules of Procedure of the PSC (the PSC Rules), the Conclusions of the Retreats, of the PSC on its working methods,² the Manual on PSC Working Methods,³ and the outcome documents of PSC activities. Consisting of 35 rules and established to complement the PSC Protocol, the PSC Rules⁴ provide details that cover the format of PSC meetings, quorum, agenda of PSC meetings, the organization and conduct of the proceedings of PSC meetings, the role of the PSC Chairperson, voting and publicity of meetings/records.

² The PSC had so far held twelve retreats. Half of the retreats focused on its working methods. The first retreat, which was dedicated to the working methods of the PSC, was held in Dakar on 5-6 July 2007. Other retreats on working methods were: Yaoundé on 15-16 November 2012, Djibouti on 9-10 February 2013, Namibia on 21-23 May 2015, Egypt on 29-31 October 2018 and the last one in Rabat on 24-26 June 2019.

³ The PSC consolidated the conclusions of the various retreats on its working methods held between 2007 and 2018 into one instrument and adopted it as Manual on the PSC Working Methods in June 2019.

⁴ The Rules of Procedure of the PSC developed on the basis of Article 8 of the PSC Protocol was considered and adopted by the AU Executive Council in March 2004.

II - IMPACT OF COVID-19 FOR THE PEACE AND SECURITY COUNCIL

Upon the arrival of COVID19 on African shores and with the World Health Organization (WHO) advising the freezing of meetings, the PSC received advice from AU's health agency, the Africa Centre for Disease Control (Africa CDC). On 11 March, the PSC decided to suspend all its meetings until the end of April in accordance with the recommendations of Africa CDC, which advised for meetings to be held virtually if possible. As a follow up to this, the PSC Secretariat informed member states of the PSC the postponement of the open session that was scheduled for 12 March on the safe schools declaration.

On 13 March, the AUC issued a general guideline directing that all meetings for the month of March and April are to be suspended until further notice and only essential meetings related to health and security are to be held through a written waiver. The result is that the activities of the PSC for the month of March and April including its sessions and a scheduled induction retreat for new members of the PSC have been cancelled. With the PSC unable to hold meetings, the prospect facing the PSC was that its work would have come to a standstill for an extended period of time unprecedented since its launch in 2004.

III - THE CENTRALITY OF MEETINGS FOR THE WORK OF THE PSC

The work of the PSC is premised on the holding of meetings in which duly designated representatives of members of the PSC participate in person.⁵ The PSC is envisaged to operate as a collective decision-making body pursuant to Article 2 of the PSC Protocol. Its existence as a collective entity is constituted and expressed through the sitting of its members in duly constituted PSC meetings⁶

The meetings of the PSC are the main mechanism through which the PSC conducts its business and these meetings reflect the identity of the PSC as a collective body. The policy actions of the PSC triggering peacemaking or mediation efforts upon the eruption of conflict, mandating the deployment of peace support operations for the management and resolution of conflicts, the instituting of sanctions for unconstitutional changes of government and other similar policy actions are all formulated on the basis of the deliberations of members of the PSC during PSC meetings. It is indicated in Article 8 of the PSC Protocol that the PSC conducts its work by holding meetings. Article 8 (2) of the PSC Protocol stipulates that the PSC shall meet 'as often as required at the level of Permanent Representatives, but at least twice a month'. This provision is restated both in the PSC Rules of Procedure (PSC Rules)⁷ and the Manual on the PSC Working Methods⁸

⁵ Article 8 (2) of the PSC Protocol stipulates that the PSC meetings are held at the level of Ambassadors, Ministers and Heads of State and Government.

⁶ See Manual on PSC Working Methods (2019) particularly the section on organization of PSC meetings.

The continuous nature of the work of the PSC

The PSC is one of the few organs of the AU that operates on a permanent basis. As noted earlier, the PSC per Article 2 of the PSC Protocol is meant to operate as a ‘standing decision-making organ’. To this end, Article 8 of the PSC protocol stipulated that the PSC ‘shall be so organized as to be able to function continuously’. Thus, the PSC is constituted to function permanently in a way that ensures that there is regularity of peace and security decision-making for addressing the peace and security issues on the continent without major interruption. It does so through the instrumentality of the convening of its duly constituted meetings in person.

Distinction can be made between the continuous nature of the work of the PSC and the modalities (such as holding physical meetings) through which the PSC conducts its ‘function continuously’. The reading of both Articles 2 and 8 of the PSC Protocol as well as the PSC Rules suggest that continuity of its work is not a matter of option for the PSC. Continuity of the work of the PSC is not only a legal requirement of the PSC Protocol but it is also inherent in the mandate of the PSC. As an organ of the AU that has similar mandates as the UN Security Council and shares in its working arrangement key attributes of the UN Security Council, the mandate of the PSC is meant to subsist both in normal times and in times of emergency that may disrupt the implementation of the working modality (physical meetings) put in place for normal times.

Unlike the attribute of the PSC as ‘a standing decision-making organ’ and the legal requirement in the PSC Protocol for it to ‘function continuously’, which are meant to apply at all times, the working modality of how the PSC conducts its business (or how the PSC

functions continuously) on the basis of the convening of physical meetings (stipulated in Article 8 of PSC Protocol, the PSC Rules & Manual on PSC Working Methods) is meant to apply for normal times. As such, the convening of meetings requiring physical presence in the PSC meeting hall is not a pre-requisite for the PSC to ‘function continuously’ as required in the PSC Protocol.

Accordingly, notwithstanding the provisions on the conduct of business of the PSC under normal circumstances via physical meetings, there is nothing in the PSC Protocol nor in its subsidiary instruments (including the Rules of Procedure and the Working Methods) that prohibits the PSC from conducting its business through working modalities other than meetings in person.

Critical work of the PSC requiring PSC engagement at all times

Apart from the legal requirement in the PSC Protocol and the inherent mandate of the PSC for it to operate as a ‘standing decision-making organ’ and to ‘function continuously’, other important consideration for the PSC to continue its work are the need for it to carry out its essential functions and the imperative for PSC to be able to respond to emerging situations. Pursuant to the Manual on the PSC Working Methods, there are a list of mandatory/statutory meetings which are reflected in the Annual Indicative Work Plan of the PSC that the PSC is required to have. These include what are known as technical rollovers, which are related to the renewal of mandates of PSC mandated or PSC authorized missions. The PSC is required to renew the mandate of such missions in order to ensure that such missions continue to function and that they have the legal basis for continuing to operate.

⁷ Rule 2 of PSC Rules.

⁸ Para 19 of the Manual on PSC Working Methods.

In April, during which the PSC cannot hold physical meetings, the renewal of mandate of the PSC authorized regional mission of the G5 Sahel Joint Force was due on 11 April. Similarly, renewal of the mandate of the PSC mandated African Union Mission to Somalia (AMISOM) will be due the following month in May 2020.

With a number of countries adopting measures in response to COVID19 leading to socio-economic disruption and social tension, it is feared that the situation may push some of the fragile countries into violence or has added a new layer that can aggravate existing conflict situations. The PSC has accordingly needed to be on standby to respond to such cases should they come to pass. Similarly, there are certain fragile elections which could lead to the eruption of violence and hence requiring the engagement of the PSC, particularly if such violence would require the deployment of preventive measures or the institution of sanction for unconstitutional change of government.

IV - LESSONS FROM THE EXPERIENCE OF THE UN SECURITY COUNCIL

Both on account of the continuous nature of its work (similar to the PSC) and in order to deliver on its essential functions, in March 2020 the UN Security Council (UNSC) has introduced new working methods for the period during which it could not hold meetings physically at the UN headquarters in New York.

In this respect, the role of the President of the UNSC has been important. The President of the UNSC for the month of March, China, facilitated the discussion on how the UNSC could continue to deliver on its essential function. Based on the discussion, it circulated a letter to the members of the UNSC with the list of interim arrangements in lieu of physical meetings. Outlining what it called, 'temporary, extraordinary and provisional measures,' the letter from China introduced new working methods that would enable the UNSC to discharge its mandate 'during the duration of the restrictions on movement in New York due to the COVID19 pandemic'. The letter stipulated that these temporary measures are applicable only for this period without setting a precedent and will be reviewed at the end of April.

The new working mechanisms of the UNSC cover two main areas of Security Council activities – adoption resolutions and holding meetings. While the provisions on the adoption of resolutions have little relevance to the work of the PSC due to the difference in decision-making process and in the approach of the PSC from that of the UNSC, the provisions of the interim measures on meetings are instructive for the PSC.

Pending the review at end of April and in the place of physical meetings, the letter from the President of the UNSC in particular provides for the interim use of video conferencing for convening distance meetings of the UNSC. This component of the letter (on the convening of UNSC meetings via video conferencing) includes the following elements:

The convening of a video conference will be announced to the members of the UNSC and to the public 24 hours before its convening, with the announcement posted on the UNSC website.

- a. Some of the video conference meetings to be announced as 'closed video conferences', will accordingly be limited to the members of the UNSC.
- b. For those video conferences not announced as closed, unless a Council member objects, Member States whose interests are 'specifically affected' will be invited to participate.
- c. To ensure transparency of those VCTs not announced as closed, within the following 48 hours after the VCT the Council President will circulate, as an official document, a compilation containing the interventions of briefers, as well as of Council members, which will send their statements to the President for inclusion 'in timely manner'.

It is important to note that the working methods and approaches of the UNSC and the PSC are not the same. As Amani Africa has highlighted in our recent special research report, the process for the adoption of resolutions followed in the UNSC does not apply to the PSC. Although envisaged as a decision-making method, the PSC does not use voting. Instead, the PSC adopts its outcome documents on the basis of minimum consensus reflected in the summary of the deliberation of the PSC meeting which is used for drafting the outcome document by the PSC Secretariat.⁹

⁹ See, the Manual on PSC Working Methods.

The draft outcome document (taking the form of a communique or a statement) will thereafter be placed under the silence procedure for 48 hours. Accordingly, those elements of the UNSC temporary measures relating to the process of adoption of resolutions are not relevant.

However, the interim procedure of the UNSC on meetings via video conference is relevant and can be used to enable the PSC to discharge its work.

The convening
of a video
conference will
be announced
to the members
of the UNSC
and to the
public before
24 hours.



V - OPTIONS ON TEMPORARY WORKING MODALITIES FOR THE PSC TO 'FUNCTION CONTINUOUSLY' DURING THE SUSPENSION OF PHYSICAL MEETINGS DUE TO COVID-19

Based on the provisions of the PSC Protocol, the PSC Rules and the Manual on PSC Working Methods, there are four options from which the PSC could choose one or a combination of options as temporary working methods for the duration during which the restrictions on physical meetings at the AU headquarters will remain due to COVID19 pandemic.

1) Convening meetings using Virtual Conference Technology (VCT)

One of the options proposed by the African CDC in its advisory note to the AU is for AU entities to conduct their meetings virtually. This has not been tried before. As noted above, this is an option that is adopted as the avenue for convening meetings by the UNSC. The use of VCT for the meeting of the PSC allows members of the PSC to converge at the same time in a virtual space and conduct their deliberations on the essential agenda items they agreed to have on the monthly program or on any emergency situation that may arise.

Agenda and timing of VCT

Following the provisions of the Manual on PSC Working Methods relating to distribution of documents, the PSC Chair can propose that the agenda items and the dates for the VCT are agreed between the PSC members and published as revised monthly program of work of the PSC for April. Three days before the VCT, the PSC Secretariat can inform the

PSC members and others that will join the VCT as relevant on account of the nature of the agenda and for the open part of the VCT. This will be communicated using the usual medium of communication within the PSC and can also be posted on the AU Peace and Security website.

Form of VCT meetings

The VCT can take the closed or open form of the meetings of the PSC envisaged in Article 8 of the PSC Protocol and in the PSC Rules as well as the Manual on the PSC Working Methods.

Participation in VCT meetings

Based on the current practice and working methods of the PSC, participation in the VCT could include briefers (those that join to deliver a briefing), the AUC Chair or his representative, the Peace and Security Commissioner, relevant bodies of the AU (such as the Africa CDC, the African Commission on Human and Peoples' Rights etc.), Special Envoys or Special representatives, representatives of relevant RECs and UNSC member states and/or the UN Office to the AU. Others that participate include the representative of the country concerned where the agenda of the meeting is country focused.

Outcome of VCT meetings

As far as the outcome of VCT meetings is concerned, the working methods of the PSC relating to summary records, the drafting of outcome documents, the silence procedure and publication will be applicable and remains unaffected.

2) Use of email communication

The other avenue for PSC to continue working is to use email communication. There is already a precedent in the practice of the PSC to use email communication for reviewing PSC outcome documents and it can be adapted to be used for the purposes of continuing with the work of the PSC.

This improvised use of email communication will cover the following:

- a. Agenda setting with the Chairperson of the PSC sharing draft and inviting input of PSC members for adoption of agenda;
- b. After the agenda had been agreed to, email communication will be used for the provision of input by PSC members on the agenda with their proposals. To this end, communication is sent by the PSC Secretariat informing members that their input is expected until the end of the working day on which the agenda was to be considered through email communication.
- c. Following the receipt of input, the Chairperson circulates the compiled and harmonized summary of the inputs of PSC members;
- d. After the drafting by the PSC Secretariat of the outcome document based on the summary, the draft will be communicated by email launching the silence procedure as stipulated in the Manual on PSC Working Methods; and
- e. Certification by the PSC Chairperson of the final draft outcome document for publication by the Secretariat after the end of the 24 hours silence procedure.
- f. The downside of the use of email communication is that it does not allow deliberation by PSC members. It also tends to limit free flowing of exchange of views and the collective formulation of policy ideas through deliberation.

VI - THE ROLE OF THE CHAIRPERSON OF THE PSC FOR APRIL

The Chairperson of the PSC is the architect of the work of the PSC. This role of the Chairperson of the PSC as an architect of the work of the PSC covers the following:

- a. Preparation of the monthly program of work of the PSC (Art. 8(7) PSC Protocol, Rule 6(1) of the Rules of Procedure, para. 12 of the Manual on PSC Working Methods);
- b. Convening meetings when necessary (Rule 4 & para 16 of Manual on PSC Working Methods);
- c. Extending invitations to the Deputy Chairperson of the Commission and any other Commissioner to attend meetings (Rule 25 of the Rules of Procedure); and
- d. Determining the format of PSC meetings, such as open meeting.

Against the foregoing, Kenya as the Chairperson of the PSC during this extraordinary period takes charge of providing leadership for enabling the PSC to discharge its mandate continuously. Kenya's Ambassador chairing the PSC has played this role to initiate discussion among PSC members on the adoption of temporary working arrangements similar to that of the UNSC. This has helped in avoiding the emergence of a vacuum in the work of the PSC and hence the associated risk of loss of relevance in peace and security decision-making in Africa during this period.

VII - THE OPERATIONALIZATION OF NEW INTERIM WORKING METHODS

Following internal discussions of the PSC via WhatsApp and email exchanges in early April, the PSC under Kenya's leadership as the Chairperson of the PSC for April agreed, as we reported in the 7 April edition of Insights on the PSC, to new working modalities for the duration during which the PSC could not meet in person. The PSC agreed to conduct its business on the basis of two interim mechanisms that will operate in lieu of its usual meetings in person. The first of this is the use of VCT, which allows the PSC to convene its session remotely. The second mechanism is the use of remote electronic exchanges on a particular agenda via email.

The practice thus far shows that the mechanism that is commonly used for conducting the work of the PSC is the use of electronic exchanges via email. Accordingly, PSC held a briefing session on the situation in South Sudan using this method of work on 9 April. In accordance with the applicable rules, briefings were received from the various relevant bodies. Accordingly, the Special Representative of the AU Commission Chairperson and the Head of the AU Office in South Sudan, Revitalized-Joint Monitoring and Evaluation Commission and the Ceasefire and Transitional Security Arrangement Monitoring and Verification Mechanism (CTSAMVM) sent written briefings to the PSC. Similarly, the Ambassador of South Sudan also shared written statement with the PSC. Apart from sending these documents, the PSC Secretariat communicates formally to PSC members informing them of the agenda and requesting them to send their input before the end of the working hour of the day on which the agenda item is considered.

The PSC considered another agenda on the locust invasion in East Africa and its humanitarian impact on 10 April using the same mechanism. Accordingly, the PSC received written briefing on the locust invasion from the Executive Secretary of the Inter-Governmental Authority on Development (IGAD). Member states considered the agenda based on the written briefing and gave their input in writing to enable the PSC Secretariat and the Chairperson of the PSC to consolidate the input of the members and prepare the draft outcome document which is finalized on the basis of the usual silence procedure of the PSC.

Since the introduction of the two interim working mechanisms and the trial session that member states held on 8 April, the PSC has thus far used VCT on two occasions. The PSC held its first VCT session on COVID19 and its peace and security impacts in Africa on 14 April. In this session that lasted more than three hours, apart from the Commissioner for Peace and Security and the Director of Africa CDC, the PSC received briefings remotely from the Executive Director of the WHO and the Executive Secretary of the UN Economic Commission for Africa. The PSC held its second VCT session on 21 April focusing on the renewal of the mandate of the G5 Sahel Joint Task Force and the consideration of the Strategic Concept Note on the deployment of a 3000 AU force to the Sahel. A third VTC session is scheduled to take place on 28 April.

VIII - CONCLUSION

COVID19 presented unexpected challenges to the workings of the PSC. While the conduct of the business of the PSC requires and is premised on the convening of meetings in person, COVID19 has led to the suspension of such meetings by the PSC. Indeed, after consultation with Africa CDC and receipt of the latter's advice on 11 March, the meetings and activities of the PSC scheduled for the rest of March were cancelled. Subsequently, it was decided that the PSC, like other bodies of the AU, will not convene its meetings in person until the end of April. Yet, the nature of the mandate of the PSC is such that it is necessary and legally required for it to function continuously.

Both to ensure the continuity of its work and avoid the emergence of a vacuum in peace and security decision-making in the AU, the PSC adopted two working mechanisms to be used in lieu of the convening of its meetings in person. Both the electronic exchanges on an agenda item via email and the VCT have now become during this period the interim working methods for PSC to conduct its work. They enable the PSC to continue to carry out its functions until it becomes possible to revert back to its normal working mechanisms. In terms of the scope of application, thus far, these working mechanisms are used for closed and partially closed remote meetings of the PSC. It remains to be seen whether the PSC, like the UNSC, would also make some of its VCT sessions open, thereby allowing participation of its wider stakeholders.



MEDIA AND RESEARCH SERVICES

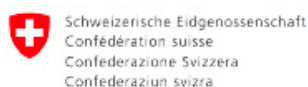
ABOUT AMANI AFRICA

Amani Africa is an independent African based policy research; training and consulting think tank with a specialization and primary focus on African multilateral policy processes, particularly those relating to the African union.

We support the pan-African dream of peaceful, prosperous and integrated Africa through research, training, strategic communications, technical advisory services, and convening and facilitation.

ACKNOWLEDGEMENTS

Amani Africa wishes to express its gratitude to the Government of Switzerland, the Embassy of Germany the British Embassy and the Embassy of Finland in Addis Ababa



ADDRESS

Off Olympia roundabout Dem. Rep. Congo Street, Hailu Wolde Building, Kirkos subcity,
Woreda 01 House no.263/unit 02 first floor
Tel: +251118678809
Mobile: +251944723204 Addis Ababa, Ethiopia