



**PERMANENT MISSION OF URUGUAY
TO THE UNITED NATIONS**

Consejo de seguridad

**Intervención de S.E. el Señor Embajador Felipe H. Paolillo,
Representante Permanente del Uruguay ante las Naciones Unidas**

Debate abierto: “Operaciones de Mantenimiento de la paz”

Nueva York 24 de Mayo de 2004

Security Council

**Intervention by H.E. Ambassador Felipe H. Paolillo,
Permanent Representative of Uruguay to the United Nations**

Open debate: “United Nations Peacekeeping”

New York, 24th May, 2004

MR PRESIDENT,

WE HAVE REQUESTED TO PARTICIPATE IN THIS OPEN DEBATE TO CONVEY ONCE AGAIN THE CONCERN OF URUGUAY UPON THE APPROVAL OF A NEW EXTENSION OF THE EXCLUSION FROM THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT, FOR A TWELVE MONTH PERIOD AND FOR THE THIRD TIME, OF ALL PERSONNEL FROM CERTAIN STATES WHO PARTICIPATE IN OPERATIONS ESTABLISHED OR AUTHORIZED BY THE UNITED NATIONS.

ALONG THE SAME LINES OF OUR INTERVENTION DURING LAST YEAR'S OPEN DEBATE, WE FIND THE PROPOSED MEASURE UNNECESSARY, INCONVENIENT, DISCRIMINATORY AND VOID OF LEGAL JUSTIFICATION.

IT IS UNNECESSARY, SINCE THE STATUTE OF ROME MAKES IT VIRTUALLY IMPOSSIBLE FOR THE COURT TO DECIDE ARBITRARILY OR BASED UPON FRIVOLOUS ACCUSATIONS OR TAINTED BY POLITICAL MOTIVATIONS. THESE POSSIBILITIES SEEM TO BE MORE THAN REMOTE, MR PRESIDENT. WE ARE AWARE THAT CERTAIN SECTORS HAVE EXPRESSED THEIR FEAR OF POLITICALLY MOTIVATED DECISIONS ADOPTED BY THE COURT, BUT SO FAR WE HAVE NOT HEARD A SINGLE WORD THAT MIGHT JUSTIFY SUCH FEAR. BESIDES, THE COURT WILL EXERCISE ITS JURISDICTION ONLY BASED ON THE PRINCIPLE OF COMPLEMENTARITY, WHEN THE COMPETENT STATE CANNOT OR DOES NOT WANT TO DISCHARGE ITS DUTY TO INVESTIGATE OR TO PROSECUTE.

IT IS INCONVENIENT BECAUSE IT AFFECTS ADVERSELY THE DETERRING EFFECT THAT THE SOLE EXISTENCE OF THE COURT WILL HAVE ON THOSE WHO MIGHT BE TEMPTED TO COMMIT CRIMES REFERED TO THE STATUTE, AND KNOW THAT THEY MAY BE SUBJECTED TO ITS JURISDICTION. THE CERTAINTY OF THE IMMUNITY CONFERRED BY THIS RESOLUTION MAY LEAD THEM TO ADOPT A MORE IRRESPONSIBLE ATTITUDE.

IT SHOULD BE ALSO SAID THAT THIS MEASURE IS DISCRIMINATORY. WE BELIEVE WE HOLD CERTAIN AUTHORITY THAT ENABLES US TO ASSERT IT, GIVEN THAT URUGUAY IS ONE OF THE MAJOR TROOP-CONTRIBUTING COUNTRIES TO UN PEACEKEEPING OPERATIONS. CURRENTLY THERE ARE MORE THAN EIGHTEEN HUNDRED URUGUAYAN NATIONALS PARTICIPATING IN PEACEKEEPING OPERATIONS IN AFRICA AND ASIA AND RIGHT NOW, FIVE HUNDRED AND SIXTY MEN AND WOMEN ARE READY TO BE DEPLOYED IN HAITI. URUGUAY HAS ACCEPTED THE IDEA THAT ITS NATIONALS SERVING IN PEACEKEEPING OPERATIONS MAY BE UNDER THE JURISDICTION OF THE COURT IF THE URUGUAYAN STATE WERE NOT ABLE OR NOT WILLING TO EXERCISE ITS JURISDICTION.

IT IS ESSENTIAL THAT ALL PERSONNEL OF PEACEKEEPING OPERATIONS BE SUBJECT TO THE SAME LEGAL AND DISCIPLINARY REGIME, REGARDLESS ITS NATIONALITY. IT IS DISCRIMINATORY AND UNFAIR THAT PART OF SUCH PERSONNEL BE SUBJECTED TO ONE SYSTEM OF RESPONSIBILITY LESS DEMANDING THAN THAT APPLIED TO THE REST.

LASTLY, MR PRESIDENT, THE RESOLUTION FINDS SUPPORT ON SOMETHING THAT FROM A JURIDICAL POINT OF VIEW IS, TO SAY IT NICELY, OBSCURE AND OBJECTIONABLE. ALTHOUGH THIS IS NOT THE MOMENT TO ELABORATE ON THIS, I CANNOT AVOID RECALLING THAT ARTICLE 16 OF THE STATUTE DOES NOT ALLOW SUCH A FAR REACHING EXCLUSION FROM THE JURISDICTION OF THE COURT, THAT THE RESOLUTION DOES NOT PROVIDE A JUSTIFICATION FOR INVOKING CHAPTER VII OF THE UN CHARTER AND THAT THE COMPETENCE OF THE SECURITY COUNCIL TO MODIFY THE STATUTE OF ROME IS DUBIOUS.

THIS WOULD BE THE THIRD CONSECUTIVE YEAR IN WHICH THE SECURITY COUNCIL ADOPTS A RESOLUTION RESTRICTING THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT. SHALL WE UNDERSTAND THAT THIS RESTRICTION IS ON ITS WAY TO BECOME A PERMANENT ONE? BEFORE SUCH THING HAPPENS, WE WOULD LIKE TO SUGGEST THIS COUNCIL TO SUBMIT TO A DEEPER AND STRICTER EVALUATION THE NECESSITY, THE TIMELINESS, THE LEGALITY AND THE POLITICAL IMPLICATIONS OF SUCH A PROPOSAL, IN ORDER TO VERIFY WHETHER ITS ADOPTION IS COMPATIBLE WITH THE PROVISIONS OF THE STATUTE OF ROME, THE OBJECTIVES OF THE UNITED NATIONS AND THE PRINCIPLES WHICH RULE THE DISTRIBUTION OF POWERS AMONG ITS ORGANS. IN ANY CASE, MR PRESIDENT, I CAN ASSURE YOU THAT THIS RESOLUTION IS NOT COMPATIBLE AT ALL WITH THE INTEREST AND EXPECTATIONS OF THE NINETY FOUR STATES PARTIES TO THE STATUTE OF ROME.

THANK YOU.