



Misión Permanente de Costa Rica ante las Naciones Unidas

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Informal Consultations on the Report of Secretary General for the 2005 Summit

Mr. Bruno Stagno Ugarte
Ambassador, Permanent Representative of Costa Rica
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Mr. President,

Allow me to commend you for your initiative in convening these consultations and the much appreciated opportunity to respond constructively and pointedly to the recommendations contained in the two reports commissioned by the Secretary-General. We trust the Secretariat has been taking due note of the various views presented in these consultations as guidance for the much-awaited Report of the Secretary-General.

We are delighted to hear that the Report of the Secretary-General will be bold. With that in mind, allow me to share with you some views and ideas that my country sees as contributions to that boldness. Since we already outlined our position on many of the recommendations contained both in High Level Panel report and in the Millennium Project report at the previous informal consultations, I will refer today only to some issues and ideas that were not adequately addressed in either.

Oversight, Management and Accountability

Mr. President,

Allow me to begin by making reference to an issue that goes to the very heart of the credibility of the United Nations, and that despite being in headlines all around the world, was not addressed by the High-Level Panel. We, the Member States, have not mustered the collective will to address it either, promptly and squarely, as if the passage of time were to exorcise our demons. I am of course referring to glaring failures in internal oversight and management. Both the Oil for Food Program [OIP] and the cases of sexual exploitation, abuse, and corruption of minors in the United Nations Organization Mission in the Democratic Republic of Congo [MONUC], evidence acute deficiencies of the system in terms of oversight and management. Although both situations are now, quite appropriately, under examination, by the Independent Inquiry Committee [IIC] and the Office of Internal Oversight Services [OIOS], these investigations came far too late, after years of mounting evidence of alleged irregularities and crimes. Moreover, the delays in taking action suggest that an organizational culture of secrecy and impunity pervades some sectors of the Secretariat.

We, the Member States and the Secretariat, must address, promptly, openly, and squarely, this serious problem, demanding full accountability whenever the credibility and integrity of our Organization is placed in risk. We urge the Secretary General to make, in his March report, concrete recommendations to improve the internal oversight and management system and to ensure the accountability of the UN and associated personnel for any criminal activity. We trust that the Secretary-General will provide bold recommendations in this regard, for regardless of what reforms we may have in stock for the different organs of the United Nations and their working methods, there is no doubt in our minds that the base hard currency of the United Nations is its unique legitimacy and credibility.

Rule of Law

Mr. President,

Faced with new threats and challenges, the International Community requires clear and foreseeable rules to govern in a peaceful, equitable and predictable way the relations among nations. The respect and promotion of the Rule of Law must, necessarily, underlie any strategy to strengthen the United Nations system. In this context, we do hope that, amending the High Level Panel's highly selective approach to the Rule of Law, the Secretary General will give it its due place in his March report.

In this context, my delegation wholeheartedly supports Austria's proposal that the 2005 Summit adopts a declaration reaffirming the basic elements of the Rule of Law in International Affairs. Such a declaration must include a renewed commitment to the basic principles of the UN Charter, as the founding blocks of both the peaceful coexistence among nations and of the UN System as a whole. In addition, we believe that states should resort more frequently to judicial mechanisms for the settlement of dispute and, in particular, to the International Court of Justice. In this context, we join Liechtenstein in stressing the need to call upon states to accept the compulsory jurisdiction of the ICJ and to withdraw any reservations to the exercise of that jurisdiction.

Moreover, we believe that the Secretary General should make concrete recommendations to enhance and revitalize the General Assembly's role as the main legislative organ of the United Nations, both by streamlining its procedures and by identifying new topics ripe for codification. In parallel, the Secretary General should propose guidelines to ensure the legitimacy of the norms of general character adopted by the Security Council. In particular, we believe, like Morocco, that the Security Council should refrain itself from legislating unless there is an imminent and specific threat to international peace and security. Such norms should have preset time limits; must comply with *ius cogens* regarding, in particular, human rights and due process; and their adoption must follow a process of wide consultation with the whole UN membership.

The UN must uphold the Rule of Law in its internal working. UN organs must adhere scrupulously to human rights and due process. In this context, it is indispensable to ensure that the sanction regimes are in conformity with basic human rights both by including effective humanitarian exceptions and by ensuring that any person or entity object of sanction is able to appeal to an independent body. The UN should also promote the respect for the Rule of Law on

the ground: in all its peacekeeping operations and UN administered territories. There must be a clear ethical code for the behavior of UN peacekeeping personnel on the ground, and any criminal activity by UN personnel must be prosecuted by the competent national authorities. Moreover, the UN should encourage states to become parties to the Statue of the International Criminal Court and the Security Council should utilize its option to refer cases to the ICC.

Institutional Reform

Mr. President,

On the fourth cluster, Strengthening the United Nations and institutional reform, I will begin with the principal organ of the United Nations, the General Assembly. We were surprised by the High Level Panel's apparent lack of creativity in addressing the General Assembly, which is, despite its present limitations, the most legitimate deliberative and policy making organ of the UN. My country would like to suggest that whenever a veto is exercised in the Security Council, the vetoed draft resolution should immediately come before the General Assembly for consideration. Although the resolution would obviously not be binding, as it would have been if it had emanated from the Council, the General Assembly would have the opportunity to signal where the will of the international community stands. We are convinced that such a simple mechanism of checks and balances, which requires no amendments to the Charter, is one that merits serious consideration by the General Assembly as it would serve to dissuade the arbitrary use of the veto.

Alongside this proposal, we support the revitalization of the General Assembly, and in this regard, we fully support the ideas contained in the Non-Paper distributed by the Facilitators on GA Revitalization entitled *A Culture of Efficiency, Focus and Flexibility*.

Moreover, we believe that a further institutional reform is required in order to enhance the UN counter-terrorism activities and to maximize its comparative advantages in facilitating and enforcing a collective, principled and comprehensive counter-terrorism strategy. We fear that the Panel's coercive approach to terrorism, that encourages further concentration of United Nations action on terrorism solely within the Security Council, will, eventually, erode the legitimacy of the UN action against that crime.

We are convinced that the United Nations can make a more effective use of its comparative advantages, capacities, resources, and mandates for combating terrorism through the establishment of a United Nations High Commissioner on Terrorism. The creation of such an Organ would unify the mandates and the resources currently scattered around the Organization, avoiding duplication, and would centralize decision-making in the hands of a professional, permanent and impartial body located at the centre of the Organization. In Particular, the new High Commissioner on Terrorism should absorb the counterterrorism mandates and human and financial resources currently dispersed among various United Nations bodies. It should take the place of the United Nations Office on Drugs and Crime Terrorism Prevention Branch and the Counter-Terrorism Committee Executive Directorate and Assessment and Technical Assistance Office. It should also absorb the terrorism-related mandates and resources currently allocated to the United Nations Office of Legal Affairs and the

Department of Public Information, and to the Office of the United Nations High Commissioner for Human Rights.

The United Nations High Commissioner on Terrorism responds, in an actionable and identifiable way, to the pressing need to restructure the current institutional architecture on counter-terrorism in a manner that truly facilitates the formulation and implementation of a collective, principled and comprehensive counter-terrorism strategy that is at once credible and sustainable. It is the best possible instrument to create a true sense of collective ownership and partnership for UN collective action on terrorism. In this context, we are convinced the Secretary-General should include its establishment as one of the recommendations of the Report that he will present in mid-March 2005, to feed the preparatory process leading to the 2005 Summit Event.

Mr. President,

My delegation looks forward to the Secretary General's March report. We hope that it will contain bold, concrete, actionable and deliverable recommendations that will increase this Organization's legitimacy, credibility and capacity to address some of the most difficult challenges that the international community must tackle

Thank you.