



MISION PERMANENTE DE LA REPUBLICA DE COSTA RICA
ANTE LAS NACIONES UNIDAS

Statement by Ambassador Bruno Stagno Ugarte
Permanent Representative of Costa Rica to the United Nations
on agenda items 9 and 177 of the programme of work
of the 60th General Assembly of the United Nations
10th November 2005

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Mr. President,

In compliance with the obligation contained in Article 24 of the Charter, the Security Council today presents its annual report for consideration and adoption by the General Assembly. The report follows the revised format that was adopted in 2002 (document 2/2002/199), through which a series of improvements were introduced in order to facilitate its consideration. However, contrary to the practice that was initiated in 2002, when the report was discussed in an open session of the Security Council (session 4616, 26 September 2002), on this occasion this precedent was unfortunately discontinued as the Council only celebrated a short formal session that only lasted 5 minutes (session 5262, September 19, 2005).

I believe it is opportune to refer to session 4616 as the 23 pages of its précis verbal S/PV.4616, which contain what was then said by the members of the Security Council, offer many more insights into the manner in which the Security Council actually works than the 302 pages of the 2001-2002 report (A/57/2). Therefore, in discontinuing the practice of open Security Council sessions to discuss the substance of the annual report for the 2004-2005 period and its 258 pages (A/60/2), we are before a true regression in the working methods of the Council.

Mr. President,

Costa Rica is particularly proud of being an integral part of the Small 5 (S5, integrated by Jordan, Liechtenstein, Singapore, Switzerland, and Costa Rica) that have authored and sponsored the most comprehensive draft resolution addressing the working methods of the Security Council in recent memory. Allow me to pay tribute to Switzerland for spearheading this joint effort to improve the internal procedures of the organ of most limited composition of the United Nations. Since our S5 partners have already presented our initiative in detail, I would like to concentrate on other aspects that are related to the working methods and the initiative in question.

Mr. President,

I do not believe it is necessary to reiterate our position on Security Council reform, but let me simply say that Costa Rica is convinced that the Security Council needs a comprehensive reform that will endow it with greater transparency, democracy, rotation and efficacy, and that will further enable it to act on behalf of all Member States and in strict adherence to the Charter.

In that light, we believe it is time that we tackle the other side of the reform, that is, the working methods. Our interest in the working methods should not be interpreted as lack of interest for the enlargement of the Security Council. We simply believe that working methods are always taken hostage if they are tackled simultaneously and jointly with enlargement. In fact, much to our disappointment, the consultations on Security Council reform we held over the previous months have, for all intents and purposes, concentrated on enlargement alone. We are convinced that this is not sufficient as we have before us the opportunity to be ambitious, to go beyond mere readjustments of seats, and to work together towards a new consensus on the manner in which this organization must confront current threats and challenges. The democracy, transparency, and accountability that must necessarily accompany decision-making that is at times binding on all of us, depend primarily on the working methods used to reach decisions.

Working Methods and the Volcker Report.

Mr. President,

In addition to whatever concerns we may have had in the past regarding the working methods of the Security Council, our concerns have only multiplied with the lessons we have drawn from the role played by the Security Council in the mismanagement of the Oil-for-Food Programme. Costa Rica believes that the need to reform the working methods of the Security Council is an integral part of the larger management and oversight reform effort that is currently underway in the United Nations. We came to this logical conclusion, upon reading the final report of the Independent Inquiry Commission [Volcker Committee] dated September 7th, 2005 which made abundantly clear that the lack of transparency in the proceedings of the Security Council and its subsidiary organs, in particular the 661 Committee, added to the failures leading to the mismanagement in the Oil-for-Food Programme.¹ Costa Rica has certainly taken stock of the many yet scattered references made by the Volcker Committee to the working methods of the Security Council.

Because of our commitment to a United Nations endowed with efficient and transparent management and oversight mechanisms, we firmly believe that it is necessary to tackle management and oversight reform in a transversal manner, covering every corner of this

¹ For example: “predictably enough, the give-and-take among 661 Committee members at informal meetings was more open than at formal meetings” [p.21, Vol I.], “whether formal or informal, its meetings were ‘private sessions’ not open to the public or other member states that were not on the Security Council” [p.19, vol II], “the 661 Committee’s rules allowed for it to ‘open [its sessions] to the public as and when necessary for the enhancement of the effectiveness of the Committee,’ but a review of the relevant minutes from 1990 to 2003 indicates that this was never done.” [p.19, vol.II], and cites “the domination by the P-5 countries of the 661 Committee’s affairs” as one of “the procedural realities that suffused the manner in which it chose to resolve- or not to resolve- issues that came before it.” [p.19, vol.II] All references are from the Independent Inquiry Committee into the United Nations Oil-for-Food Programme, “The Management of the United Nations Oil-for-Food Programme.” September 7, 2005.

organization if conditions so require. Therefore, and guided by the Volcker Report, we cannot but conclude that the internal management and oversight of the Security Council must be an integral part of our larger effort in management and oversight reform. For this reason, we believe that it is particularly pressing to initiate a joint discussion process in the General Assembly on the working methods of the Security Council.

Cluster I takes Cluster II Hostage.

Mr. President,

Apart from largely afterthought references to the working methods of the Security Council, there truly has not been an effort like the one presented by the S5 since the adoption of General Assembly resolution 267 (III) in 1949, to which I will refer in more detail later. Oddly enough, although the Open-Ended Working Group has dealt with both Cluster I and Cluster II issues every year since 1993, all efforts to reform the Security Council have always privileged enlargement to the detriment of working methods, the latter becoming hostage to the former. Although this was not the case with the Razali Reform Paper of March 20th, 1997, which enumerated important reforms to the working methods of the Security Council in operative paragraphs 4 and 9, all subsequent proposals have either been less kind or altogether unkind to working methods. Costa Rica is convinced that it is due time that the General Assembly sends an unequivocal message to the Security Council that it cannot continue shunning greater transparency and accountability.

Mr. President,

We are surprised that in light of the fact that the S5 initiative is drafted with caution and respect, simply inviting the Security Council to consider a series of measures enumerated in the annex to the proposal, some seek to evade these improvements by questioning the authority of the General Assembly in these matters. Allow me to address some of the arguments that some Member States have advanced to counter this draft resolution.

Authority under Article 10 of the Charter.

It seems particularly appropriate to restate the broad prerogatives that Article 10 of the Charter confers on the General Assembly. If this so-called “comprehensive jurisdiction” clause is not regularly cited, Article 10 is unequivocally clear as to the statutory right of the General Assembly to “*discuss any questions or matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.*” The General Assembly is not infringing on any mandates or prerogatives if it examines the working procedures of the Security Council, on the contrary, it is precisely complying with its mandate under the Charter.

Non-Applicability of Article 12.1 of the Charter.

Some may want to argue that Article 12.1 expressly limits the powers of consideration and discussion of the General Assembly, but this is a purely procedural and temporal restriction that aims at avoiding any duplication between the Security Council and the General Assembly. Moreover, this can be ascertained from the fact that the Security Council has primary but not sole

responsibility on matters pertaining to the maintenance of international peace and security. Uniting for Peace (resolution 377 (V)) is concrete evidence of the role that the General Assembly can and at times must play if the Security Council is unable to discharge its responsibilities according to the Charter. However, this argument simply does not come to the case, as the S5 initiative is simply an invitation for the Security Council to consider a series of purely functional and operational measures that do not infringe or prejudice any situation in particular.

Non-Applicability of Article 30 of the Charter.

Others may also argue that Article 30 expressly confers on the Security Council the power to adopt its own rules of procedure. This is certainly the case, but here it is the Security Council that is at fault as it has not adopted its rules of procedure after 60 years of proceedings. It would seem rather strange then for some members of the Security Council to defend the rules of procedure when these have not been adopted as mandated in the Charter.

Some have additionally argued that Article 30 does not necessarily call for the formal adoption of the rules of procedure, but that in the best Anglo-American tradition, it allows for the gradual formation and alteration of its practice. If this were the case, however, this is not consistent with the practice followed in the adoption of the rules of procedure in the General Assembly and other Councils, all of which are similarly empowered to adopt their own rules of procedure in other Charter Articles that read identically with Charter Article 30. From the Charter itself, there is no mandate to read Charter Article 30 in the Anglo-American tradition and to read Charter Articles in the Continental tradition.

Legitimacy based on Practice.

Finally, some have argued that the division of powers and functions is such that the General Assembly should not infringe on internal procedural matters of the Security Council. Not only is this position inconsistent with the comprehensive jurisdiction clause of Charter Article 10, as I have already shown, but it is also disproved by past practice. At its 197th meeting on August 27, 1947, the Security Council discussed General Assembly resolution 40 (I) by which the General Assembly *“recommends to the Security Council the early adoption of practices and procedures, consistent with the Charter, to assist in reducing the difficulties in the application of Article 27 and to ensure the prompt and effective exercise by the Security Council of its functions; and further recommends that, in developing such practices and procedures, the Security Council take into consideration the views expressed by Members of the United Nations during the second part of the first session of the General Assembly.”* Moreover, at its 224th meeting on December 19, 1947, the Security Council discussed General Assembly resolution 117 (II). Let it be recalled that the sole preambular paragraph of resolution 117 (II) read *“the General Assembly, in the exercise of its power to make recommendations relating to the powers and functions of any organs of the United Nations (article 10 of the Charter).”* Finally, let me call your attention to General Assembly resolution 267 (III), adopted on April 14, 1949 with the affirmative vote of 4 Permanent Members (only the Union of Soviet Socialist Republics voted against), which has many formal and procedural similarities with the current initiative presented by the S5. I have attached a copy of this landmark resolution so that you may come to your own conclusions.

Thank you.