

**OPEN DEBATE OF THE
SECURITY COUNCIL**

**STRENGTHENING INTERNATIONAL LAW:
RULE OF LAW
AND THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY**

STATEMENT

BY

**MR. STEFAN BARRIGA
CHARGÉ D'AFFAIRES A.I.
PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS**

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CHECK AGAINST DELIVERY

Mr. President

Liechtenstein warmly welcomes your initiative to hold an open debate on the issue of strengthening international law. In our view, the work of the United Nations in this area must be strongly reinforced. It was in this spirit that Liechtenstein has, together with Mexico, recently submitted a request to include the topic “The rule of law at the international and national levels” in the agenda of the General Assembly.¹ While the General Assembly is the appropriate place for a broad discussion and recommendations on how the United Nations can strengthen the rule of law, the Security Council also has an important role to play in this respect.

Mr. President

In our view, the best way for the Security Council to promote international law and the rule of law, is to **lead by example**.

Often times the Council is called a “political body”, and the Council’s relationship to international law described as that of an odd couple. During this debate, we do not want to venture into the legal question to what extent the Council is bound by rules of international law. We would however submit that it is a wise policy choice for the Council to respect and promote international law, in particular in the following four areas:

1) Respecting human rights when taking action with direct impact on the rights of select individuals. This applies most prominently in the area of those targeted sanctions which go beyond a specific country situation and are open-ended and preventive in nature, such as the sanctions against the Taliban and Al Qaida. *Procedural* rights, such as the right to be heard and the right to review serve the main purpose of ensuring that the persons listed do indeed belong onto that list. Improving the accuracy and credibility of the list in turn facilitates implementation by Member States. Once an accurate listing and delisting procedure is in place, those rightfully listed still enjoy a number of *substantive* rights, which are mainly addressed by what is called “humanitarian exemptions”.

There is today a widely shared perception that the Council must urgently improve the procedural rights of listed persons and entities. Under the current guidelines, a listed person merely has the right to ask the State of residence or citizenship to ask the Committee to revoke the listing. The right to ask, however, without the right to any kind of response, is not a procedural right. It is merely a reflection of the right to freedom of expression, and not sufficient to satisfy even the most basic guarantees of due process.

2) Respecting its “constitution”. It is the United Nations Charter which, similar to a national constitution, determines the competences of and the division of work between the main organs. The Security Council has in recent years continuously expanded its activities, in particular in addressing terrorism as a threat to international peace and security. We do appreciate and agree with the active role taken by the Council in many of these areas. At the same time, such activities must always be based on a clear Charter competence, and they should not be undertaken at the expense of the balance between the main organs. The draft resolution on the working methods of the Security Council, submitted to the General Assembly by my country together with Costa Rica, Jordan,

¹ A/61/142.

Singapore and Switzerland,² is an attempt to strengthen this balance. The Security Council should be particularly sensitive to the General Assembly's prerogatives as the United Nations' prime "legislative" organ.

3) Cooperating with international legal bodies, in particular the International Criminal Court: The Security Council has in the past been actively engaged in the fight against impunity for the worst crimes of concern to the international community, mainly using an ad-hoc and selective approach, but setting important precedents. Today, the world possesses a legal tool of permanent nature and universal aspiration: the International Criminal Court. The Council has already used the ICC as a tool in dealing with conflicts by referring the situation in Darfur to the Prosecutor of the ICC. We would like to encourage the Council to continue to consider the ICC as a policy option, where appropriate. Referrals to the ICC must however be accompanied by sustained political support by the Council through all phases of the judicial proceedings, and must in some situations be accompanied by other substantive measures.

4) Promoting both peace and justice in post-conflict situations: In the past, the Security Council has fully acknowledged the vital importance of promoting justice and the rule of law in post-conflict societies. The Peacebuilding Commission is also expected to devote much attention to this issue. While we appreciate the progress at the conceptual level, more must be done to increase the operational activities in this area. Further strengthening of rule of law components in peacekeeping missions is one important element in this respect. Furthermore, the Council should at all times underline that what is sometimes called the "peace versus justice" dilemma may be a dilemma for those having committed atrocious crimes, but not for the international community. There can be no permanent amnesties for genocide, crimes against humanity and war crimes. The possibility of amnesties must effectively disappear as a bargaining option for such criminals, just as much as they can not request that the clock be turned back. Each ratification of the Rome Statute of the International Criminal Court represents a step towards the worldwide eradication of this option. This in turn relieves Governments and other actors negotiating peace agreements from the pressure to cave into demands for amnesty, as they can not promise what international law effectively prohibits. Both the Security Council and the Secretary-General, in their activities aimed at preventing and ending conflicts, should continue to strengthen this important principle.

Mr. President

In closing, we would like to thank you for your leadership in bringing this issue to the attention, and express our hope that the Council itself will also fully live up to its role as a prime stakeholder in the promotion of international law and the rule of law.

I thank you.

² A/60/L.49