



PERMANENT MISSION
OF THE PRINCIPALITY OF LIECHTENSTEIN
TO THE UNITED NATIONS
NEW YORK

H.E. Mr. José Ramos-Horta
Chair of the Secretary-General's High-level Independent Panel on Peace Operations
United Nations
New York, NY 10017

13 February 2015

Excellency,

I have the honor to write to you in response to your letter dated 11 November 2014, requesting Member States to provide the High-Level Independent Panel on Peace Operations with their views and inputs. On behalf of **Albania, Australia, Austria, Belgium, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Estonia, Finland, France, Germany, Guatemala, Hungary, Iceland, Ireland, Italy, Jordan, Lithuania, Luxembourg, Mexico, the Netherlands, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Samoa, Slovakia, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, the United Kingdom and my own country, Liechtenstein**, I would like to draw your attention to matters related to the International Criminal Court (ICC).

A significant number of peace operations are currently deployed in countries where the ICC is conducting investigations and where national justice systems require strengthening and assistance, *inter alia* through capacity building. The ICC is a key part of the international peace and security architecture, contributing to the maintenance of international peace and justice by helping to ensure accountability for the most serious crimes of concern to the international community as a whole.

The Rome Statute system, which is based on the principle of complementarity, and peace operations share the purposes and principles of the Charter of the United Nations. Activities of the ICC intersect directly with peacekeeping missions' mandates on justice issues, security sector reform, human rights, women, peace and security, the protection of children in armed conflicts, the prevention of conflicts and protection of civilians. As the work of the ICC is directly in line with the mandates on justice issues of many peacekeeping missions, support for it should be incorporated accordingly, in addition to assistance for national justice systems as appropriate.

The Relationship Agreement between the International Criminal Court and the United Nations (A/58/874, annex) serves as the basis for cooperation, which is generally satisfactory. However, there is room to enhance the relationship between peace operations and the ICC to ensure that their efforts have a multiplying effect. Fighting impunity and preventing future mass atrocities should thus be an integral part of the work of peace operations.

Please find attached a paper containing specific proposals and suggestions for the consideration of the Panel. It is the result of an informal consultation process, reflecting the views of the States submitting this letter.

Please accept, Excellency, the assurances of my highest consideration.



Stefan Barriga
Minister, Deputy Permanent Representative
Chargé d'affaires a.i.

Enclosure

Submission to the High-Level Independent Panel on Peace Operations on matters related to the International Criminal Court

Issues for consideration (based on the structure of the Panel's mandate)

1. Mandates, doctrine and tailoring missions to country context and the role of mandating bodies

- It is commendable that some peacekeeping mandates include explicit support for the ICC's activities on the ground (DRC, Mali, CAR).
- When a peacekeeping operation is to be deployed in an ICC situation country, its mandate should authorize it to facilitate or assist the activities of the ICC, including by assisting authorities in the protection of witnesses and with the arrest and surrender of individuals subject to arrest warrants issued by the Court (e.g. situation in DRC).
- As part of a more effective accountability strategy, the Council should apply consistent approaches when it comes to peace operations and provide the ICC with ongoing political support, particularly where the Council has requested the ICC to exercise jurisdiction by referring a situation to the Court.
- All ICC-related provisions of Security Council resolutions authorizing peace operations should be considered mandated tasks, be fully translated into action and be implemented accordingly.

2. Political frameworks, inclusive processes, including women's participation in peace processes, and Good Offices

- Taking the United Nations Guidance for Effective Mediation into account, there should be no amnesties for the most serious crimes under international law.
- Accountability strategies should be part of the peace process agenda.

3. Operating in volatile security environments

- Peace operations should, in the course of their mandate, contribute to ensuring the safety of witnesses and victims that may participate in criminal proceedings of Rome Statute crimes and thus assist domestic, regional as well as ICC authorities, where appropriate.

4. Peacebuilding, stabilization and the restoration and extension of state authority, including the role of women in post-conflict peacebuilding

- States should be encouraged to investigate and, where appropriate, prosecute perpetrators of crimes within the jurisdiction of the ICC.
- In line with the complementarity principle of the Rome Statute, peace operations should contribute to strengthening national justice systems to prosecute Rome Statute crimes by means of training, outreach or others forms of assistance, taking into account that the ICC will only be able to prosecute a small number of perpetrators in situations of mass atrocity crimes.
- Peacebuilding strategies should take ICC activities into account.

5. Authority/accountability/responsibility

- The “Guidance on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court” (A/67/828–S/2013/210) by the Secretary-General for all parts of the Secretariat, including Secretariat units and offices, programmes and funds should be implemented consistently and adhered to in all peace operations.
- There is a need to improve exchange of information and reports between peace operations and the ICC, including administrative and personnel arrangements, provision of services and facilities, logistical support in the field, financial matters, travel arrangements and judicial assistance, appearance of UN staff in court to provide testimony, mutual support in field activities.
- The information exchange within the United Nations System, cooperation and coordination with the Office of Legal Affairs (OLA), as the designated focal point for ICC-related matters in the UN system, and with all UN agencies involved in peace operations should be improved.
- Crimes committed against peacekeepers can amount to war crimes and need to be prosecuted accordingly (e.g. ICC, *The Prosecutor v. Abdallah Banda Abakaer Nourain*) with a view to enhancing the safety and security of peacekeepers and other UN personnel.
- There should be zero tolerance for any misconduct by personnel of peace operations and any alleged crimes should be investigated and prosecuted by their States of nationality.

6. Mission and contingency planning, start-up, transitions and exit strategies

- Within peacekeeping missions, rule of law sections should be mandated to deal with ICC related issues and should usually be one of the last sections to be dissolved when a peacekeeping mission is closing down. Political missions, which may take over, should incorporate rule of law elements accordingly.

7. Partnerships

8. SPM resource and managerial requirements

- All UN-mandated accountability efforts, including matters related to the ICC, should receive adequate funding in a timely manner.

9. Promotion and protection of human rights and protection of civilians

- Allegations that peace operations have self-censored reports regarding violations of human rights should be addressed in line with the UN Standards of Conduct; noting that peace operations can be the primary source of information for the ICC’s monitoring of ongoing crimes, particularly in the fields of violence against women and the protection of children in armed conflicts.
- Recommendations of Commissions of Inquiry can make a positive contribution to peace operations.
- It is important to recognize the deterrent effect of international criminal law and its contribution to post-conflict peace and stability.

10. Required uniformed capabilities to meet operational demands for peacekeeping

11. Troop and police performance, accountability, rules of engagement and caveats

- All personnel of troop and police contributing countries (TCC & PCC) of peace operations should receive relevant training in international criminal law, international humanitarian law and international human rights law.
- DPKO and DFS should ensure that key peacekeeping personnel have the necessary expertise to facilitate or assist activities of the ICC, including a knowledge of standards related to the preservation of evidence and the recording of evidence of serious international crimes.