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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Question of equitable representation on and increase in the membership of the Security Council and related matters

Letter dated 14 February 2006 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the General Assembly

I refer to my letter dated 3 February 2006 addressed to the President of the Security Council, wherein I conveyed the principled position of the Non-Aligned Movement (NAM) regarding the relationship among the principal organs of the United Nations and the encroachment by the Security Council on the functions and powers of the General Assembly.

In that connection, I have the honour, on behalf of the Member Countries of NAM, to reiterate to you that the Movement underscores once again the need for full respect for the functions and powers of the principal organs of the United Nations, in particular the General Assembly, and to maintain the balance among them within their respective functions and powers in accordance with the Charter of the United Nations, as well as the need for the Member States of the Organization, in respecting and upholding the Charter, to stop any attempt to shift issues under the agenda of the Assembly to the Security Council. NAM stresses that the Council must fully observe all provisions of the Charter of the United Nations as well as all resolutions of the Assembly that clarify its relationship with the latter organ — as the chief deliberative, policymaking and representative organ of the United Nations — and other principal organs. NAM further underscores the need for all Member States to demonstrate political will and renew their commitment to ensuring the effective and full implementation of all resolutions of the Assembly pertaining to this issue, including resolution 59/313, on a non-selective and non-discriminatory basis.

While mindful of the multifaceted and multidisciplinary character of the mandates of peacekeeping operations sanctioned by the Security Council and

bearing in mind Article 24 of the Charter of the United Nations, NAM strongly affirms that Article 24 and the above-mentioned character do not necessarily provide the Council with the competence to address issues that fall within the functions and powers of the General Assembly and the Economic and Social Council. In this regard, NAM urges caution concerning the danger of encroachment by the Council on issues that clearly fall within the functions and powers of the Assembly and its subsidiary bodies. While noting that issues involving management/procurement of peacekeeping operations and sexual exploitation and abuse in peacekeeping operations have been scheduled to be discussed by the Council in February 2006, NAM recalls that the preparation and submission of reports on those issues have been requested by the Assembly and that those issues are still under its active consideration. For example, the Special Committee on Peacekeeping Operations will resume its discussion of the issue of sexual exploitation and abuse in peacekeeping operations at its forthcoming session later in February 2006, and it has adopted a number of decisions and recommendations on the issue pursuant to the report thereon submitted by the Secretary-General. In addition, NAM stresses that the Charter of the United Nations provides the Assembly with the competence to consider issues relating to the financial and budgetary arrangements of peacekeeping operations.

The Non-Aligned Movement remains particularly concerned over the exercise of norm-setting and establishment of definitions by the Security Council in areas beyond its competencies. NAM reiterates that, in accordance with Article 13, section 1, of the Charter of the United Nations, the General Assembly, which is the universal and representative forum comprising all Member States of the Organization, is primarily tasked with the progressive development of international law and its codification. NAM supports the ongoing efforts under the leadership of the President of the Assembly to strengthen the central role and authority of the Assembly, inspired by the criteria of relevance and efficiency.

The Non-Aligned Movement stresses that the Member States of the Organization have conferred on the Security Council primary responsibility for the maintenance of international peace and security pursuant to Article 24, section 1, of the Charter of the United Nations and that, in carrying out its duties under this responsibility, the Council acts on their behalf. In this respect, NAM further stresses the accountability of the Council to the General Assembly in a manner consistent with the Charter of the United Nations, in particular Article 24, section 3.

In view of the above-mentioned considerations, NAM considers it to be incumbent upon the President of the General Assembly to institute necessary measures, within his powers and mandate, to uphold the primacy of and full respect for the Charter of the United Nations and the Assembly. NAM believes that it may be useful if the President of the Assembly, consistent with General Assembly resolution 58/126, could discuss with the President of the Security Council for February 2006 the contents of the present letter in order to ensure increased coherence and complementarity between the Assembly and the Council. NAM further believes that it may also be useful if the President of the Assembly, consistent with Article 10 of the Charter of the United Nations, could explore the possibility of convening a meeting of the Assembly to consider the issues concerning management/procurement of peacekeeping operations and sexual exploitation and abuse in peacekeeping operations.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 82, 117 and other relevant agenda items of its sixtieth session.

(*Signed*) Hamidon **Ali**
Permanent Representative of Malaysia and Chairman
of the Coordinating Bureau of the Non-Aligned Movement