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

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Draft report

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V. Working methods of the Special Committee and identification of new subjects

A. Working methods of the Special Committee

1. The issue of the working methods of the Special Committee was addressed by several delegations during the general exchange of views held at the 293rd and 294th meetings of the Special Committee, on 18 February, and was considered at the 3rd meeting of the Working Group of the Whole, on 21 February.

2. During the general exchange of views, delegations stressed the importance of the functions of the Special Committee relating to the maintenance of international peace and security, the development of cooperation among States and the promotion of international law, as well as the role of the Special Committee in the clarification and interpretation of provisions of the Charter. A number of delegations also emphasized the key role of the Special Committee in assisting in the revitalization and strengthening of the Organization, and in the current reform process of the Organization, in accordance with General Assembly resolutions [3349 \(XXIX\)](#) and [3499 \(XXX\)](#).

3. The Special Committee was urged to fully implement the decision on working methods adopted in 2006, as reflected in paragraph 3 (d) of General Assembly resolution [73/206](#). A number of delegations encouraged the Special Committee to examine the frequency and duration of its meetings and to seriously consider meeting every two years or shortening its sessions. It was also reiterated that the work of the Special Committee should be reviewed in order to ensure that it added value, that the overlap between organs considering the same or similar issues was minimized and that items that had been or were being considered elsewhere in the Organization were not duplicated by the Special Committee. Increased efforts to rationalize the Special Committee's work to improve its efficiency and productivity, including by revisiting stagnating proposals, were encouraged. In terms of a further view, the Special



Committee could play a greater role by improving the methods and efficiency of its work.

4. A number of delegations reiterated that the full execution of the mandate of the Special Committee depended on the political will of States and on the full and effective implementation of the methods of work of the Special Committee. The view was expressed that the working methods of the Special Committee should be guided by a pragmatic approach to the substance of its work. It was observed that the work of the Special Committee should be directed primarily at ensuring that the Organization lived up to the goals of the rule of law and justice. Opposition to the biennialization of the Special Committee's sessions was expressed.

5. During the general exchange of views and at the 3rd meeting of the Working Group of the Whole, it was suggested that several items on the agenda could benefit from careful scrutiny and needed to be meaningfully debated and analysed by the Special Committee in an open and transparent manner. Delegations were thus encouraged to redouble their efforts to examine the proposals before the Special Committee.

6. Other delegations were of the view that several of the proposals before the Special Committee did not merit further consideration since the relationship between the principal organs of the United Nations was adequately defined in the Charter, or because they duplicated work undertaken elsewhere in the Organization.

B. Identification of new subjects

7. The issue of the identification of new subjects was considered during the general exchange of views held at the 293rd and 294th meetings of the Special Committee, on 18 February, and at the 3rd meeting of the Working Group of the Whole, on 21 February.

8. During the general exchange of views, several delegations stated that the Special Committee could contribute to the examination of legal matters relating to the reform and revitalization of the Organization and its organs, including issues surrounding the roles and prerogatives of the General Assembly, the Security Council and the Economic and Social Council. Others stressed that proposals must be practical and non-political and must not duplicate efforts elsewhere within the United Nations.

9. At the 3rd meeting of the Working Group of the Whole, the representative of Mexico introduced his country's proposal for a new subject, contained in the working paper submitted at the present session¹ entitled "Analysis of the application of Articles 2 (4) and 51 of the Charter of the United Nations" ([A/AC.182/L.154](#), reproduced in annex I to the present report). The representative of Mexico stated that the proposal sought to create a space for discussion by all Member States of Article 51 of the Charter, in the light of its interrelation with Article 2 (4), so as to provide a clearer understanding of the positions of Member States with regard to the operation, scope and limits of the right to self-defence. It was also stated that the paper presented a set of questions on substantive, procedural, and transparency and publicity issues, which were legal, technical and non-political in nature and would fall under the mandate and competence of the Special Committee as established in relevant General Assembly resolutions. It was further highlighted that the purpose of the proposal was not to conduct an analysis of specific communications to the Security Council under Article 51, but to generally evaluate the elements and practical operation of Article

¹ The proposal was based on that made orally by the representative of Mexico during the 2018 session of the Special Committee (see [A/73/33](#), para. 83), which was also discussed at the 2019 session (see [A/74/33](#), paras. 85–87).

51, and that the proposal was not duplicative and not inconsistent with the work of other organs of the United Nations, including the Security Council. The sponsor delegation further expressed its readiness to consider any suggestions from Member States and to submit a revised version at the next session of the Special Committee for substantive consideration.

10. During the general exchange of views and in the Working Group, several delegations expressed support for the working paper presented by Mexico as well as for its inclusion in the agenda of the next session of the Special Committee, under the item entitled “Maintenance of international peace and security”. It was noted by many delegations that the increasing number of communications to the Security Council under Article 51 raised legal and technical questions of concern to all Member States. Support was also expressed by some delegations for greater access to information regarding the reports submitted to the Security Council under Article 51 of the Charter, in order to increase transparency. Several delegations considered that the Special Committee would be the appropriate forum to address the issues raised by the proposal.

11. Other delegations reiterated their doubts regarding the proposal and questioned whether the Special Committee would be the competent forum to address the issues raised. Some delegations also reserved their position owing to the limited time that had been available to consider the working paper.

12. At the same meeting of the Working Group, the delegation of Cuba announced that it was working on a written proposal for the inclusion of a new item concerning the role of the General Assembly in the Organization as a follow-up to its proposal presented orally at the 2019 session (see [A/74/33](#), paras. 88–89).

13. Some delegations voiced support for the proposal by Cuba, while others preferred to reserve their position until receiving the written proposal. The concern was expressed that the proposal seemed to overlap with the proposal presented by Cuba already under consideration by the Special Committee, and that it could also duplicate other revitalization efforts within the United Nations.

14. At the same meeting of the Working Group, the representative of the Islamic Republic of Iran introduced a proposal for the inclusion of a new subject entitled “Obligations of Member States in relation to unilateral coercive measures: guidelines on ways and means to prevent, remove, minimize and redress the adverse impacts of unilateral coercive measures” ([A/AC.182/L.153](#), reproduced in annex II to the present report). It was explained that the proposal was of a legal nature and intended to prevent, remove, minimize and redress the adverse impacts of unilateral coercive measures. It was maintained that the proposal did not duplicate other efforts undertaken in the Organization. It was further suggested that the topic of unilateral coercive measures could also be included in the programme of work of the International Law Commission. It was emphasized that unilateral coercive measures had adverse impacts on the medical and humanitarian needs of affected populations, interfered with rules on sovereign immunities and undermined the authority of the Security Council and that of the International Court of Justice. It was stated that all Member States were under an obligation not to recognize such illegal measures and not to render aid or assistance in maintaining the illegal situation created by such measures. All Member States were also under an obligation to cooperate to bring to an end, through lawful means, such a situation. Delegations were invited to comment on the proposal with a view to improving the legal framework applicable to unilateral coercive measures.

15. Several delegations supported the inclusion of the proposal in the agenda of the Special Committee, noting that unilateral coercive measures undermined the principles and purposes of the Charter, in particular the sovereign equality of States.

A number of delegations emphasized that unilateral coercive measures violated international human rights law, including the right to development, the right to health and the right to life, and thus hampered the realization of the 2030 Agenda for Sustainable Development. It was noted that the use of unilateral coercive measures had been condemned in the final document of the eighteenth Summit Conference of Heads of State or Government of Non-Aligned Countries, held in Baku, and the declaration adopted at the forty-third ministerial meeting of the Group of 77 and China, both of which were issued in 2019. It was also noted that only the Security Council had the authority to impose sanctions and that unilateral coercive measures would hamper the effectiveness of the Council. It was also stated that, since the proposal directly concerned the application of the Charter of the United Nations, the Special Committee was the appropriate forum to discuss it. The proposed guidelines would, in the view of those delegations, supplement the existing rules of international law on unilateral coercive measures.

16. A number of delegations reserved their position on the proposal, and indicated that they had not had sufficient time to consider its substance. The view was expressed that the Special Committee was not the appropriate forum to address bilateral disputes. Some delegations also stressed that the Special Committee should neither duplicate work undertaken in other forums of the United Nations nor aim to make new international law.

17. At the same meeting of the Working Group of the Whole, the representative of the Syrian Arab Republic introduced a proposal for the inclusion of a new subject, contained in a working paper entitled “Privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization that are necessary for the independent exercise of their functions in connection with the Organization” (A/AC.182/L.155, reproduced in annex III to the present report). The sponsor delegation explained that the working paper was aimed at establishing parameters and standards based on the United Nations framework to improve relations with host countries and to allow the Organization to ensure compliance with the Charter, the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations and the Vienna Convention on Diplomatic Relations. The sponsor delegation made particular reference to Articles 105 and 100 (2) of the Charter, and proposed that various studies be conducted on the application of the Charter provisions and other relevant instruments, in particular the dispute resolution mechanisms contained therein, as well as on the views and experiences of Member States in relation to host countries. The sponsor delegation also mentioned the relevance of the Convention on the Privileges and Immunities of the United Nations and stressed the importance of equality amongst all Member States as well as non-discrimination. The sponsor delegation was of the view that the working paper did not duplicate efforts or conflict with the mandate of the Committee on Relations with the Host Country, but could rather strengthen relations with that Committee and enable each committee to contribute to enhancing the effectiveness of the other.

18. The proposal was referred to during the general exchange of views and was discussed in the Working Group. Several delegations voiced support for the proposal, noting that the Special Committee had the capacity to examine the subject and that it was directly related to the Charter. Reference was made to recent obstacles to the ability of the Organization to carry out its work owing to restrictions imposed on certain representatives and United Nations officials. It was maintained that the Special Committee enjoyed the mandate and responsibility to consider possible violations of the Charter from a legal viewpoint. Some delegations regretted that the recommendations adopted by the General Assembly on the subject had not yet been acted upon and noted that discriminatory measures, which could affect the human

rights of those in question, remained in place. The point was also made by some delegations that the matter was not bilateral but rather reflected systemic practices and related to the preservation of the rule of law and the interests of the Organization as a whole.

19. Other delegations requested more time to consider the working paper. The view was expressed that the Committee on Relations with the Host Country was the appropriate forum for the consideration of the subject matter of the working paper, and it was noted that that Committee was actively seized of the issues at hand. The appropriateness of raising bilateral issues in the Special Committee was also questioned.
