



# General Assembly

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

18–26 February 2020

### Draft report

*Rapporteur:* Ms. Alis Lungu (Romania)

## II. Maintenance of international peace and security

### B. Introduction and implementation of sanctions imposed by the United Nations

1. Reference was made to the question of the introduction and implementation of sanctions imposed by the United Nations (see General Assembly resolution [64/115](#), annex) during the general exchange of views held at the 293rd and 294th meetings of the Special Committee, on 18 February, and during the 1st meeting of the Working Group of the Whole, on 19 February.

2. During the general exchange of views and the 1st meeting of the Working Group of the Whole, a number of delegations reiterated their concerns regarding sanctions imposed by the Security Council. It was emphasized that sanctions should not be adopted indiscriminately or be used as blunt instruments designed to inflict suffering on vulnerable groups in the target country and that their objective should not be to punish or otherwise exact retribution on the population.

3. Many delegations emphasized that sanctions, as well as all measures to counter terrorism, should be introduced and applied in conformity with the provisions of the Charter and international law, including international humanitarian law, international human rights law and international refugee law. It was asserted that sanctions should be implemented in full compliance with international human rights law by ensuring that sanctions procedures were fair and clear and respected the rights of sanctioned persons. The important role of the Office of the Ombudsperson established pursuant to Security Council resolution [1904 \(2009\)](#) and the need for the Council to enhance its due process standards were mentioned in that regard. It was reiterated that sanctions should be imposed only as a measure of last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression, in accordance with the Charter and based on evidence. It was also noted that sanctions were not applicable as a preventive measure and should be predicated upon the



exhaustion or inadequacy of all other peaceful means, while the option of conditional sanctions could also be considered. It was emphasized that the objectives of sanctions regimes should be clearly defined, based on tenable legal grounds and imposed with a clear time frame, and that sanctions should be subject to monitoring and periodic review and be lifted as soon as their objectives were achieved. It was further noted that sanctions should not hinder humanitarian assistance from reaching the civilian population. Delegations reaffirmed their concerns about the imposition of unilateral sanctions in violation of international law and the international rule of law. The view was expressed by some delegations that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national laws, with extraterritorial effects also on third States, that disregarded the sovereignty of States and the principles contained in the Charter. In that connection, the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights (A/74/165) was recalled.

4. A number of delegations reaffirmed that sanctions were an important tool under the Charter for ensuring the maintenance and restoration of international peace and security. In addition, it was highlighted that, when applied in a targeted fashion, sanctions could increase efficiency in attaining their agreed objectives, while minimizing their adverse impact on and unintended consequences for the well-being of the civilian population and third parties.

5. Delegations welcomed the institution of regular briefings by the Secretariat on the document entitled “Introduction and implementation of sanctions imposed by the United Nations”, annexed to General Assembly resolution 64/115, which had been adopted on the basis of the work of the Special Committee. The growing awareness within the United Nations system of implementation issues and the increased transparency and responsiveness of the sanctions committees in providing guidance on the implementation of sanctions were welcomed. It was suggested that the Secretariat should develop its capacity to properly assess the unintended side effects of sanctions imposed by the Security Council, as such capacity had not been sufficiently developed in the past, in order to fully assess the short-term and long-term socioeconomic and humanitarian consequences of the Organization’s sanctions regimes. The increasing dialogue between the Organization and the private sector on sanctions and the best-practices guidelines project were noted and further encouraged by some delegations.

### **Briefing**

6. At its 1st meeting, the Working Group of the Whole was briefed by a representative of the Department of Political and Peacebuilding Affairs on the document annexed to General Assembly resolution 64/115, as requested by the Assembly in paragraph 4 of its resolution 74/190. He provided information on the elements of the document and general information about United Nations sanctions regimes, the role of the sanctions committees and expert panels in the implementation of sanctions, issues of international humanitarian law and international human rights law relating to sanctions, the monitoring and review mechanisms and recent developments in the implementation of sanctions regimes following the requests made by the Special Committee at its previous session. He also responded to questions from delegations on several aspects of sanctions regimes. He indicated that relevant information was also available on the website of the Security Council, in particular in the fact sheets on the subsidiary organs of the Council.<sup>1</sup>

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<sup>1</sup> Available at [www.un.org/securitycouncil/sanctions/information](http://www.un.org/securitycouncil/sanctions/information).

7. Delegations generally expressed their appreciation for the briefing and the efforts made to enhance the transparency of the procedures relating to sanctions and due process.

8. While the training strategy and activities on sanctions were welcomed, the Secretariat was encouraged to provide additional training opportunities, in more languages, as well as to establish further partnerships with the private sector and at the regional level. In that regard, the representative of the Department of Political and Peacebuilding Affairs highlighted as an example recent training provided in collaboration with the Graduate Institute of International and Development Studies in Geneva. He also indicated plans to expand the availability of the training in other languages and to make such training increasingly available at the regional level with the support of Member States. He drew attention to further plans to deepen engagement with the private sector.

9. The Secretariat was asked how due process and transparency in sanctions regimes could be further improved. In relation to the Ombudsperson to the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, the representative of the Department of Political and Peacebuilding Affairs explained that efforts had been made to strengthen the Office of the Ombudsperson and to develop due process procedures. He noted that there had been different proposals in that regard, including to ensure continued processing of requests in cases when, for example, the Ombudsperson was temporarily unable to perform the relevant functions, or if the position became vacant. The working methods of the Focal Point for Delisting could also be modified, for example by allowing for wider consultations with stakeholders relevant to the delisting procedures.

10. The Secretariat was requested to clarify the differences in working methods between the Ombudsperson and the Focal Point, as well as to provide information on the contractual status of the Ombudsperson and members of panels of experts. The representative of the Department of Political and Peacebuilding Affairs noted that there were significant differences, including in the ability of the Ombudsperson to personally engage in dialogue with petitioners, review the conduct of listed individuals and make a recommendation to a sanctions committee. The Secretariat had been reviewing the contractual status of the Ombudsperson and individuals serving on panels of experts with a view to making improvements.

11. The Secretariat was requested to explain what practical measures the United Nations could take to allow humanitarian organizations to undertake their activities without facing obstacles arising from sanctions regimes. The representative of the Department of Political and Peacebuilding Affairs noted that sanctions regimes generally included exemptions and, in some cases, also “carve-outs” for humanitarian activities. He suggested that more work could be done to clarify the nature of exemptions to avoid overcompliance.