



# 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

16–24 February 2021

### 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 297th and 298th meetings of the Special Committee, on 16 February, and was considered at the 3rd meeting of the Working Group of the Whole, on 18 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 [75/140](#). 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 work of the Special Committee to improve its efficiency and productivity, including by revisiting stagnating proposals, were encouraged. An additional view was that 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 sessions of the Special Committee was expressed.

5. During the general exchange of views and at the 3rd meeting of the Working Group, 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 because 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.

7. The view was also expressed that valuable lessons could be learned from the efficiency measures adopted in the light of the COVID-19 pandemic, including the introduction of strict time limits on statements and the requirement for delegations to register in advance on the list of speakers. It was stated that those practices would contribute to more a focused and efficient management of the proceedings of the Special Committee.

## **B. Identification of new subjects**

8. The issue of the identification of new subjects was considered during the general exchange of views held at the 297th and 298th meetings of the Special Committee, on 16 February, and at the 3rd meeting of the Working Group of the Whole, on 18 February.

9. 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, must not duplicate efforts elsewhere within the United Nations and should be considered on the basis of the likelihood that they would enjoy consensus.

10. At the 3rd meeting of the Working Group, the representative of Mexico introduced his country's revised proposal for a new subject, contained in the working paper submitted at the current session entitled "Discussion on the application of Articles 2 (4) and 51 of the Charter of the United Nations" (see annex I). He stated that the revised proposal included the comments and concerns expressed by some delegations on the scope of the proposal that had been introduced at the 2020 session of the Special Committee (see [A/75/33](#), annex I). It was explained that the aim of the revised proposal was to create a space for a legal and technical discussion among all Member States of Article 51 of the Charter, in the light of its interrelation with Article 2, paragraph 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 included a set of questions on substantive, procedural,

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 also emphasized that the purpose of the proposal was not to conduct an analysis of specific cases, situations or communications submitted to the Security Council under Article 51, but to create a repository of the positions of Member States on the matter. The sponsor delegation also clarified that the proposal was not duplicative of or inconsistent with the work of other organs of the United Nations, including the Council. The sponsor delegation further expressed its readiness to consider any suggestions from Member States and to amend the revised proposal, as necessary.

11. 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 that the proposal was timely, touched upon important questions in international law regarding the interpretation and application of Article 51 and addressed legal and technical questions of concern to all Member States. Several delegations considered that the Special Committee would be the appropriate forum to address the issues raised by the proposal and observed that holding discussions in the Special Committee would allow for an open and transparent exchange of views. The view was expressed that the proposal addressed issues that were crucial to the functioning of the Organization, the strengthening of a rules-based international system and the rule of law. Support was also expressed for the creation of a repository, as suggested in the revised proposal.

12. Other delegations reiterated their doubts regarding the proposal and questioned whether it fell within the scope of the mandate of the Special Committee and whether the Special Committee was the appropriate forum for addressing the issues raised. It was noted that other parts of the United Nations system were better placed to discuss the issues raised and that the proposal was duplicative of efforts being made elsewhere within the Organization, such as at Arria-formula meetings. Some delegations reserved their position, owing to the limited time that had been available to consider the revised proposal.

13. At the same meeting of the Working Group, the delegation of Cuba announced that it was continuing to work on a written proposal for the inclusion of a new item at the 2022 session of the Special Committee concerning the role of the General Assembly in the Organization (see [A/75/33](#), paras. 87–88).

14. It was noted that delegations could not take a position without a written proposal. Concern was expressed that the proposal might duplicate other revitalization efforts within the United Nations.

15. At the same meeting of the Working Group, the representative of the Islamic Republic of Iran recalled the proposal by his delegation to include 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” (see [A/75/33](#), annex II). It was emphasized that unilateral coercive measures had adverse impacts on the medical and humanitarian needs of affected populations, especially during the COVID-19 pandemic. The recent report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights ([A/75/209](#)), which had a special focus on the COVID-19 pandemic, was highlighted. It was explained that the proposal, which was intended as a legal reaction to politicized coercive measures, contained suggestions on strengthening the applicable legal framework, including with regard to the responsibility of States that introduced unilateral coercive measures and the obligations of third States that faced such measures. It was once again

suggested that the topic of unilateral coercive measures could be included in the programme of work of the International Law Commission.

16. 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 and the fundamental norms and principles contained in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (see General Assembly resolution [26/25 \(XXV\)](#)). The view was expressed that only the Security Council had the authority to impose sanctions and that unilateral coercive measures would hamper the effectiveness of the Council. Some delegations expressed their support for specific guidelines in the proposal. It was stated that the proposal concerned the application of the Charter and was not focused on bilateral disputes, which was why the Special Committee was the appropriate forum to discuss it. It was also noted that the proposal did not entail the duplication of work undertaken elsewhere in the Organization.

17. Several delegations expressed concerns about the proposal. It was emphasized that the proposal did not meet the criteria of being practical and non-political, and of not duplicating efforts made elsewhere in the Organization and should thus not be considered by the Special Committee. A number of delegations noted that the Special Committee was not the appropriate forum for addressing bilateral disputes. Some delegations noted that sanctions other than United Nations sanctions might be legitimate means for achieving foreign policy, security and other national and international objectives. The view was expressed that the diverging opinions of Member States on the legal issues raised in the proposal could not be bridged, which would make it difficult to pursue the objectives of the proposal.

18. At the same meeting of the Working Group, the representative of the Syrian Arab Republic referred to the proposal made by his delegation in 2020 to include a new subject, as contained in the 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” (see [A/75/33](#), annex III). The sponsor delegation reiterated 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 and the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. The sponsor delegation, referring in particular to Articles 100, paragraph 2, and 105 of the Charter, as well as to provisions of the Agreement, proposed that various studies be conducted on the application of those provisions, in particular on the dispute resolution mechanisms contained therein. The sponsor delegation underlined the fact that the Organization should enjoy such privileges and immunities as were necessary for the fulfilment of its purposes and that representatives and United Nations officials should be able to freely exercise their functions in that regard.

19. The proposal was referred to during the general exchange of views and was discussed in the Working Group. A number of delegations voiced support for the proposal, reaffirming the view 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 also maintained that there was no duplication with the work of the Committee on Relations with the Host Country, which dealt with more specific cases, given that the

proposal concerned systemic legal issues. It was suggested that a study could be conducted to compile information on the experiences of Member States in relation to host countries, in the context of the United Nations and other international organizations. The suggestion was also made to identify general standards and procedures and develop guidelines in that regard. The point was reiterated by some delegations that the matter was not bilateral, but reflected systemic practices and related to the preservation of the rule of law and the interests and independence of the Organization as a whole.

20. Other delegations indicated that they were not in a position to support the proposal. A number of delegations reiterated the view that the Committee on Relations with the Host Country was the appropriate forum for the consideration of the subject matter of the working paper, notwithstanding the legal nature of the proposal, and it was noted that the Committee remained actively seized of the issues at hand. Some delegations therefore viewed the proposal as duplicating efforts being made elsewhere. The appropriateness of raising bilateral issues in the Special Committee was also questioned.

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