



# General Assembly

Distr.: Limited  
28 February 2022

Original: English

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

22 February–2 March 2022

### Draft report

*Rapporteur:* Ms. Ligia Lorena **Flores Soto** (El Salvador)

## 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 300th and 301st meetings of the Special Committee, on 22 February, and was considered at the 3rd meeting of the Working Group of the Whole, on 25 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 (e) of General Assembly resolution [76/115](#). 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 participate actively in the discussions on the existing items and new 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. Some delegations also called for agenda items to be screened in terms of their relevance and the likelihood of achieving a consensus.

7. Some delegations expressed their appreciation for the adjustments made to the working methods in the light of the coronavirus disease (COVID-19) pandemic to allow the Special Committee to meet in a hybrid format, which ensured the continuity of its work.

## **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 300th and 301st meetings of the Special Committee, on 22 February, and at the 3rd meeting of the Working Group of the Whole, on 25 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. The view was expressed that new subjects could assist in providing ways to improve the implementation of the Charter and strengthen the Organization and, in that connection, delegations were urged to exercise flexibility with regard to the inclusion of new subjects in the agenda of the Special Committee. Other delegations stressed that proposals must be practical and non-political, must not duplicate efforts elsewhere within the United Nations, must ensure the efficient and effective use of the time and resources allocated to the Special Committee, and should be considered on the basis of the likelihood that they would enjoy consensus.

10. At the 300th meeting of the Special Committee, the representative of the Russian Federation indicated his delegation's intention to prepare, together with like-minded States, a proposal for consideration at the next session of the Special Committee on the participation of non-governmental organizations in the work of the Organization. It was recalled that non-governmental organizations were mentioned in only one provision of the Charter, in its Article 71, in relation to the Economic and

Social Council. Concerns were raised that sufficient information concerning the financial and managerial control of non-governmental organizations in consultative status with the Council was not available to Member States and that such organizations did not reflect an equitable geographical representation, despite relevant decisions of the Council. Some delegations expressed interest in the potential proposal.

11. During the general exchange of views and in the Working Group, the delegate of Mexico introduced his country's further revised proposal for a new subject, contained in the working paper submitted at the current session entitled "Discussion on the application of Article 51, in the light of its interrelation with Article 2 (4), of the Charter of the United Nations" (see annex). It was stated that the revised proposal included several updates aimed at addressing the comments and concerns expressed by some delegations with regard to the scope of the proposal that had been introduced at the 2021 session of the Special Committee (see [A/76/33](#), annex). It was explained that the aim of the revised proposal was to create a focused space for a legal and technical discussion among all Member States to exchange recent practices that had an impact on the application of Articles 2 (4) and 51 of the Charter, in particular with respect to the use of force against non-State actors. The sponsor delegation 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 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 operation and scope of, and limits to, the right of self-defence, with a focus on recent practice, in view of important changes in the phenomenology of armed conflicts. The sponsor delegation also clarified that the proposal was not duplicative of or inconsistent with the work of other organs of the United Nations. The sponsor delegation thanked all those delegations that had expressed support for the revised proposal or provided comments thereto, and expressed its readiness to revise the text, as necessary.

12. During the general exchange of views and in the Working Group, several delegations expressed support for the revised 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 touched upon important questions regarding international peace and security. Several delegations considered that the Special Committee would be the appropriate forum to address the issues raised by the proposal. The view was expressed that the proposal addressed issues that were crucial to the strengthening of a rules-based international system and the rule of law.

13. 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. A view was expressed that all concerns with respect to transparency of discussions held at Arria-formula meetings could be brought to the Informal Working Group on Documentation and Other Procedural Questions. It was also noted that the inclusion of the proposal in the agenda of the Special Committee could lead to unnecessary politicization of the debate. Some delegations indicated that they needed more time to consider the newly introduced amendments to the working paper.

14. At the same meeting of the Working Group, the delegation of Cuba announced that it was continuing to work on a written proposal concerning the role of the General Assembly in the Organization (see [A/75/33](#), paras. 87–88).

15. During the general exchange of views and in 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). He emphasized that unilateral coercive measures defied the rule of law at the international level, infringed upon the right to development, thus leading to violations of basic human rights, and violated States’ freedom of trade and sovereignty. In that light, nothing in the Charter could be interpreted as authorization for unilateral coercive measures, which should therefore be considered unlawful international acts. It was reiterated that unilateral coercive measures had adverse impacts on the medical and humanitarian needs of affected populations, especially during the COVID-19 pandemic, as well as on the representation of Governments at the United Nations. It was explained that the proposal contained suggestions on strengthening the applicable legal framework.

16. Several delegations supported the inclusion of the proposal in the agenda of the Special Committee, noting that unilateral coercive measures were illegitimate, constituted a direct violation of international law and undermined the principles and purposes of the Charter. The view was expressed that the proposal had legal and practical implications and deserved serious consideration. Emphasis was placed on the adverse effects of unilateral coercive measures, which often affected the most vulnerable. It was stated that the Special Committee was the appropriate forum in which to discuss the issue.

17. Several delegations expressed doubts about the proposal. It was considered that the proposal was politically charged and that it had little prospect of generating consensus in the Special Committee, given the diverging opinions of Member States on the legal issues raised therein. Several delegations noted that the Special Committee was not the appropriate forum for considering the issue, while noting that sanctions other than United Nations sanctions might be legitimate means for achieving foreign policy objectives and restoring peace and security. The view was expressed that sanctions were appropriate, effective and highly targeted and were not directed at the general population.

18. In 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 emphasized that the purpose of the working paper was to facilitate a legal analysis of outstanding issues relating to the implementation of the Charter, referring in particular to Articles 100 (2) and 105, as well as the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations. The sponsor delegation noted that it was within the mandate of the Special Committee to consider any proposals to enhance the ability of the United Nations to achieve its purposes and to assist in the clarification of the application of relevant provisions of the Charter. 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. The sponsor delegation reiterated its desire that the working paper should remain an item on the agenda of the Special Committee.

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.

---