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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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II. Maintenance of international peace and security

1. The Special Committee considered the question of the maintenance of international peace and security during the general exchange of views held at its 304th and 305th meetings, on 21 February, and at the 1st meeting of the Working Group of the Whole, on 22 February.
2. In their general comments, a number of delegations reaffirmed their commitment to the Charter of the United Nations and the purposes and fundamental principles enshrined therein, and called for the upholding of multilateralism and the international system with the United Nations at its core and on the basis of international law. Concern was expressed over the selective or accommodative interpretation of the provisions of the Charter and the attempts to replace the purposes and principles enshrined in the Charter with a new set of so-called rules that had never been discussed in an inclusive and transparent manner. Several delegations believed that unequivocal, non-selective and consistent respect for the purposes and principles of the Charter and strict compliance with international law, fully and in good faith, were key to maintaining international peace and security, as well as a just and equitable world order.
3. Many delegations expressed serious concern about the illegal use of force, foreign occupation or unlawful foreign military presence in various regions of the world. They reiterated their call for the redoubling of efforts towards the achievement of balanced, effective and sustainable solutions for settling outstanding international disputes on the basis of international law and through the participation of and cooperation among States.
4. A number of delegations emphasized that the maintenance of international peace and security is at the heart of the Charter of the United Nations, that Article 2 (4) of the Charter prohibits the threat or use of force against the territorial integrity or political independence of any State, and that the prohibition of aggression is a peremptory norm of international law. In their view, the ongoing aggression by the



Russian Federation against Ukraine was a serious violation of international law as well as of the said peremptory norm that gave rise to State responsibility on the part of the Russian Federation and also to the criminal responsibility of individuals, and the international community must remain firmly committed to ensuring their accountability. They recalled that, in its resolution [ES-11/1](#) of 2 March 2022, the General Assembly reaffirmed its commitment to the sovereignty, independence, unity and territorial integrity of Ukraine within its internationally recognized borders, deplored in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter, and demanded that the Russian Federation cease its use of force against Ukraine and unconditionally withdraw all of its military forces from the territory of Ukraine. It was emphasized that Ukraine continued to exercise its inherent right of self-defence in accordance with Article 51 of the Charter. It was also stated that the actions of the Russian Federation could not qualify as an exercise of the inherent right of self-defence as there had not been an armed attack by Ukraine against the Russian Federation.

5. The view was expressed that both the legal and political grounds for the special military operation in Ukraine had been given many times, at all levels and in all venues, including in the United Nations. In that connection, it was recalled that the President of the Russian Federation, in his address to the Federal Assembly, had noted that the special military operation was being carried out on the basis of the inherent right of self-defence to protect the people on the historic lands of the Russian Federation and to ensure the security of the country to eliminate the threat that came from Ukraine since the coup of 2014. It was further stated that those accusing the Russian Federation wanted to turn the Special Committee into an arena for propaganda rather than addressing the issues that are on the Committee's agenda and that they preferred to maintain the ability to arbitrarily accuse others and at the same time to arbitrarily use force themselves.

6. Some delegations expressed regret that the Special Committee had been unable to adopt a substantive report at its 2022 session, which frustrated the implementation of the mandate given to the Committee by the General Assembly to improve the efficiency of the Organization and its implementation of the Charter. The view was expressed that, while Member States often disagreed on the difficult subjects raised in the Committee, each of those divergent positions should be indicated in the report, as per the Committee's practice over the years. It was highlighted that the Special Committee was not mandated to deal with specific international disputes or situations and that there were other structures within the United Nations for that purpose. In that regard, it was suggested that the Committee should focus on its traditional tasks, namely, the formulation of recommendations of a general nature, the consideration of which would enable the General Assembly and other United Nations bodies to carry out their functions more effectively.

7. It was reiterated that the reform of the Organization should be carried out in accordance with the principles and procedures established in the Charter and preserve the legal framework of the Charter as a constitutional instrument. It was underlined that the General Assembly remained the chief deliberative, policymaking and representative organ of the United Nations. A number of delegations reiterated their concern at the continuing encroachment by the Security Council on the functions and powers of the Assembly and the Economic and Social Council by addressing issues that fell within the competences of those organs, and at the attempts to enter areas of setting norms and establishing definitions that fell within the purview of the Assembly. The view was expressed that there was a need to achieve the right balance envisaged in the Charter between the functions and powers of the principal organs of the Organization, which were encouraged to intensify cooperation and dialogue with one another. It was also emphasized that the Special Committee was the appropriate forum for examining the legal aspects of those issues.

A. Introduction and implementation of sanctions imposed by the United Nations

8. During the general exchange of views held at the 304th and 305th meetings of the Special Committee, on 21 February, and the 1st meeting of the Working Group of the Whole, on 22 February, reference was made to the issue of the introduction and implementation of sanctions imposed by the United Nations (see General Assembly resolution [64/115](#), annex).

9. 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 that could 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.

10. Many delegations emphasized that sanctions should be implemented in full compliance with the provisions of the Charter and international law, including international humanitarian law, international human rights law and international refugee law, by ensuring that sanctions procedures were fair and clear and did not violate the rights of listed persons. Some delegations welcomed the adoption of Security Council resolution [2664 \(2022\)](#) on a humanitarian exception to asset freeze measures across United Nations sanctions regimes and considered the reference to the Ombudsperson in Council resolution [2653 \(2022\)](#) as an adequate step towards strengthening due process rights beyond the sanctions regimes concerning Islamic State in Iraq and the Levant (Da'esh) and Al-Qaida.

11. 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 peace or an act of aggression, and that they should also be imposed in accordance with the Charter and on the basis of evidence. Some delegations also noted that sanctions were not applicable as a preventive measure and should be predicated upon the exhaustion of all other peaceful means. It was also emphasized that the objectives of sanctions regimes should be clearly defined and based on tenable legal grounds and that sanctions should be imposed with a clear time frame, subject to monitoring and periodic review and lifted as soon as their objectives were achieved. Several delegations noted that sanctions should not produce unintended consequences in the target State or in third States that might lead to violations of human rights and fundamental freedoms.

12. A number of delegations reiterated their concerns about the increasing imposition of unilateral sanctions by States and groups of States in violation of international law and the international rule of law and noted that the humanitarian implications of unilateral sanctions may be much broader than that of the sanctions imposed by the United Nations.

13. Several delegations reaffirmed that sanctions were an important tool for ensuring the maintenance of international peace and security. In that regard, the shift from comprehensive to targeted sanctions was welcomed. Further discussions on the strengthening of implementation of sanctions were encouraged.

14. Delegations expressed appreciation for the regular briefings by the Secretariat on the document entitled "Introduction and implementation of sanctions imposed by the United Nations", contained in the annex to General Assembly resolution [64/115](#). 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.

Briefing

15. 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 contained in the annex to General Assembly resolution 64/115, as requested by the Assembly in paragraph 4 of its resolution 77/109. The representative 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. She also responded to questions from delegations on several aspects of sanctions regimes.

16. 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.

17. Some delegations mentioned that strengthening due process and respect for fundamental rights was essential for the effectiveness and credibility of the United Nations sanctions regimes and asked the Secretariat to indicate which procedure, the Ombudsperson or the focal point, was the best option to enhance due process across sanctions regimes. The representative of the Department of Political and Peacebuilding Affairs noted that due process was an essential element of the United Nations sanctions architecture and that research already existed, which indicated that the Ombudsperson mechanism was more likely to withstand fair process legal challenges than the focal point process. She also noted that several ideas to strengthen the delisting focal points had been expressed by the Secretariat in the context of the high-level review of United Nations sanctions and that it was within the authority of the Security Council to decide which option should apply to the various sanctions regimes.

18. The Secretariat was also asked about the frequency of the monitoring and evaluation of sanctions and the criteria used to avoid bias in the process. The representative of the Department of Political and Peacebuilding Affairs noted that the Security Council conducted annual reviews of the work of the sanctions committees and other reviews of the work of the experts of panels were also conducted on a regular basis. She emphasized that the Secretariat did not carry out such evaluations. She also referred to the most recent assessment visits of the Chairs of the sanctions committees to the Central African Republic, South Sudan and Somalia to measure the extent to which the benchmark measures had been observed in the implementation of sanctions.

19. Concern was raised about the unintended consequences of sanctions. The Secretariat was asked about the objective assessment of the short- and long-term humanitarian consequences of sanctions, including the possible impact on the basic living conditions of persons in the targeted State. The representative of the Department of Political and Peacebuilding Affairs explained that panels of experts were mandated to report on the unintended impact of sanctions and that 9 of the 11 panels included humanitarian affairs experts. She added that the targeted States and third States affected by such measures could bring their concerns to the attention of the relevant committee or the Security Council.

20. The Secretariat was also asked about the types of capacity-building activities being undertaken and whether experts were involved in such activities. The representative of the Department of Political and Peacebuilding Affairs noted that such capacity-building activities were still under consideration that concerned exclusively the sanctions within the context of the United Nations and did not address national sanctions.