



# 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

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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 304th and 305th meetings of the Special Committee, on 21 February, and was considered at the 3rd meeting of the Working Group of the Whole, on 24 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 [77/109](#). 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 streamline and 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 substantive and constructive 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 either 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, or because they had been discussed at length for several years without meaningful progress or prospects of reaching consensus. Some delegations also called for agenda items to be screened according to their relevance, aim and likelihood of achieving consensus, for the purpose of prioritization and a better use of resources.

## **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 304th meeting of the Special Committee, on 21 February, and at the 3rd meeting of the Working Group of the Whole, on 24 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 and the Security 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.

9. At the 304th meeting of the Special Committee and at the 3rd meeting of the Working Group of the Whole, the representative of the Russian Federation indicated his delegation's intention to prepare a list of topics for consideration at the next session of the Special Committee.

10. 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 first been introduced at the 2021 session of the Special Committee (see [A/76/33](#), annex). The sponsor delegation also noted that, once the subject proposed had been considered in the substantive agenda, the Special Committee could conclude its consideration but then take up the subject again in the future. 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. 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 or to produce an output in the form of guidelines, 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. It was noted that, since the initial presentation of the proposal at the Special Committee, there had been an increase in the number of communications to the Council in which Article 51 had been invoked.

11. The sponsor delegation also clarified that the proposal was not duplicative of or inconsistent with the work of other organs of the United Nations. It noted that the Security Council analysed the communications sent to it in a specific manner that was different from the broad technical discussion being proposed whereby all Member States would be included. In addition, it was suggested in the revised proposal to discuss this subject on a biennial basis, in order to contribute to and support the views expressed by some delegations concerning the efficient use of available resources. 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 Working Group, some delegations expressed support for the revised working paper presented by Mexico. 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. It was also noted that the proposal raised many important questions, including how transparency and publicity on the invocation of Article 51 can be improved. It was emphasized that Member States had a duty to report to the Security Council immediately when they acted in exercise of the right of self-defence and that the Council remained the main body for dealing with peace and security.

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 through the convening of Arria-formula meetings and the work of the Informal Working Group on Documentation and Other Procedural Questions. The view was expressed that the proposal risked creating a platform to discuss reliance on the right of self-defence. The sponsor delegation noted that the discussion of the subject in the context of Arria-formula meetings remained an informal exchange without a record and that there were limited opportunities for a meaningful exchange on the subject.

14. At the same meeting, the Working Group considered the proposal for the inclusion of a new item concerning the role of the General Assembly in the Organization, as presented orally at the 2019 session of the Special Committee by the

delegation of Cuba (see [A/75/33](#), paras. 87–88). No comments were made on the proposal.

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 in 2020 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 also noted that his delegation had submitted a revised version of the proposal ([A/AC.182/L.161](#)). It was emphasized that the revised proposal covered only unilateral coercive measures that had been imposed without or beyond the authorization of the Security Council and that could not be qualified as retorsions or countermeasures under the law of international responsibility. It was further noted that there was a greater focus on the question of secondary sanctions. Some textual amendments to the “Guidelines on ways and means to prevent, remove, minimize and redress the adverse impacts of unilateral coercive measures”, which was in the annex to the revised proposal, were also introduced. The sponsor delegation 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 humanitarian needs of affected populations, especially on the most vulnerable groups, and that while there existed humanitarian exceptions to various sanction regimes, their practical efficiency was questionable. The sponsor delegation expressed its willingness to work on improving the proposal in cooperation with other delegations. It also noted that the topic could be considered by 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 were illegitimate and punitive in nature, 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 and on the fact that they often affected vulnerable groups. It was also recalled that, in contrast to sanction regimes established by the Security Council, unilateral sanctions were not subject to increased scrutiny to minimize their negative collateral impact.

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 and that sanctions other than United Nations sanctions were lawful and legitimate means for achieving foreign policy objectives and restoring peace and security. The view was expressed that sanctions were effective and highly targeted and were not directed at the general population, as well as that there existed several humanitarian exceptions to the existing sanction regimes. It was also questioned whether “unilateral coercive measures” was the legally correct term.

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 the working paper was not designed to address bilateral issues, but more general legal questions related to privileges and immunities enjoyed by representatives of the Members of the United Nations and officials of the Organization. It further emphasized 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. Some delegations maintained that the Special Committee enjoyed the mandate and had the responsibility to consider possible violations of the Charter from a legal viewpoint. It was also noted 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.

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. Several delegations also encouraged affected States to raise any existing bilateral issues directly with the host country.

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