



# 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

20–28 February 2024

### 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 308th and 309th meetings of the Special Committee, on 20 February, and was considered at the 3rd meeting of the Working Group of the Whole, on 23 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 that the Special Committee could contribute to the revitalization and strengthening of the Organization, and to the examination of the legal matters in the current reform process of the Organization.

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 [78/111](#). A number of delegations encouraged the Special Committee to examine the frequency and duration of its meetings and to give serious consideration to biennial meetings or shortened 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 it was not used as a forum for raising bilateral concerns. 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.



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. 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. Some delegations were of the view that several of the proposals before the Special Committee did not merit further consideration either because they were duplicative or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter, or because they had been discussed at length for several years without generating 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 308th and 309th meetings of the Special Committee, on 20 February, and at the 3rd meeting of the Working Group of the Whole, on 23 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. During the general exchange of views and in the Working Group, the delegate of Mexico recalled her delegation's further revised proposal for a new subject, contained in the working paper submitted at the 2023 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". 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 interpretation and 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, but should include the consideration of procedural questions, including elements of the communications invoking those provisions, as well as ensuring the transparency and publicity of the communications, which was of relevance to the entire membership of

the Organization. It was noted that, since the initial presentation of the proposal in the Special Committee, there had been an increase in the number of communications to the Council in which Article 51 had been invoked, including during the first months of 2024.

10. 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. 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.

11. During the debate in the Working Group, a number of delegations expressed support for the revised working paper presented by Mexico and stressed the importance of the consideration of this topic, especially in the light of recent events. It was noted that the proposal touched upon important questions regarding international peace and security and questions on the scope of interpretation of Articles 2(4) and 51 of the Charter of the United Nations. Several delegations considered that the Special Committee would be the appropriate forum to address the issues raised by the proposal since it concerned a matter within the scope of the mandate of the Special Committee, that interested all Member States. It was further pointed out that similar discussions conducted in other formats like Arria-formula meetings had some procedural constraints. 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 noted that the proposal raised many important questions, including how transparency and publicity on the invocation of Article 51 could be improved. It was also noted that the paper included specific aspects which could serve as a useful guide. It was recalled that the proposal was not to develop a product but rather to provide a context for a discussion on the issues with a view to improving access to the communications in question, which was in the interest of the Member States and the global community as a whole.

12. Some 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 Committee was the appropriate forum for addressing the issues raised. 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 primary organ for dealing with peace and security. Some delegations 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 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.

13. 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/74/33](#), paras. 88 and 89). The sponsor delegation indicated that it continued to hold bilateral consultations with a view to presenting a written proposal at a future session of the Committee. No comments were made on the proposal.

14. During the 3rd meeting of the Working Group, the representative of the Islamic Republic of Iran introduced a further revised version of its proposal 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” (A/AC.182/L.165) and highlighted some of the amendments to the proposal made therein. 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 providing 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 reiterated its willingness to work on improving the proposal in cooperation with other delegations.

15. During the general exchange of views and in the Working Group, 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. Several delegations considered that unilateral coercive measures undermined both the enjoyment of human rights and sustainable development in the countries targeted.

16. 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. Some delegations considered 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. Some delegations questioned whether “unilateral coercive measures” was the legally correct term. It was observed that some States whose delegations supported the proposal had themselves resorted to the application of sanctions other than United Nations sanctions.

17. During the 3rd 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 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 once again reiterated its desire that the working paper should remain an item on the agenda of the Special Committee.

18. 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, and reaffirmed their view that the Special Committee had the capacity to examine the subject and that it was directly related to provisions of the Charter. 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 which also affected other duty stations. The view was expressed that it could be helpful to have a discussion on the experiences of Member States and that it would be worthwhile to identify standards that could be applicable in the relationship between the Organization and host States in various regions.

19. Some delegations indicated that they were not in a position to support the proposal. It was 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 that Committee remained actively seized of the issues at hand. Some delegations therefore viewed the proposal as duplicating efforts being made elsewhere. Some delegations also encouraged affected States to raise any existing bilateral issues directly with the host country.

20. During the general exchange of views and in the Working Group, the representative of the Russian Federation introduced a proposal for a new subject submitted by Belarus, the Plurinational State of Bolivia, China, the Democratic People's Republic of Korea, Equatorial Guinea, the Islamic Republic of Iran, Mali, Nicaragua, the Russian Federation, Saint Vincent and the Grenadines, the Syrian Arab Republic and the Bolivarian Republic of Venezuela, as contained in the working paper entitled "Challenges to the purposes and principles of the Charter of the United Nations arising from initiatives promoting enhanced non-governmental organization participation in the work of the United Nations" (A/AC.182/L.164). A sponsor delegation observed that while non-governmental organizations (NGOs) were already participating in relevant United Nations meetings and processes, there existed insufficient diversity of geographical representation of civil society, with NGOs from developed countries having more access to the activities of the United Nations. It was noted that such inequality was prompted by the fact that NGOs from the developed countries possessed more resources, better access to technology and expertise, as compared to their counterparts in the developing world. Such situation deepened inequalities between the developed and developing States, thereby adversely affecting the purposes and principles enshrined in the Charter of the United Nations. A sponsor observed that the prevalence of NGOs from developed States allowed them to shift the focus of United Nations bodies towards issues prioritized by Western nations. It further explained that there was a need to implement procedural reforms with a view to ensuring fair and equal geographical representation of NGOs, as well as to create a mechanism to hold NGOs accountable for abuse of the United Nations processes.

21. During the general exchange of views and in the Working Group, several delegations supported the inclusion of the proposal in the agenda of the Special Committee, noting the importance of equal geographical representation of NGOs. The importance of preserving the principles enshrined in the Charter of the United Nations

was emphasized. It was also observed that the proposal did not seek to limit or exclude the participation of NGOs in the United Nations but sought to protect the intergovernmental nature of the Organization.

22. Some delegations indicated that they were not in a position to support the proposal, and even objected to it. It was observed that independent civil society organizations played an important role in assisting the United Nations in achieving its purposes and that NGO involvement if anything should be further strengthened, thereby ensuring equal participation of NGOs from all regions. Some delegations noted that the participation of civil society brought new perspectives and improved the outcomes of the work of the United Nations. Some delegations observed that NGO participation did not expand inequalities but reduced them, while providing a voice for the most vulnerable, thereby contributing to the protection of human rights and holding governments accountable. The call for further direct inclusion of all parts of civil society in all pillars of United Nations activity, contained in the “Our Common Agenda” report, was further recalled.

23. Some delegations agreed that there were imbalances in NGO participation within the work of the United Nations, as stated in the proposal, but proposed different ways to address the issue. Some delegations noted that civil society organizations played a crucial role in promoting dialogue between States and their citizens, bringing attention to important problems at the national level, thereby helping to ensure accountability. A view was expressed that civil society organizations’ participation should be incentivized, including through removing procedural obstacles for NGOs from the developing world. At the same time, according to some delegations, all issues related to the participation of NGOs should be considered in the Committee on Non-Governmental Organizations. A view was expressed that civil society organizations have no right to seek accountability from any sovereign States with regard to their national affairs and the need to streamline the role of NGOs was emphasized.

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