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Chair: Mr. Salinas Burgos..... (Chile)

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The meeting was called to order at 10 a.m.

Organization of work

1. **The Chair** recalled that the Committee had established two working groups during its first meeting but had deferred the election of their chairpersons pending informal consultations among regional groups. He understood that Mr. Eduardo Ulibarri (Costa Rica) was available to chair the Working Group on the scope and application of the principle of universal jurisdiction and that Mr. Kriangsak Kittichaisaree (Thailand) was available to chair the Working Group on the administration of justice, and he took it that the Committee wished to elect them.

2. *It was so decided.*

Agenda item 83: The rule of law at the national and international levels (*continued*) (A/66/133)

3. **Mr. Civili** (Observer for the International Development Law Organization) said that the discussions taking place at the United Nations on the rule of law, which the International Development Law Organization (IDLO) had followed with keen interest, had helped to shape internal transition and assessment processes within his organization in the past year. Expanding and strengthening partnerships remained a key element of his organization's strategy. As an organization devoted to advancing the rule of law and its contribution to development, IDLO strove to build partnerships with a wide range of development-related and legal institutions. Accordingly, in its work with development agencies, it highlighted the role that a conducive legal environment could play in furthering progress towards the Millennium Development Goals, and in its work with the legal community, it emphasized the dividends that a focus on economic and social progress could yield for sustaining peace and security.

4. The United Nations — particularly the United Nations Development Programme and the Peacebuilding Commission — was a key partner. IDLO was currently working to expand its collaboration with the Peacebuilding Fund, having recently been recognized as a recipient organization entitled to receive funds as an implementing partner. In addition, his organization had participated in the high-level meetings of the General Assembly on HIV/AIDS and prevention and control of non-communicable diseases,

which had afforded an opportunity to showcase the products of its health law programme.

5. His organization's aims and activities with respect to the rule of law were in line with those outlined in the Secretary-General's report (A/66/133), particularly its focus on promoting national ownership, addressing legal needs and empowering vulnerable groups, restoring civil order and supporting recovery in conflict and post-conflict countries. His organization's recent efforts to advance national ownership had included assisting countries in building effective dispute resolution systems that would further economic development and protect human rights and working with domestic stakeholders to strengthen the administration of justice. A hallmark of its work on State justice institutions was to ensure that systems and safeguards were in place to protect the rights and well-being of the most vulnerable citizens, particularly women and girls. It had also sought to highlight the role of customary justice systems in protecting and empowering vulnerable communities and individuals. Thus, its work complemented United Nations efforts to strengthen the rule of law at the national and international levels.

6. IDLO had had long experience in rule of law training and would be pleased to collaborate with the Organization in the further development and institutionalization of the United Nations unified rule of law staff training programme. It also stood ready to contribute to the development of the international policy forum alluded to in the Secretary-General's report, as it believed that such a body would fill a clear gap in existing coordination arrangements. IDLO looked forward to the high-level meeting of the General Assembly on the rule of law, to be held in September 2012, and would be honoured to collaborate in the preparations for that event.

7. **Mr. Young** (Observer for the International Committee of the Red Cross (ICRC)) said that his organization's work in conflict areas had shown that the existence of a clear framework of rules saved lives and reduced suffering. It was critical to incorporate into national law provisions designed to prevent serious violations of international humanitarian law and other international crimes and to make it possible to prosecute and punish those who committed such crimes. It was also essential to create institutions capable of implementing such provisions, which should include appropriate reparation for victims. His

organization's experience had also demonstrated the importance of building national capacity and utilizing national expertise, taking due account of local legal and institutional traditions. National Red Cross and Red Crescent Societies could play a valuable role in that regard, not only because they possessed relevant local knowledge, but also, thanks to their affiliation with the International Red Cross and Red Crescent Movement, because they were well informed about international trends and possibilities for international support.

8. ICRC had developed tools to facilitate the implementation of international humanitarian law at the national level, including a handbook published in 2010 and available in six languages, and it was providing technical support for the drafting of national legislation. It also organized international meetings to provide a forum for exchange between States on the implementation of international humanitarian law. ICRC would continue to work to bring about greater respect for international law, in particular international humanitarian law, and prevent impunity.

9. **Ms. Schonmann** (Israel), speaking in exercise of the right of reply, said that it was absurd to hear some of the world's worst human rights violators lecture the only democracy in the Middle East about human rights. Statements such as the one made by the observer for Palestine during the previous meeting, which overlooked or attempted to hide grave violations of human rights occurring systematically in the speaker's own territory, should not be taken seriously. Such statements diminished the professionalism and undermined the credibility of the Sixth Committee's deliberations. She would like to remind the distinguished Palestinian representative that countless Israelis had also been the victims of the Israeli-Palestinian conflict and that, like the Palestinian people, the Jewish people had a right to self-determination in their homeland — a fact that the Palestinian Authority refused to acknowledge. She could offer solid evidence of the atrocities, war crimes and crimes against humanity that Palestinians had committed against Israelis and against their own people. Indeed, more than a million Israelis lived under a constant rain of rockets, mortars and missiles from the Gaza Strip, which was controlled by Hamas, a terrorist organization that had formed an alliance with the Palestinian Authority. That situation ran counter to the agreements signed by the Palestinians with her

Government and to the Quartet's three principal demands, namely that the Palestinians must recognize Israel's right to exist, accept previous agreements signed with Israel and renounce terrorism and violence.

10. Israel was a vibrant and pluralistic democracy, whose Government was committed to upholding the rule of law and international law, and it remained committed to the peace process. As a former member of the Israeli negotiating team, she could attest that direct negotiations, though difficult, were the only way to achieve a lasting peace based on the principle of two States for two peoples, living side by side in peace and security. It was regrettable that the Palestinians had chosen to take a unilateral path. That approach would not help to create a viable State and would undermine prospects for future peace negotiations.

11. **Mr. Zeidan** (Observer for Palestine) said that it was regrettable that Israel persisted in distorting the stark, bitter reality of its 44-year occupation of Palestine. The Palestinian people were being denied their most basic rights, including in many cases their right to life. Could the representative of Israel really say with a clear conscience that Israel did not commit violations of international law and that it did not pursue the unlawful policies and engage in the unlawful practices to which he had alluded in his earlier statement? If the Government of Israel would not even acknowledge its crimes and wrongdoing, how could it be expected to cease committing them? Peacemaking required, at a very minimum, the cessation of violations, respect for international law, and efforts to promote redress and reconciliation.

12. What was absurd was that the Israeli Government thought that it could pursue peace while simultaneously continuing to violate international law. If Israel was truly committed to peace on the basis of two States, as internationally agreed, why did it continue its settlement expansion? There were over 500,000 Israeli settlers living in the Occupied West Bank, and the day after the recent Quartet statement calling for a revival of the peace talks, the Israeli Government had clearly said "no" to peace by approving the construction of 1,100 new housing units in settlements in occupied Bethlehem. Israel should stop attempting to exploit the current situation to its own advantage. That would not bring peace. The only way forward was to uphold international law and the rule of law.

Agenda item 82: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

(A/66/33, A/66/201 and A/66/213)

13. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran), Vice-Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the report of the Committee (A/66/33) on its 2011 session, recalled that the Special Committee had been asked to continue its consideration of the questions of maintenance of international peace and security in all its aspects, implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions, peaceful settlement of disputes and the working methods of the Committee. The Committee had also been asked to examine any proposals referred to it by the General Assembly pursuant to decisions of the high-level plenary meeting of the sixtieth session of the Assembly in September 2005 concerning the Charter and any amendments thereto. The Special Committee's decisions and recommendations on those matters were referenced in chapter II of the report. Its recommendations concerning the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were contained in paragraph 63 of the report. With regard to the identification of new subjects, the Committee had considered a proposal relating to principles and practical measures and mechanisms for strengthening and ensuring more effective cooperation between the United Nations and regional organizations on matters relating to the maintenance of international peace and security in conflict and post-conflict areas.

14. The significant increase in the Special Committee's workload and the lengthening of its meetings — the last of which had been completed without interpretation — was a testament to the importance that Member States attached to its work. It was to be hoped that the Committee's role would be strengthened through the adoption by consensus of important documents that would increase compliance with and implementation of the Charter. Accordingly, he invited Member States to continue in-depth discussions on the proposals currently on the Committee's agenda and to submit new ones aimed at strengthening the Charter and the Organization.

15. **Mr. Mikulka** (Secretary of the Committee), speaking as the Director of the Codification Division and introducing the report on the status of the *Repertory* and the *Repertoire* (A/66/201), noted that an updated chart showing the status of the *Repertory* had been distributed. Significant progress had been made during 2011 in clearing the backlog in translation and publication of supplements to the *Repertory*. All the studies in respect of volume II of Supplements Nos. 7, 8 and 9 and volume VI of Supplements Nos. 8 and 9 had been completed, and studies had been prepared on several articles for inclusion in volume III of Supplements Nos. 7, 8 and 9, which covered the period 1985 to 1999. In order to avoid overlap, where *Repertoire* studies on the same topics already existed, the *Repertory* studies merely introduced the topic and provided links to the relevant *Repertoire* studies.

16. Significant headway had also been made in the preparation of studies for Supplement No. 10, which covered the period 2000 to 2009. Forty-one of the 50 volumes of the publication had now been completed, 28 had been published and 13 had been finalized and submitted for translation and publication. Thus, work remained to be completed on nine volumes, six of which pertained to Supplement No. 10, which covered the most recent reviewable period; the other three pertained to Supplements Nos. 7, 8 and 9. Studies from completed volumes were available in searchable form in English, French and Spanish on the *Repertory* website, as were some advance versions of studies for volumes awaiting completion.

17. Students from several universities had once again collaborated in preparing *Repertory* studies during 2011, and the Secretariat would continue to avail itself of the assistance of interns and academic institutions for the preparation of future studies. It was, of course, understood that the Secretariat bore ultimate responsibility for the final preparation and quality of all studies.

18. A note verbale had been sent to all permanent missions to the United Nations, reminding them of the General Assembly's appeal for voluntary contributions to the trust fund established pursuant to resolution 59/44 in order to eliminate the backlog in the *Repertory* and inviting them to bring the matter to the attention of private institutions and individuals who might wish to contribute. The Secretary-General welcomed with appreciation Ireland's recent contribution of nearly \$7,000 to the trust fund. Contributions to the

trust fund had been used to hire consultants, who had prepared studies for volumes II and VI. The current balance in the fund, approximately \$32,000, would be used to hire additional consultants to prepare studies for volumes nearing completion.

19. **Mr. Boventer** (Security Council Practices and Charter Research Branch, Department of Political Affairs), updating the Committee on the status of the *Repertoire*, said that the Branch had made excellent progress in updating the *Repertoire*, thanks largely to efficiency-enhancing initiatives introduced in 2007. It continued to pursue a “two-track” approach, working simultaneously on the preparation of several supplements, in order to expedite coverage of the contemporary practice and procedure of the Security Council. In the past year the Branch had completed the fourteenth and fifteenth Supplements, covering the period from 2000 to 2007; continued work on the sixteenth Supplement, for the years 2008 and 2009; and also continued laying the groundwork for the seventeenth Supplement, which would cover 2010 and 2011. It expected to complete the sixteenth Supplement and post an advance version on the *Repertoire* website in early 2012. Advance versions of the fourteenth and fifteenth Supplements were already available electronically. Work on the seventeenth Supplement would commence in 2012; however, progress on that and future volumes would depend on the availability of resources. In addition to its work on the *Repertoire*, the Branch had collaborated in addressing the backlog in the preparation of volume III of the *Repertory* by submitting drafts on various Articles.

20. The twelfth Supplement, covering the years 1993 to 1995, had been published in April 2011. Work on editing and typesetting of the thirteenth and fourteenth Supplements, covering the period from 1996 to 2003, had reached an advanced stage, and the English-language version of the thirteenth Supplement was expected to be available by year’s end. The Branch continued to work with the Department for General Assembly and Conference Management to further shorten the time lag between the completion of a Supplement and its publication in all six official languages.

21. The Branch continued to respond to requests for information on the practice of the Security Council and its subsidiary organs. Such requests could be submitted electronically to a dedicated e-mail address or through the *Repertoire* website contact form. The English

version of the website had recently been redesigned and was updated regularly. It featured user-friendly search capabilities, a comprehensive list with short descriptions of all agenda items discussed by the Security Council since 1946 and tables and graphs providing a historical overview of the Council’s work. Subject to the availability of funds, the Branch planned to have the redesigned version of the website translated into all official languages.

22. The updating of the website and the progress in publication of the various supplements would not have been possible without the support of Member States, and he was grateful to Mexico for its contribution to the trust fund for the updating of the *Repertoire* and to Germany for its sponsorship of an associate expert. Unfortunately, funds for the recruitment of staff to work on several Supplements would soon be depleted, and the sponsorship of the associate expert would end in the current month. Continued support from Member States was needed; otherwise the work pace of the past could not be sustained. Noting that the Branch was currently seeking to fill a vacant associate expert position, he affirmed that the Secretariat stood ready to assist Member States with information and guidance on the practice of the Security Council.

23. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the Special Committee should play a key role in the ongoing process of United Nations reform. Important elements of that process were the democratization of the Organization’s principal organs and respect for the role and authority of the General Assembly as the chief deliberative, policymaking and representative organ, which, together with its subsidiary bodies, had done a great deal to promote the purposes and principles of the Charter and the Organization’s objectives. He wished to reiterate the Movement’s concern over the continuing encroachment by the Security Council on the functions and powers of both the General Assembly and the Economic and Social Council and to reaffirm that the reform of the Organization should be carried out in accordance with the principles and procedures established by the Charter. The Special Committee should continue to study the legal aspects of the implementation of Chapter IV of the Charter, particularly Articles 10 to 14 on the functions and powers of the General Assembly.

24. The issue of sanctions imposed by the Security Council also remained of serious concern to the non-aligned countries. Sanctions should be imposed only in accordance with the Charter — i.e., as a last resort and only where a threat to international peace and security or an act of aggression existed. They should never be applied as a preventive measure, nor should they inflict suffering on vulnerable groups in the target country as a means of exerting political pressure. Their objectives and the conditions demanded of the targeted State or party should be clearly defined and based on tenable legal grounds, and they should be time-limited and subject to periodic review. The annex to General Assembly resolution 64/115, on the introduction and implementation of sanctions imposed by the United Nations, should guide the Security Council's future work with regard to sanctions.

25. The Movement considered it important to examine the question of compensation and other sanctions-related issues raised in the various proposals currently on the agenda of the Special Committee. It took note of the new subjects proposed for discussion and called for their meaningful consideration. It particularly looked forward to continued discussion of the further revised working paper submitted by the Bolivarian Republic of Venezuela.

26. The Movement appreciated the work done to eliminate the backlog in the publication of the *Repertoire* and *Repertory* but wished to underscore the importance of reducing the backlog in the preparation of volume III of the latter. Recalling that General Assembly resolution 65/31 had requested that that backlog should be addressed, he enquired what progress had been made, particularly with regard to studies on Articles 40 to 51 and 52 to 54 of the Charter.

27. **Mr. Mikulka** (Secretary of the Committee), speaking as the Director of the Codification Division, replied that studies on most of the Articles covered by volume III, as could be seen on the colour-coded chart circulated in the room, had either been prepared and made available on the *Repertory* website or were currently being prepared and would be posted on the website shortly. The remaining studies would be undertaken in the coming year.

28. **Ms. Quezada** (Chile), speaking on behalf of the Rio Group, said that the countries of the Rio Group wished to stress the importance of the peaceful settlement of disputes and the maintenance of

international peace and security. Both those topics should remain on the Special Committee's agenda, as should the question of assistance to third States affected by the application of sanctions. The latter issue was of a preventive nature, and the Special Committee should give priority to the consideration of any proposal submitted in connection with it. The annex to General Assembly resolution 64/115 on the introduction and implementation of sanctions represented an important contribution by the Special Committee to the sanctions system and to the peaceful settlement of disputes and should be utilized by the relevant United Nations organs.

29. It was regrettable that, as indicated in the report of the Secretary-General (A/66/213), the Security Council Informal Working Group on General Issues of Sanctions had not made any recommendations that referred explicitly to ways to assist third States affected by the unintended impact of sanctions. In that connection, she drew attention to the information presented in paragraphs 4, 5, 8 and 11 of the report, concerning exceptions to and minimization of unintended consequences for third States of asset freezes imposed under resolutions of the Security Council and the role of the General Assembly, the Economic and Social Council and the Secretariat with regard to assistance to third States affected by the application of sanctions.

30. The *Repertory* and *Repertoire* made a valuable contribution to international law and to the institutional memory of the international system, and the Rio Group not only welcomed the Secretariat's progress in reducing the backlog in their publication and posting on the Organization's website, but also appreciated the contributions made by Member States to the trust funds for the two publications. The Secretariat should intensify its efforts with a view to eliminating the backlog altogether.

31. The Rio Group attached great importance to the work of the Special Committee and commended the activities undertaken during its 2011 session, welcoming in particular the submission of a revised working paper by the Bolivarian Republic of Venezuela, a member of the Rio Group. Nevertheless, the lack of concrete results from recent sessions of the Special Committee pointed up the need to improve its working methods. To that end, Member States should make a genuine effort not only to ensure that the Special Committee had a solid thematic agenda

comprising both new and existing topics but also to identify ways of enhancing the efficiency of its work, optimizing the use of the resources allocated to it by the General Assembly and enabling it to fully carry out its mandate as set out in General Assembly resolution 3499 (XXX).

32. **Mr. Salem** (Egypt) said that his delegation attached great importance to the Special Committee's work in strengthening the framework for the peaceful settlement of disputes by mobilizing the political will of Member States to reach such settlements. It also played a role in setting the rules, norms and legal practices needed to enforce the principles of international legitimacy derived from the Charter. The Special Committee's work in that regard would complement that of the General Assembly on the peaceful settlement of disputes and the role of mediation and preventive diplomacy, the theme proposed by the President for the Assembly's general debate during the current session.

33. His delegation wished to stress the importance of ensuring full respect for the provisions of the Charter concerning the functions of the principal organs of the United Nations and the maintenance of the delicate balance between their activities. The Security Council, in particular, should focus on fulfilling its role in relation to the maintenance of international peace and security and should cease its encroachment on the functions of the General Assembly and the Economic and Security Council. In that connection, his delegation affirmed the importance of the Special Committee's work in enhancing the role of the General Assembly as the central deliberative and policymaking body of the Organization.

34. It was to be hoped that the current intergovernmental negotiations in the General Assembly on the question of equitable representation in the Security Council and related matters would lead to an expansion of its membership, thereby redressing the historical injustice in respect of Africa and rebalancing the Council's power structures. Drastic reform of its working methods was also important in order to enhance transparency, accountability and the participation of concerned States in the Council's discussions and in the formulation of its reaction to situations within its competence. In that regard, he endorsed the views on sanctions expressed by the representative of Iran on behalf of the Movement of Non-Aligned Countries. The Council should also pay

greater attention to the humanitarian effects of any sanctions before imposing them, including their potential effects on neighbouring States and other third parties.

35. His delegation also wished to emphasize the right of all Member States to propose new subjects for consideration by the Special Committee. To oppose the Committee's consideration of such proposals while simultaneously criticizing it for lack of results was a contradiction in terms. His delegation welcomed the proposal submitted by Ghana and the further revised working paper submitted by the Bolivarian Republic of Venezuela and looked forward to substantive discussions on them during the Special Committee's next session.

36. Lastly, his delegation called on the Secretary-General to continue his efforts to complete the preparation of all volumes of the *Repertory* and looked forward to the availability on the Organization's website of both the *Repertory* and the *Repertoire* in all official languages.

37. **Mr. Nikolaichik** (Belarus) noted with regret the lack of progress in the work of the Special Committee. It was unacceptable that some States were still unable to take any substantive decisions on issues that had been on the Special Committee's agenda for many years. That Committee's practice of taking decisions by consensus should nevertheless continue, and his delegation was in favour of a frank discussion on how to make its working methods more flexible.

38. Sanctions should be applied only in full conformity with international law and in order to prevent violations of it. The attempts of some States and groups of States to usurp the powers of the United Nations in that respect undermined both the Organization's authority and the integrity of the international legal order. The United Nations could and must take steps to prevent the application of sanctions in any form and for any purposes contrary to international law.

39. His delegation welcomed the proposals by Ghana on cooperation between the United Nations and regional organizations and by the Bolivarian Republic of Venezuela for the establishment of a working group to study the Charter provisions relating to the interaction among United Nations organs. The Special Committee should focus, in that connection, on

drawing up proposals for improving practice in the implementation of those provisions.

40. The Secretariat's work on the *Repertory* and *Repertoire* was an important means of preserving the Organization's institutional memory, acquainting civil society with its work and facilitating relevant studies.

41. **Mr. Maza Martelli** (El Salvador) said that his delegation supported the Special Committee's work, noting its important role in examining matters relating to the Charter and acknowledging its numerous accomplishments to date. There was a compelling need, however, to enhance the efficiency of that work so that it could better contribute to the revitalization of the United Nations and help to bring about the necessary changes in the functioning of its organs. All Member States should work towards that aim by ensuring that any proposals they submitted for consideration were feasible and in line with the Charter. His delegation welcomed the Special Committee's decision to keep the question of maintenance of international peace and security and peaceful settlement of disputes on its agenda, given that the latter was the best way of dealing with conflicts between States and of avoiding the severe consequences of such conflicts. His delegation also welcomed the progress made on the *Repertoire*, which should be widely disseminated as a means of strengthening the international legal system.

42. **Mr. Yadav** (India) said that the Security Council had an obligation to consider the effects on third States of any sanctions that it imposed under Chapter VII of the Charter and should also ensure timely and adequate assistance to such States, giving due consideration to humanitarian needs. Article 50 of the Charter, which gave third States confronted with special economic problems arising from sanctions imposed by the Security Council the right to consult it with regard to a solution to those problems, could not be regarded as merely procedural. It obliged the Council to find a definitive solution to the problems of affected third States.

43. His delegation welcomed the shift from general sanctions to targeted sanctions against individuals and entities, especially in the global counter-terrorism effort, and the Security Council's adoption of safeguards, including exceptions to asset freezes, to mitigate the adverse effects of sanctions on third States and individuals. Proper implementation of targeted

financial sanctions, focused arms embargoes and travel sanctions would minimize the economic, social and humanitarian consequences of such measures in both targeted and non-targeted States. Nevertheless, a mechanism should be established to monitor the proper implementation of sanctions and to assess their impact on third States and individuals. In that regard, his delegation supported the main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences of sanctions incurred by third States, as set out in document A/53/312.

44. It was important to ensure that sanctions were imposed in accordance with the provisions of the Charter and that they did not violate the principles of international law. Accordingly, his delegation supported proposals aimed at bringing transparency to the functioning of the Security Council, including, in principle, the proposal to seek an opinion from the International Court of Justice regarding the legal principles governing the use of force under the Charter and the proposal for a study on the functional relationship between the different organs of the United Nations. However, the modality for the latter study involved the creation of an open-ended working group, the rationale for which was obscure, and it was also unclear whether the working group or the Special Committee would be the final examining body. His delegation also supported keeping the topic of peaceful settlement of disputes on the Special Committee's agenda, although apparently no specific proposal on the subject had been submitted for the Committee's consideration.

45. India welcomed efforts to revitalize the General Assembly and to democratize and expand the Security Council, in terms of both the permanent and non-permanent categories of membership. The *Repertory* and *Repertoire* were important reference tools, and his delegation commended the Secretary-General's efforts to ensure their continued publication and updating.

46. **Mr. Delgado Sánchez** (Cuba), commending the work accomplished by the Special Committee during its 2011 session and noting that it had been obliged to conclude its deliberations without conference services at its last plenary meeting, expressed confidence that the Secretariat would take steps to improve the organization of the Committee's work so as to allow more time for substantive discussion of proposals. Such discussions should not be conducted informally

but rather within the Working Group of the Whole in order to ensure a reliable record of the views expressed by Member States. Proposals should be discussed substantively, paragraph by paragraph.

47. The Special Committee had made significant progress in 2011, although some delegations continued to hinder its work and impede the adoption of valuable documents that would strengthen the rule of law within the Organization. The paper submitted by his delegation had been adopted by the Working Group of the Whole but had not garnered consensus in plenary. His delegation intended to submit a new paper for substantive debate during the next session, and it looked forward to discussing the paper to be submitted by Ghana and the further revised working paper submitted by the Bolivarian Republic of Venezuela, which would undoubtedly be a focus of substantive debate in future sessions of the Special Committee. Member States had a sovereign right to submit proposals to the Special Committee, and it was to be hoped that doing so would become a regular practice which would yield meaningful results and enable the Committee to be as productive as it had been in the past. His delegation favoured keeping pending items on the Special Committee's agenda, including the topic of peaceful settlement of disputes.

48. The leading role of the General Assembly must be preserved and strengthened, especially in the current context where imperialist doctrines sought to ignore or flout the Charter, and where the whole issue of reform — particularly with regard to the lack of democracy and transparency in the Security Council — remained pending. The Special Committee was the appropriate forum for negotiating any Charter amendments that might emerge from the reform process and for ensuring that all United Nations organs acted in conformity with the provisions of the Charter and international law.

49. His delegation remained ready to work with other delegations in achieving positive results within the Special Committee. The obstructionist efforts of some States should give way to a constructive attitude. The search for consensus could not be allowed to become a veto power for a few States. The Committee's working methods should ensure the effectiveness of its work; otherwise, they should be changed. The rules of procedure of the General Assembly offered a wide range of options, which his delegation would not

hesitate to resort to if attempts to undermine the work of the Special Committee did not cease.

50. His delegation welcomed the efforts made to update the *Repertoire* and the *Repertory*, but it urged the Secretary-General to address, on a priority basis, the unjustifiable backlog in the preparation of volume III of the *Repertory*.

51. **Mr. Kim Yong Song** (Democratic People's Republic of Korea) said that Security Council resolutions relating to disputes, in particular those concerning sanctions and the use of force, were being adopted without regard for the overall will of Member States. Moreover, the Security Council was intervening ever more blatantly in matters that were the purview of the General Assembly or the Economic and Social Council. It was therefore essential to strengthen the authority of the General Assembly as the Organization's highest decision-making organ and the one in which all Member States were represented and had equal rights. In particular, the Assembly should be empowered to approve Security Council resolutions relating to international peace and security before they entered into force.

52. The name of the United Nations was being abused in order to carry out high-handed, arbitrary acts such as the enforcement of sanctions and the use of force. Issues relating to international peace and security were being handled arbitrarily by certain countries in order to advance their own interests, and the application of double standards was increasingly prevalent. Unless the provisions of the Charter were respected, especially those relating to sovereign equality and non-interference in the internal affairs of States, there could be no peace, no development and no fair resolution of disputes or other international issues.

53. Wilful abuse of the name of the United Nations had been occurring for 60 years on the Korean peninsula, where the "United Nations Command" — which was, in fact, the United States Army — constituted a major obstacle to ending the Cold War and converting the armistice into a durable peace. It was not fulfilling a peacekeeping role but rather was fuelling tension and conflicts. With a view to addressing that abnormal situation at the earliest possible date and ensuring durable peace on the Korean peninsula, in January 2010 his Government had proposed to the parties to the armistice agreement that talks should be initiated with a view to concluding a

peace agreement that would ensure peace and stability in the Korean peninsula and beyond and create a favourable environment for economic growth. His delegation trusted that the United Nations would actively cooperate in the effort to conclude the peace agreement by dissolving the “United Nations Command” in accordance with General Assembly resolution 3390 (XXX).

54. **Ms. Taratukhina** (Russian Federation) said that despite its current slow pace of work, the Special Committee retained its potential for studying legal issues relating to the Charter, and should continue its work.

55. The joint Russian-Belarusian proposal on the legal consequences of the use of force by States remained on the Special Committee’s agenda, and it would be of interest, if there was consensus in that Committee, to seek an advisory opinion of the International Court of Justice on the subject.

56. Her delegation assumed that, in compiling the *Repertoire*, the Secretariat would continue to follow the rules contained in the Secretary-General’s report of 18 September 1952 (A/2170).

57. **Ms. Fernandes** (Malaysia), affirming that assistance should always be rendered to third States inadvertently affected by the application of sanctions, said that it was also essential to safeguard the rights of individuals affected by sanctions. The European Court of Justice had underlined the importance of ensuring respect for fundamental human rights in the listing of individuals and entities under Security Council sanctions regimes, and the rules of natural justice dictated that Security Council resolutions adopted under Chapter VII of the Charter should take account of individuals’ and entities’ rights to notice, to be heard and to be represented. While the transparency of sanctions procedures had been enhanced through the incorporation of sunset mechanisms providing for automatic de-listing of individuals and entities unless an express decision to the contrary was taken, more could be done to enhance the transparency and fairness of listing and de-listing procedures and ensure compliance with the tenets of natural justice and the rule of law.

58. With regard to the identification of new subjects for consideration by the Special Committee, her delegation noted that several long-standing issues remained on the agenda — partly as a result of the

Committee’s inability to reach consensus on them — and was of the view that those items should be disposed of before new ones were added.

59. **Mr. Li Linlin** (China) said that the Security Council should use caution in applying sanctions and try to minimize their negative impact on civilians and third States. While acknowledging the Council’s efforts to improve the enforcement of sanctions through more precise targeting, his delegation believed that the two sanctions-related items should remain on the agenda of the Special Committee and be discussed on a priority basis at its next session. As to the question of whether an opinion should be sought from the International Court of Justice regarding the legal consequences of the resort to the use of force, discussion of the issue would help to clarify the relevant rules of international law, and his delegation was pleased to see the matter on the Special Committee’s agenda.

60. His delegation was also open to consideration of relevant and promising new items, such as the proposals submitted by the Bolivarian Republic of Venezuela and Ghana. It looked forward to receiving a more detailed introduction of those proposals. With regard to improvement of the Special Committee’s working methods, he called on all Member States to demonstrate political will by taking an active part in the Committee’s work with a view to safeguarding the authority of the Charter and maintaining international peace and security. His delegation welcomed the progress made in compiling the *Repertory* and *Repertoire* and hoped that the Secretariat would work harder to meet the requests contained in the report of the Special Committee.

61. **Ms. Sandoval** (Nicaragua) said that her delegation strongly supported the work of the Special Committee and looked forward to substantive discussions of the working paper to be submitted by Ghana and other proposals, both new and existing, that would contribute effectively to the implementation of the Charter. The 2011 session had shown that the duration and frequency of the Special Committee’s sessions should certainly not be reduced. Her delegation continued to favour annual sessions of at least seven days.

62. Her delegation was gravely concerned to see the Security Council increasingly assuming the authority to discuss topics such as climate change that fell outside its competence and that should, under the

Charter, be discussed by the General Assembly. Her delegation also denounced the gross and shameful manipulation and violation of Security Council resolution 1973 (2011) on the situation in Libya. The illegal nature of the war carried out by the North Atlantic Treaty Organization was the latest example of the ways in which the Charter and the sovereignty of Member States were being violated.

63. Sanctions should be imposed by the Security Council only in strict conformity with the Charter, only as a last resort, never as a preventive measure and only in response to a clear threat to peace and security or an act of aggression. History had shown, however, that sanctions not only did not achieve their intended objectives, but had unjustifiable adverse effects on the population of the State concerned. The practical value of sanctions should be weighed against the harm they did to the population; moreover, consideration should be given to putting in place a legal framework that would clearly address the various formal and substantive issues relating to the imposition of sanctions, including that of compensation. Her delegation opposed unilateral sanctions, the application of which clearly contravened the principles enshrined in the Charter and international law — principles which the countries that applied such sanctions claimed to respect. Her delegation also rejected the selective application of international law.

64. Her Government conducted its international relations on a basis of friendship, solidarity and reciprocity and endorsed the principle of peaceful settlement of international disputes through the means offered by international law, of which it had often availed itself. The International Court of Justice, in particular, played an important role in safeguarding global security through the peaceful settlement of disputes. The topic should therefore remain on the Special Committee's agenda.

65. Her delegation welcomed the progress on the *Repertory* and *Repertoire*, but deeply regretted the unjustified backlog in the publication of volume III of the *Repertory*.

66. **Mr. Arbogast** (United States of America) said that his delegation welcomed the Special Committee's recognition of the value of efforts to improve the workings of the United Nations. The issue of the Committee's efficiency was crucial in that regard, and his delegation urged it to remain focused on ways to

improve its productivity. It should also give serious consideration to reducing the frequency and/or duration of its sessions. The Special Committee had a number of long-standing proposals before it, some of which showed considerable overlap. Moreover, many of the issues raised in the Committee had been taken up and addressed elsewhere in the United Nations. Hence, the Special Committee had shown little enthusiasm for acting on those proposals or discussing them at length.

67. With regard to the items on the Committee's agenda concerning international peace and security, his delegation remained of the view that the Committee should not pursue activities that would be duplicative or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter, including consideration of a revised working paper calling for a new, open-ended working group to study the proper implementation of the Charter with respect to the functional relationship of its organs and questions relating to sanctions. It would, for example, be inappropriate for the Special Committee to devise norms concerning the design and implementation of sanctions. His delegation welcomed the measures taken elsewhere in the Organization to ensure that the system of targeted sanctions remained a robust tool for combating threats to international peace and security, such as the recent modifications to the Al-Qaida sanctions regime, and noted that the shift to targeted sanctions had reduced the incidence of unintended harm to third States. His delegation's position on the question of requesting an opinion from the International Court of Justice on the use of force remained unchanged: it did not support the proposal.

68. While his delegation was not opposed in principle to exploring new subjects that might warrant consideration by the Special Committee, it believed that caution should be exercised. Any new items that were added to the Special Committee's agenda should be of a practical and non-political nature and should not duplicate efforts under way elsewhere in the United Nations system. His delegation was not convinced that discussion of the proposal for further measures concerning cooperation between the United Nations and regional organizations would be a productive use of the Committee's time, particularly in the light of the declaration on the subject adopted by the General Assembly (resolution 49/57) and the work already undertaken to implement it. The Special Committee

was most useful when it efficiently considered proposals that were clear and realistic and that took into account the appropriate role of the various organs of the United Nations.

69. His delegation commended the Secretary-General's ongoing efforts to reduce the backlog in preparation of the *Repertory* and *Repertoire*, both of which provided a useful resource on the practice of United Nations organs.

70. **Mr. Wilson** (United Kingdom of Great Britain and Northern Ireland) said that although seven working days were allocated to sessions of the Special Committee, its discussions required far less time. Continuing to hold seven-day sessions was not a productive use of precious United Nations resources or of delegations' time and energy. In addition, the discussion of some issues in the Special Committee had become somewhat moribund. Several of the subjects on its agenda had been discussed again and again for many years without real prospect of agreement. They should either be taken off the agenda or be reviewed only at longer intervals. His delegation supported the proposal put forward by Mexico that the Special Committee should be convened every two years.

71. **Mr. Valero Briceño** (Bolivarian Republic of Venezuela) said that his delegation supported the continued work of the Special Committee. He welcomed its exhaustive consideration of the revised working paper submitted by his Government. As had been explained on various occasions, the purpose of the proposed open-ended working group would be to ensure that the Charter was being properly implemented and that each of the organs of the United Nations was carrying out its functions appropriately, without detriment to any of the others.

72. His Government considered reform of the Charter of the United Nations to be the most important issue currently under discussion within the Special Committee and continued to believe that it was necessary to reinvent the Organization in order to bring about its true democratization. Accordingly, his delegation called for immediate reform of the Security Council, with an immediate expansion of its membership to include representatives of countries in Africa, Asia, Latin America and the Caribbean, together with the elimination of the undemocratic privileges arising from the use of the veto, a relic of

the Second World War and the Cold War. The General Assembly must reclaim its rightful role, which was being usurped by the Security Council. As the highest and most representative organ of the United Nations, the General Assembly should formulate the Organization's principal policies and decisions and should deal with major global issues. In addition, there should be direct and universal participation of all countries on an equal footing in the selection of the Secretary-General.

73. His delegation continued to maintain that sanctions should be imposed only in extreme situations, after all means of compromise had been exhausted, and only in conformity with the Charter and international law. The conditions for their lifting should be established, and humanitarian considerations should be taken into account. It was to be hoped that the Security Council would apply the sanctions regime set out in the annex to General Assembly resolution 64/115, in accordance with the provisions of the Charter.

74. Member States had a duty under the Charter to settle international disputes by peaceful means, while also having the right to choose the means of dispute settlement. The Organization, for its part, should strengthen its capacity to help prevent conflicts.

75. The *Repertory* and *Repertoire* were valuable tools for research and for preservation of the Organization's institutional memory; his delegation therefore urged the Secretariat to eliminate the backlog in the preparation of volume III of the *Repertory*.

76. **Ms. Gasu** (Ghana) said that her delegation welcomed the Secretariat's efforts to reduce the backlog and update the *Repertory* and *Repertoire*, together with its redesign of the *Repertory* website, which had enhanced its benefits for users. She encouraged more voluntary contributions to enable that work to continue.

77. Her delegation attached great importance to the Special Committee's work, particularly its contribution to the revitalization and strengthening of the United Nations, and had therefore proposed adding a new topic to the Committee's agenda: strengthening of cooperation between the United Nations and regional organizations on matters relating to the maintenance of international peace and security. The Organization was currently working with regional bodies in a number of areas, recognizing that such bodies had comparative

advantages in addressing local conflicts and disputes. Strengthening cooperation with regional and subregional organizations would enhance the capacity of the United Nations itself to promote and maintain international peace and security in accordance with the relevant provisions of the Charter. Such partnerships with regional organizations should be bolstered by exploring and developing principles and practical measures to underpin them, with due regard for national ownership and bearing in mind the role of the General Assembly, without prejudice to the primary responsibility of the Security Council for the maintenance of international peace and security. Her delegation hoped that its proposal would be kept on the agenda for the Special Committee's next session. In the meantime, her Government would continue to work to formulate concrete input on how to optimize the use of preventive diplomacy tools within the United Nations system and in cooperation with regional organizations.

78. **Mr. Hassan Ali Hassan Ali** (Sudan) said that the United Nations could achieve its purposes and principles and strengthen its role by firmly engaging its Members in its various bodies, which should in turn be further democratized to that end on the basis of equality and sovereignty. The General Assembly should also play a more cutting-edge role in the maintenance of international peace and security, with regional organizations playing their part likewise. In that context, the African Union had made a laudable contribution in various countries of Africa, including the Sudan.

79. The time had come to change the outmoded shape and composition of the Security Council to prevent it from becoming a tool that served the interests of a specific group of States. Its relationship with the General Assembly remained a similar matter of concern that should be examined with a view to preserving the balance among United Nations organs. More time should be devoted to the discussion and study of such pivotal questions.

80. Another key issue of concern was the use of sanctions by the Security Council and the often hasty recourse to Chapter VII of the Charter of the United Nations, particularly over the past two decades. Such use must be limited and additionally qualified by time and humanitarian considerations. Sanctions were in fact a final resort to be used only after all peaceful means had been exhausted, the aim being to ensure that they were not exploited as a political tool on the basis

of selectivity and double standards. In conclusion, he expressed the hope that the Special Committee would take on board the proposals received for strengthening the role of the Organization and indeed seek further proposals on the subject.

81. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that his delegation attached great importance to the work of the Special Committee and looked forward to further deliberations on the proposals submitted by the Bolivarian Republic of Venezuela and Ghana. The Special Committee made important contributions to the promotion of the maintenance of international peace and security and the peaceful settlement of disputes, and it provided a platform for Member States to review and renew their commitment to the purposes and principles of the Charter.

82. States had an obligation to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any other State and to settle their disputes by peaceful means. Adherence to those principles by all States was a necessary prerequisite for the rule of law at the international level. It was therefore a matter of serious concern that some States continued to rely on the unlawful use or threat of force in order to advance their own interests, thereby threatening international peace and security. The Special Committee had an important role to play in addressing that concern, and his delegation supported serious consideration of all proposals put forward to that end.

83. Sanctions could be imposed only after the Security Council had determined — on the basis of valid evidence, not speculation or misinformation — that an actual threat to peace or a breach of peace existed or an act of aggression had occurred, and then only when peaceful means of resolving the situation had been exhausted or proved to be inadequate. In imposing sanctions, the Security Council must act in strict conformity with the Charter and avoid exceeding its authority or acting in breach of the principles of international law. It must not seek to deprive any Member State of its legitimate rights under international law, nor could it consider a lawful act by a State to be a threat to international peace and security.

84. As an organ of the United Nations established by intergovernmental treaty, the Security Council was

subject to and obliged to comply with legal obligations established under the Charter and peremptory norms of international law (*jus cogens*), and it must be held accountable for the consequences of sanctions imposed in pursuit of unlawful objectives or introduced as a result of political pressure or influence. Sanctions could not be considered lawful if they were imposed as a result of political manipulation of the Security Council by some permanent members or on the basis of an arbitrary and politically motivated determination of the existence of a threat to peace and security. Indeed, such sanctions were wrongful under international law, and the States that sought to impose them bore international responsibility for the wrongful act of the Organization in applying them. Member States were not required to comply with the Security Council's decisions concerning such sanctions, and the targeted States were entitled to be compensated for damages inflicted upon them. His delegation renewed its call for the International Law Commission to give due consideration to the legal consequences of arbitrarily imposed sanctions and looked forward to discussing the draft articles on the responsibility of international organizations, particularly draft article 3 on the responsibility of an international organization for its internationally wrongful acts.

85. The application of unilateral economic sanctions against developing countries as an instrument of foreign policy was cause for serious concern. Such sanctions — which had been imposed by one State against many developing countries — not only undermined the rule of law at the international level, but also infringed the right to development and led to violation of basic human rights. They also clearly contravened international law and the Charter of the United Nations.

86. The General Assembly should be able to exercise its mandate in relation to the maintenance of international peace and security without any interference. The consideration of a situation or dispute by other United Nations organs, in particular the Security Council, did not constitute a legal impediment to the Assembly's consideration of the same matter.

87. With regard to the *Repertory* and *Repertoire*, his delegation was delighted to see that efforts were under way to reduce the backlog in the preparation of volume III of the *Repertory*. Making all volumes of both it and the *Repertoire* available online was highly important, as it would allow people around the world

access to a first-hand source of information on the practice of the United Nations.

The meeting rose at 1 p.m.