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## Sixth Committee

### Summary record of the 5th meeting

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*Chairman:* Mr. Enkhsaikhan ..... (Mongolia)

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and on the Strengthening of the Role of the Organization

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*The meeting was called to order at 3.15 p.m.*

**Agenda item 154: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization**  
(A/53/33, 312, 326 and 386)

1. **Mr. Chimimba** (Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization), introducing the Special Committee's report (A/53/33), drew the Sixth Committee's attention particularly to chapter III.A, which should be read in conjunction with document A/53/312; chapter IV.B, to be read in conjunction with document A/53/326; and paragraphs 153 to 167, which discussed working methods. The Special Committee had been accused of failing to use the resources put at its disposal and, although it had achieved more than the previous year, he hoped that his successor as Chairman would be able to report even greater progress. The debate on working methods should continue within the Sixth Committee, which he trusted would recognize that the Special Committee had gone some way towards fulfilling its mandate.

2. **Ms. Sucharipa** (Austria), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Hungary, Lithuania, Poland, Romania, Slovakia and Slovenia and, in addition, Iceland and Norway, welcomed the fact that the Special Committee had started a process of reflection on the ways in which it was operating. She said that its work ought clearly to be further streamlined and more focused, concentrating on a few selected topics, so as to avoid duplication and repetition. Moreover, in order to avoid the loss of precious meeting time and resources, proposals should be submitted as early as possible so as to enable delegations to study them in depth. In that context, she noted that the documentation under the agenda item, too, should have been issued earlier than it had been. She trusted that the Special Committee would continue the useful consideration of its working methods. The European Union would support the suggestion that the Special Committee should be allowed to meet somewhat later in the year than it had in the past. Nor was it axiomatic that it should have a two-week session every year. In 1999, when there was a heavy schedule of legal meetings, it might be appropriate to try a shorter session.

3. It was too early for the European Union to indicate definite attitudes on issues that had been discussed in the Special Committee without the adoption of final conclusions or on issues on which the debate was continuing and agreement did not seem within reach in the foreseeable future. The Special Committee ought to establish clear priorities on

the order in which it would follow up new or revised proposals and the time that it would devote to them. In that connection, she said that any overlap with the work of other bodies – particularly on reforming the Organization and on peacekeeping – should be avoided. Various aspects of issues discussed within the Special Committee, such as the distribution of competencies between the General Assembly and the Security Council and the fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter, were within the mandate of other United Nations bodies; and that fact should be respected. The Special Committee should focus more on proposals that had been before it for years rather than step into new areas. Some issues were more or less settled in practice and did not necessarily need “codification”; similar considerations might apply to the competencies of the International Court of Justice under the Charter and various other multilateral instruments.

4. Turning to the report of the Secretary-General on the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/53/312), she said that the European Union had given ample proof of its determination to help minimize the effects suffered by third States, not only by supporting the measures stipulated in the relevant resolutions but also by providing substantial practical support, particularly for third countries which had felt the negative effects of the measures taken against the former Yugoslavia. As an entity heavily dependent on trade with those countries, the Union was always affected by economic sanctions, often seriously so. The ad hoc expert group had stressed the principle of burden-sharing and concluded that the cost of preventive or enforcement measures, such as economic sanctions, should be borne by the international community at large on a more equitable basis. It would not, however, be easy to define what ought to be seen as “equitable”, still less “more equitable”. Moreover, the special responsibility on the part of the major industrial and other high-income countries, to which the experts referred, would still have to be determined and recognized by those concerned, if the basic framework of Article 50 of the Charter was to be adhered to. The Secretary-General ought to be invited to present his views on the detailed suggestions set out in paragraphs 49 to 57 of the Secretary-General's report, particularly their political, financial and administrative feasibility.

5. With regard to the report of the Secretary-General on the consequences of the increase in the volume of cases before the International Court of Justice on the operation of the Court (A/53/326), she said that the picture that emerged was pessimistic. The Court's financial resources and staffing had

so far not kept pace with the increased number of cases with which it was seized. Yet its statutory duties meant that, unlike other United Nations organs, it did not have programmes that could be cut or expanded at will. The Court had no influence over its workload. Commendably, more and more issues had been brought before it for judicial assessment and an increasing number of States currently accepted the “optional clause” under Article 36, paragraph 2, of the Statute, allowing cases to be brought against them by States accepting the same obligation. The rise in the number of cases coming to the Court therefore represented a fundamental change which was likely to endure and, indeed, expand.

6. The European Union believed that the legitimate demands of the Court in terms of budgetary resources ought to be met. Otherwise, not only would the judicial branch of the United Nations be discriminated against but there might be serious political implications if cases submitted by States or legal opinions sought by major organs of the United Nations could not be dealt with in a timely fashion. The credibility of the judicial dispute settlement system was at stake. The Court had already responded to the challenges that it faced as a result of its increased workload: it had put into effect a number of rationalization measures within the Registry, introduced new information techniques (albeit restrained by its limited budgetary resources) and streamlined its working procedures. Any consideration of its requests for appropriations for the next biennium should take into account that failure to provide it with the necessary resources would diminish the importance that the General Assembly had always attached to the peaceful resolution of international disputes through law.

7. Lastly, she noted, with regard to the Secretary-General’s report on the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council* (A/53/386), that even if the schedule mentioned by the Secretary-General was maintained, Supplement No. 5 of the *Repertory* would still not be completed by the end of 1999 and even then would not go beyond 1984, a lag of a decade and a half. Surely a higher degree of priority should be given to the *Repertory*. It was difficult to understand why some departments proceeded with the drafting of portions of the *Repertory* using savings from the previous biennium while others, such as the Office of the High Commissioner for Human Rights, did not. The Secretary-General should give clear priority to work on the *Repertory* and see to it that the enormous backlog was reduced. Although the *Repertoire* was up to date until 1984, and work on subsequent volumes was proceeding well, by the end of 2001 the backlog would still be almost 10 years. The two publications were essential tools for anyone dealing with United Nations procedures and

practices, particularly delegations of Member States. Appropriate steps should be taken to speed up the work on them and, if that should prove impossible, the Secretary-General might examine the possibility of outsourcing the work to interested academic institutions.

8. **Mr. Mishra** (India) said that his delegation attached special importance to the question of assistance to third States affected by the application of sanctions. It was necessary to operationalize Article 50 of the Charter and establish a permanent mechanism, including a fund, to provide relief to such countries, especially given the increased use of economic sanctions and the resulting increase in the number of affected States. The responsibility for dealing with the adverse consequences of sanctions rested with the Security Council, which imposed sanctions. He therefore suggested that Article 50 matters should be considered in the framework of a working group in the Sixth Committee, that the Sixth Committee should define the term “mechanisms or procedures” contained in paragraph 2 of draft resolution I contained in document A/51/630, and that the Special Committee should continue to give priority to consideration of the problem of assistance to third States. He noted that the Secretary-General’s report on the subject (A/53/312) did not address the question of finding a permanent solution and dwelt more on the role of international financial institutions. His delegation felt that the responsibility of the Security Council in that regard must also be addressed.

9. The working paper submitted by the Russian Federation on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures (A/53/33, para. 45) provided a useful basis for discussion. He fully endorsed the position of the Movement of Non-Aligned Countries on the question of sanctions, which should be a measure of last resort and implemented strictly in accordance with the Charter, taking into account humanitarian needs. Sanctions should also be imposed for a definite time period and lifted as soon as their main objective was realized; they should not be used as a punishment or retribution.

10. His delegation attached great importance to the issue of United Nations reform, including democratization of the Security Council and promotion of transparency in its working methods, and it noted with interest the proposal by Cuba made at the last meeting of the Special Committee. His delegation reaffirmed its commitment to the strengthening of the United Nations and to enhancing its efficiency.

11. With regard to the peaceful settlement of disputes, he emphasized the importance of the fundamental principle that States parties to a dispute should continue to be free to choose from the available means of peaceful settlement. His

delegation supported the revised proposal by Sierra Leone on the establishment of a dispute prevention and early settlement service (A/53/33, para. 105), and noted that such a service was not intended to become an expensive scheme.

12. With regard to the International Court of Justice, he noted the rationale provided by Guatemala for its proposal to enhance the contentious jurisdiction of the Court to cover disputes between international organizations and Member States (A/53/33, chap. IV.B), as well as the reservations raised by some delegations. His delegation felt that such disputes were best settled in accordance with the provisions creating the international organizations in question and then, if necessary, by reference to the International Court of Justice. With regard to the proposal by Mexico concerning ways and means to streamline the Court's procedures, he noted the comments and observations received from the Court contained in the report of the Secretary-General (A/53/326). The Court's greater staff and budget requirements needed to be considered urgently in order to enable it to fulfil its responsibility as the principal judicial organ of the United Nations.

13. He stressed the importance of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* as reference sources and the need to keep them up to date, and said that he supported further debate on the role of the Trusteeship Council, one of the principal organs of the United Nations. He agreed that future sessions should be scheduled later in the first half of the year, which would give the Special Committee more time to consider the questions and reports before it.

14. **Mr. Gao Feng** (China) said that sanctions should never be used as the primary means of settling international disputes but should be imposed with great caution. Specific mechanisms should be established to implement the provisions of Article 50 of the Charter, and practical and effective measures must be taken to address the concerns of third States. The working paper submitted by the Russian Federation deserved careful consideration by the Security Council and could contribute to regulating and reducing the number of sanctions and to reducing the effect on civilian populations. He suggested that the Special Committee should further discuss that document from a legal perspective.

15. Concerning the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts (A/53/33, chap. III.C), he said that a comprehensive document would be useful but consideration should be given to the special features of individual missions. Peacekeeping operations must be carried out on a solid legal

basis and strictly follow the fundamental principles of such operations. The development of a legal framework fell within the mandate of the Special Committee, and its work would also be facilitated by such a legal framework.

16. With regard to the working paper submitted by Cuba on strengthening the role of the Organization and enhancing its effectiveness (A/53/33, chap. III.D), his delegation was in favour of reform of the Security Council, including its working methods in order to improve its efficiency, representation and capacity to maintain international peace and security. In the meantime, the Special Committee should enhance communication with other relevant United Nations bodies in order to avoid duplication of efforts.

17. His delegation noted the proposal submitted by Sierra Leone in the establishment of a dispute prevention and early settlement service and felt that setting up such a mechanism would have a positive impact on preventive diplomacy by the United Nations. That proposal deserved careful study by the Special Committee, and he hoped that Sierra Leone would continue to revise and improve the proposal, taking into account the observations made by Member States. With regard to the proposal submitted by Guatemala concerning extending the competence of the International Court of Justice, his delegation believed that that issue should be studied within the broader context of discussion of the lack of resources and increasing workload of the Court, once Member States and the Court had had an opportunity to present their views and comments.

18. With regard to the Trusteeship Council, his delegation felt that it was urgent that the Council should be abolished, and suggested that that issue could be resolved along with other questions related to the amendment of the Charter.

19. With regard to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, his delegation believed that, so long as no information was lost, the two could be combined into a single document in order to avoid duplication and save resources.

20. Concerning the working methods and efficiency of the Special Committee, his delegation believed there should be a longer time span between the sessions of the Special Committee and the Sixth Committee so that Member States would have enough time to study the relevant report of the Sixth Committee. Much time tended to be spent on procedural matters, leaving insufficient time for the Special Committee to discuss substantive proposals. Moreover, the Special Committee should further develop its role and enhance coordination with other United Nations bodies, and Member States should cooperate with the Special Committee in identifying new subjects for its consideration with a view to

enabling it to play a greater role in the reform and strengthening of the United Nations.

21. **Mr. O'Hara** (Malaysia), said that the scope and content of sanctions must be carefully defined before they were imposed, and a time-frame should also be provided. His delegation supported the proposal to re-examine the sanctions regime as a whole and reaffirmed its support for the position of the Movement of Non-Aligned Countries that sanctions must be used only as a last resort. Sanctions should not cause unacceptable suffering to the civilian population of the State concerned and should not violate social, economic and cultural rights. The working paper on the subject submitted by the Russian Federation proposed devising clearer criteria and conditions for the imposition of sanctions. Steps could be taken promptly to respond to any disproportionate suffering experienced by people within the States against which the sanctions were directed. His delegation therefore welcomed the concept of "smart sanctions" as mentioned in the report of the Secretary-General on the work of the Organization (A/53/1).

22. His delegation shared the view that Member States must study seriously ways to minimize the negative impact of sanctions on third States. It therefore welcomed the report of the Secretary-General on the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/53/312), which outlined a number of important developments in that area. He commended the ad hoc expert group for devising methods for assessing the effects of sanctions on non-target States and agreed that the choice of applicable methods to assess those consequences would depend on the particular circumstances of affected States in the context of specific sanctions. He also reaffirmed his delegation's support for the proposal by the Movement of Non-Aligned Countries that a trust fund should be established to assist third States affected by the imposition of sanctions in order to guarantee that such States were compensated.

23. With regard to the two working papers submitted by Cuba on strengthening the role of the Organization and enhancing its effectiveness, his delegation echoed the concerns expressed by the Non-Aligned Movement concerning the weakening of the role and functioning of the General Assembly and supported the proposal for a re-examination of the functions and responsibilities of the General Assembly and of the Security Council. He also noted the proposal to convert the Trusteeship Council into a coordinator for the common heritage of mankind; in that connection, he wished to reiterate his delegation's position that the Council should be abolished and to suggest that

discussions to that end should be given priority in the Special Committee next year.

24. He stressed that the Special Committee contributed significantly to the strengthening of the United Nations and in particular to the implementation of the provisions of the Charter, and suggested that other committees should follow its example of open-ended discussion in order to ensure active participation by all Member States. He also suggested that a time-frame should be established with regard to the decision-making mechanism so as to avoid protracted discussion, and supported the recommendation that the Special Committee's session should be held later in the first half of 1999 in order to give delegations sufficient time to carefully consider the issues under discussion.

25. **Ms. Cueto-Milián** (Cuba) stressed the importance of the Special Committee as a forum for Member States and as a useful mechanism for contributing to the reform process.

26. She wished first of all to comment on the issue of the maintenance of international peace and security. With regard to the question of assistance to third States affected by the application of sanctions, she said that sanctions must be studied within their overall context and the role and responsibility of the Security Council must be fully analysed. She supported the recommendation made in paragraph 34 of the Special Committee's report (A/53/33) regarding the results of the expert group meeting convened in accordance with General Assembly resolution 52/162. With regard to the working paper submitted by the Russian Federation on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures, she said that more in-depth analysis was necessary. With regard to the basic principles and criteria for the work of peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts, she felt that the proposal in question gave the Special Committee an opportunity to develop a full legal framework for peacekeeping operations based on practice and on the requirements of the Charter. Concerning the proposal by the Libyan Arab Jamahiriya on strengthening the role of the United Nations in the maintenance of international peace and security (A/53/33, chap. III.E), she said that continued study would lead to further enhancing the role of the United Nations in a world in which it was constantly faced with new challenges.

27. With regard to the peaceful settlement of disputes between States, her delegation was ready to continue discussing and refining the proposal submitted by Sierra Leone on the establishment of a dispute prevention and early settlement service. With regard to the working papers submitted by Guatemala and by Costa Rica concerning the competence of the International Court of Justice (A/53/33,

chap. IV.B), she reiterated her delegation's reservations concerning the scope of the reforms, the role of the proposed legal mechanism, the distribution of powers among the various organs of the United Nations, the credibility, reliability and neutrality of the sources of information to be used, and the nature of the disputes to be resolved. She believed that further study was necessary, and especially wished to hear the reactions and opinions expressed by Member States and by the International Court of Justice itself. She reserved the right to comment in greater detail on the work of the International Court of Justice at a later date.

*The meeting rose at 4.35 p.m.*

28. With regard to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, she thanked the Secretariat for its recent efforts, although her delegation believed that there was no reason to give those documents any higher priority than other documents which were of equal value and importance for Member States. New subjects must be identified for the Special Committee's agenda, such as the issue of advisory opinions rendered by the International Court of Justice and the right of Member States and the Secretary-General to request such advisory opinions; coordination between the Special Committee and other reform bodies; and the issue of reform and the Trusteeship Council. She reaffirmed her delegation's commitment to reform of the Organization and stressed that reform must be seen as involving all parties, not just certain groups or bodies.

29. She agreed with the Special Committee's recommendations concerning the scheduling of its sessions later in the year, although that would have financial and other consequences for the developing countries especially, but she did not believe that the Special Committee's sessions should be shortened.

30. With regard to the working paper submitted by her delegation on strengthening the role of the Organization and enhancing its effectiveness, she stressed that a major obstacle to democratization of the United Nations was the division of powers between the General Assembly and the Security Council and the relationship between the major organs of the United Nations. Her delegation was ready to further develop and revise its proposal on the basis of suggestions made by other delegations. It was also convinced that the Special Committee was not duplicating or usurping the mandates of other bodies involved in reform but was simply responding to the Secretary-General's call for all Member States to participate in the reform process. She hoped that the discussions in the Special Committee would give all delegations the opportunity to work together to strengthen and reform the United Nations.