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Agenda item 71**Strengthening of the coordination of humanitarian and
disaster relief assistance of the United Nations, including
special economic assistance****Security Council
Seventy-fifth year****Letter dated 12 May 2020 from the Permanent Representative of
Spain to the United Nations addressed to the Secretary-General**

I have the honour to transmit herewith the Chair's summary of the fourth retreat on international humanitarian law, held under the theme "safeguarding the humanitarian space in the context of sanctions regimes and counter-terrorism measures", which was organized by the Permanent Mission of Spain to the United Nations at the Greentree Foundation on 2 and 3 March 2020.

I would be grateful if the present letter and the summary could be circulated as a document of the General Assembly, under agenda item 71, and of the Security Council.

(Signed) Agustín Santos Maraver



Annex to the letter dated 12 May 2020 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

Fourth retreat on international humanitarian law: safeguarding the humanitarian space in the context of counter-terrorism measures and sanctions regimes (2 and 3 March 2020)

Chair's summary

On 2 and 3 March 2020, the Permanent Mission of Spain to the United Nations in New York, in cooperation with the International Committee of the Red Cross (ICRC), held the fourth retreat on international humanitarian law for members of the Security Council at the Greentree Foundation. A total of 22 delegations participated in the retreat, including 14 States members of the Security Council.

The retreat was centred around safeguarding the humanitarian space in the context of counter-terrorism measures and sanctions regimes, with a special focus on pragmatic approaches to improve the design and implementation of counter-terrorism measures and sanctions regimes in the light of international humanitarian law and to ensure principled humanitarian action. Field practitioners; humanitarian, counter-terrorism, sanctions and legal experts; academics; and representatives of Member States, the United Nations Secretariat, ICRC and civil society organizations participated in the retreat.

The retreat was inaugurated by the Ambassador of Spain, Agustín Santos Maraver. Opening remarks were also made by the Director-General of ICRC, Robert Mardini, and there were two keynote speakers, Dustin Lewis, Research Director of the Harvard Law School Program on International Law and Armed Conflict, and Sue Eckert, a consultant at the World Bank.

The subsequent meeting, conducted under the Chatham House Rule of non-attribution, was broken down into six complementary panels: overview of international humanitarian law, principled humanitarian action, counter-terrorism measures and sanctions regimes; deeper analyses into the interaction between international humanitarian law and counter-terrorism; interaction between international humanitarian law, principled humanitarian action and sanctions regimes; proposals to better design United Nations sanctions regimes; smarter implementation of United Nations sanctions regimes; and steps forward in 2020: highlighting opportunities for action.

The panels brought together different perspectives, which led to a fruitful, thought-provoking and enriching debate. Numerous points were raised during the discussions. Some of the conclusions can be summarized as follows:

(a) The discussions focused on two legal frameworks that experience asymmetries: international humanitarian law, a conventional and customary law, and the extensive and modern “legislative” activity of the Security Council adopting counter-terrorism measures and sanctions regimes.

(b) Security Council resolutions on counter-terrorism and sanctions regimes are having an impact on principled humanitarian action and, on some occasions, their implementation at the national, regional and international levels is limiting the capacity of impartial humanitarian organizations to undertake their activities in a manner consistent with international humanitarian law, with adverse effects on people most in need.

Better understanding, interaction and communication between the frameworks of sanctions, counter-terrorism measures and international humanitarian law are

needed. The agendas of peace and security and principled humanitarian action are compatible. The United Nations system and Member States must strike a balance between the two agendas in a context where international humanitarian law and principled humanitarian action have often been overlooked. This balancing should also take place in the banking sector, where bodies such as the Financial Action Task Force have in recent years updated their recommendations to stress the need for such a balance.

(c) There is growing demand among Member States, humanitarian organizations and civil society for the Security Council to ensure, when designing and applying counter-terrorism measures, that those measures do not impede exclusively humanitarian activities, including medical activities, that are carried out by impartial humanitarian actors in a manner consistent with international humanitarian law.

(d) Also to be taken into account is the increasing concern with the hurdles and limitations that humanitarian organizations and actors experience in territories under sanctions regimes. These include funding limitations, banking restrictions and the criminalization of humanitarian action. There is certain agreement among actors, stakeholders and civil society that sanctions regimes should be reviewed and renewed to take into account the unintended consequences of sanctions regimes on principled humanitarian action and to ensure that sanctions regimes are designed and applied in a manner consistent with international humanitarian law.

Different ideas on developing humanitarian safeguards and giving more guidance to States on how to interpret international humanitarian law when applying sanctions were suggested. At a minimum, where sanctions regimes do not have an express reference to the need to comply with international law, including international humanitarian law, this could be done.

There was strong consensus on the need to convene meetings among different stakeholders and actors – United Nations bodies, Governments, non-governmental organizations and the private sector, including but not limited to the banking sector – both in New York and Geneva but also at the national and regional levels, to reduce the adverse effects of overcompliance and its impact on principled humanitarian action.

(e) There are also expectations regarding the larger role that the United Nations system as a whole could play (including the General Assembly, the Secretariat and the Security Council) in safeguarding the humanitarian space in the context of counter-terrorism measures and sanctions regimes.

Some emphasis was placed on the reporting mechanisms that already exist, which could collect and introduce standardized information on the unintended consequences of sanctions regimes and counter-terrorism measures on principled humanitarian action.

(f) The Office for the Coordination of Humanitarian Affairs, the Counter-Terrorism Committee Executive Directorate and ICRC could also have an enhanced role to play in balancing the two agendas and corpus of law: peace and security (counter-terrorism measures and sanctions regimes) and humanitarian (international humanitarian law). Lastly, the Security Council Affairs Division will also be key in designing sanctions regimes in a manner consistent with international humanitarian law.