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Chair: Mr. Turbék (Vice-Chair) (Hungary)

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In the absence of Mr. Danon (Israel), Mr. Turbék (Hungary) took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda item 85: The scope and application of the principle of universal jurisdiction (continued)

(A/71/111)

1. **Mr. Dunning** (Observer for the Holy See) said that universal jurisdiction, if applied with due respect for the principle of subsidiarity, had the potential to reinforce the protection of peoples, ensure accountability, prevent impunity and offer redress to victims. However, many aspects of its scope and application still needed to be defined. For example, a concrete understanding was needed of when and why States could exercise jurisdiction over crimes committed outside of their territory based neither on the nationality of the perpetrator nor that of the victim. Moreover, the conditions that should be placed upon the exercise of such jurisdiction of last resort, how to safeguard national legal systems, helping them to be fair, just and efficient, and what ought to be the extent and the admissibility of official immunities in universal jurisdiction cases needed to be clarified. The work of collecting expert opinions, examining case studies and pursuing discussions on those questions should therefore continue, both within the Sixth Committee and in the International Law Commission and the various international tribunals.

2. The principle of universal jurisdiction must be safeguarded from improper uses or ends. One such safeguard would be to ensure that it was applied in accordance with the Charter of the United Nations and international legal norms, including the sovereignty of States and national territorial integrity. The use of universal jurisdiction to further political or ideological goals, or merely to intervene in the internal affairs of other States, would disregard principles of international law and would only bring the principle of universal jurisdiction into disrepute. On the other hand, in cases where justice became impossible to enforce at the national level, universal jurisdiction might be necessary to ensure that atrocities against human rights and humanitarian law did not go unpunished.

3. **Mr. Ojeda** (Observer for the International Committee of the Red Cross) said that the principle of

universal jurisdiction was one of the key tools for ensuring the prevention, criminalization and punishment of serious violations of international humanitarian law. The “grave breaches” regime laid down in the four Geneva Conventions of 1949 and further developed in their Additional Protocol I of 1977 stipulated that States parties must search for persons alleged to have committed, or to have ordered to be committed, those violations of the Conventions and the Protocol defined as grave breaches, and to either bring them before their own courts, regardless of nationality, or hand them over for trial by another State party concerned. The effective implementation of those obligations therefore required each State party to extend universal jurisdiction to the list of grave breaches in its national jurisdiction. In addition, State practice and *opinio juris* had helped to consolidate a customary rule whereby States could empower their courts to exercise universal jurisdiction over other serious violations of international humanitarian law.

4. The International Committee for the Red Cross (ICRC) continued to work to prevent serious violations of international humanitarian law and to promote the implementation of adequate sanction mechanisms at the domestic level, with an emphasis on universal jurisdiction. It offered legal and technical assistance to States in establishing such mechanisms and developing related criminal legislation. It also produced technical documents and practical tools for the application of universal jurisdiction; for example, it was now updating its commentaries on the Geneva Conventions and their Additional Protocols. The updated commentary on the first Geneva Convention, published online in March 2016, provided a detailed explanation of the various methods available to States to fulfil their obligation to enact legislation on grave breaches and the ways that States parties had implemented the principle of universal jurisdiction in recent decades. The updated commentaries also addressed the time frame for fulfilling the obligation to investigate alleged grave breaches and either prosecute or extradite those responsible; the current state of international law with regard to potential immunities from jurisdiction and prosecution for alleged perpetrators of serious violations of international humanitarian law; and the possible applicability of the grave breaches regime to serious violations of international humanitarian law in non-international armed conflict.

5. States had the primary responsibility for investigating and prosecuting alleged perpetrators of serious violations of international humanitarian law. When they did not take legal action based on other grounds of jurisdiction, the assertion of universal jurisdiction could serve as an effective mechanism to ensure accountability and limit impunity. ICRC would continue to support States' efforts to enact appropriate legislation to respond to serious violations of international humanitarian law on the basis of all principles of jurisdiction, including universal jurisdiction.

6. **Ms. Rolón Candia** (Paraguay) said that the principle of universal jurisdiction went beyond the usual rules of jurisdiction over crimes in order to serve the interests of justice. From the horrors of the Second World War had emerged the Universal Declaration of Human Rights, enshrining fundamental human rights that had taken on a supranational dimension. Article 145 of the Paraguayan Constitution accorded just such a dimension to human rights. Paraguay had so firmly incorporated a number of human rights instruments into its domestic legislation that they could only be removed by constitutional amendment. The Criminal Code provided for prosecution of the commission in foreign countries of certain offences subject to universal jurisdiction, such as genocide, human trafficking and illicit drug trafficking. The legislature was considering a bill on the application of the Rome Statute of the International Criminal Court, which covered universal jurisdiction and limitations on national jurisdiction.

7. While the Committee had made some progress in the past five years in discussing the complex topic of the principle of universal jurisdiction, no effort should be spared to ensure that real progress was made in the development of that principle, in the context of the progressive development of international law. Cooperation among States was essential in order to combat impunity for the most serious offences and to achieve the objective of universal jurisdiction.

Agenda item 83: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
([A/71/33](#), [A/71/166](#) and [A/71/202](#))

8. **Ms. Coxe-Felson** (Belize), Chair 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/71/33](#)), said that the Special Committee had met in New York from 16 to 24 February 2016 and had continued its deliberations on the questions mandated by General Assembly resolution [70/117](#).

9. In paragraph 3 of that resolution, the Special Committee had been requested, among other things, to continue its consideration of all proposals concerning the question of the maintenance of international peace and security; to consider other proposals concerning that question already submitted or which might be submitted to the Special Committee at its session in 2016; to continue to consider, in an appropriate, substantive manner and framework, including the frequency of its consideration, the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, based on all the related reports of the Secretary-General and the proposals submitted on the question; to keep on its agenda the question of the peaceful settlement of disputes between States; to consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the high-level plenary meeting of the sixtieth session of the General Assembly that concerned the Charter and any amendments thereto; and to continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency and utilization of resources with a view to identifying widely acceptable measures for future implementation.

10. The report consisted of five chapters and two annexes. Chapter I was entirely procedural. Chapter II dealt with the maintenance of international peace and security. Pursuant to the request of the General Assembly, the Special Committee had considered the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions. Section A of chapter II reflected the Special Committee's work on that

question. In accordance with paragraph 16 of General Assembly resolution 70/117, the Special Committee had been briefed on developments relating to paragraph 12 of the relevant report of the Secretary-General (A/70/119); it had received a second briefing from the Secretariat on the implementation of the document annexed to General Assembly resolution 64/115 on the introduction and implementation of sanctions imposed by the United Nations.

11. The consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security was summarized in section B of chapter II. Section C summarized the discussion on the further revised working paper submitted by the Bolivarian Republic of Venezuela entitled “Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs”.

12. Section D summarized the discussion on the revised working paper submitted by Belarus and the Russian Federation concerning a request for an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. Section E reflected the work of the Special Committee on the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations.

13. Section F covered the work of the Special Committee on the working paper on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes, presented by Ghana in follow-up to its concept paper on the same subject introduced at the 2015 session of the Special Committee. The text of the working paper was reproduced in the annex to the report and the Special Committee’s decision on the item was reproduced in paragraph 87.

14. Consideration of the item entitled “Peaceful settlement of disputes” was set out in chapter III. Section A summarized the discussions on the proposals introduced by the Russian Federation to establish a

website dedicated to the peaceful settlement of disputes between States and to prepare an update of the 1992 *Handbook on the Peaceful Settlement of Disputes between States*. Section B covered the discussion of a proposal submitted on behalf of the Movement of Non-Aligned Countries entitled “Pacific settlement of disputes and its impact on the maintenance of peace” (A/70/33, annex I). The Special Committee’s decision on that proposal was reproduced in paragraph 87 of the report.

15. The Special Committee’s discussions on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were summarized in chapter IV. The recommendations on that item agreed upon by the Special Committee were set out in paragraph 78.

16. Chapter V concerned the consideration of the remaining items on the agenda of the Special Committee. Section A reflected a summary of the discussion on its working methods. A number of decisions and resolutions adopted in order to rationalize its agenda and in the spirit of General Assembly resolution 70/117, paragraph 3 (b), were set out in paragraph 87 of the report. Section B summarized the views expressed on the identification of new subjects, with particular reference to a proposal submitted by the Islamic Republic of Iran, on behalf of the Non-Aligned Movement, to commemorate the seventieth anniversary of the International Court of Justice. The draft resolution contained in paragraph 92 of the report, which was based on that proposal, was recommended by the Special Committee for the consideration of the General Assembly with a view to its adoption.

17. **Ms. Montejo** (Security Council Practices and Charter Research Branch, Department of Political Affairs), updating members of the Sixth Committee on the status of the *Repertoire of the Practice of the Security Council* and related activities, said that in 2016 the Secretariat had continued to make good progress in updating the *Repertoire*. It had simultaneously worked on the preparation of the eighteenth and nineteenth Supplements to the *Repertoire* in order to expedite its coverage of the contemporary practice and procedure of the Security Council.

18. In the past year, the Secretariat had completed the drafting of the eighteenth Supplement to the *Repertoire*, covering the period 2012-2013, and all parts had been made available online. Furthermore, as mentioned in the relevant report of the Secretary-General (A/71/202), work had commenced on the drafting of the nineteenth Supplement, covering the period 2014-2015. Part I of that Supplement had been completed and was available online. It was expected that the entire volume would be made available in its advance version on the *Repertoire* website in the first quarter of 2017.

19. Progress in the preparation of the *Repertoire* was mostly the result of efficiency-enhancing initiatives, such as the specialized training of staff, the review of editorial processes, automation of data collection, increased use of internal databases and the continuous updating of the *Repertoire* drafting guidelines. The Secretariat had also concluded a lessons learned study on the *Repertoire* and its website with a view to identifying additional measures to improve the publication. Some preliminary findings of the study appeared to confirm that future progress would very much depend on the availability of resources.

20. All English-language versions of the *Repertoire* up to the sixteenth Supplement had been published and all translated versions up to that Supplement were expected to be available electronically by the end of 2016. The seventeenth Supplement, covering the period 2010-2011, should be available for distribution in November 2016. Work continued with the Department for General Assembly and Conference Management to shorten the time lag between the completion of a Supplement and its eventual publication in all six official languages. During the past year, the Branch had continued to respond to requests for information from Member States, United Nations staff, students, academic scholars and researchers on questions relating to the current and past practice of the Council and its subsidiary bodies.

21. The *Repertoire* section of the Security Council website continued to be regularly updated. Improvements had been made in the search function with a view to guiding users more intuitively when researching the wealth of information on practices of the Security Council contained in the *Repertoire*. The website also offered a broad range of research tools,

such as tables and graphs featuring the mandates of all current peacekeeping operations and special political missions, as well as the relevant provisions of decisions of the Council in relation to cross-cutting agenda items, namely children and armed conflict, women and peace and security, and the protection of civilians. Those tables and graphs enhanced the ability of Member States and the public to analyse systematically the practice of the Council in the areas mentioned.

22. Subject to the availability of resources, the Branch would continue to strive to make more such tools available in 2017. The progress made in the preparation and publication of the *Repertoire* and the updating of the *Repertoire* section of the Council website would not have been possible without contributions to the trust fund for the updating of the *Repertoire*. She expressed gratitude for the contributions recently made to the trust fund by China and Turkey, as well as to China and Saudi Arabia for their sponsorship of associate experts who made a valuable contribution to the work of the Branch. However, the Branch faced a heavy workload in sustaining a regular publication schedule for the *Repertoire* to prevent new backlogs from forming, in updating the *Repertoire* section of the Council website in all official languages and in continuing to improve the quality and accessibility of information about the Security Council. Besides its limited regular budget resources, it was dependent on voluntary contributions to the trust fund established by the General Assembly in resolution 54/106. She therefore encouraged all Member States to contribute to the trust fund or to consider sponsorship of an associate expert. The feedback from Member States on the work of the Branch was very much appreciated. The Branch stood ready to assist them with information and guidance on all procedural and constitutional aspects of current and past Security Council practice.

23. **Mr. Llewellyn** (Director of the Codification Division, Office of Legal Affairs) said that the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/71/202) outlined the progress of work on the *Repertory* and the *Repertoire* during the last 12 months since the issuance of the previous report (A/70/295). With regard to the *Repertory*, the General Assembly was invited to take

action in the light of the conclusions drawn in paragraph 15 of that report. He also wished to draw attention to the updated chart on the status of the *Repertory of Practice of United Nations Organs*.

24. With regard to the backlog in the preparation of volume III of the *Repertory*, he said that the drafting of a study on Article 49 of the Charter for volume III, Supplements Nos. 7 to 9 (1985-1999), by a consultant had now been completed and would soon be submitted for consideration by the Department of Peacekeeping Operations. The review of studies on Article 33, paragraph 1, and Article 53 of the Charter, prepared with the assistance of interns in the Codification Division, was well advanced. Progress had also been made in the preparation of studies for volume III of Supplement No. 10 (2000-2009): the review of studies on Article 41 and Article 53 had been undertaken and a study on Article 49 had been completed by a consultant. With regard to volume VI of Supplement No. 10, studies on Articles 104 and 105 were currently under preparation in the Office of the Legal Counsel.

25. Turning to Supplement No. 11, covering the period 2010-2015, he said that a total of nine studies had been prepared. Six studies, on Articles 2 and 4 for volume I, on Articles 41 and 42 for volume III and on Article 96 for volume VI, had been drafted with the assistance of the Faculty of Law at the University of Ottawa. A study on Article 13, paragraph 1 (a), for volume II, had been drafted with the assistance of an intern in the Codification Division, in cooperation with the Division for Ocean Affairs and the Law of the Sea and the International Trade Law Division of the Office of Legal Affairs, as well as the Office for Outer Space Affairs in Vienna. Two studies on Articles 100 and 101, for volume VI, had been drafted with the assistance of a consultant in the Office of Human Resources Management.

26. In addition to those studies, the Codification Division had completed a review of the *Manual of Preparation of the Studies for the Repertory of Practice of United Nations Organs*, which would serve as a guidance tool for Secretariat units bearing responsibility for the preparation of *Repertory* studies, as well as for consultants, academic institutions and interns.

27. A new *Repertory* website, launched in August 2016, included links to the annual reports of the

Secretary-General on the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council* as well as information on ways to contribute to the *Repertory* trust fund. Studies from 43 complete volumes, including the 15 volumes being processed for publication, were now available on the website of the *Repertory*; advance versions of a number of individual studies were also accessible. In addition, the electronic version of the *Repertory* included a full-text search feature for any word or combination of words in the three languages of the publication, namely English, French and Spanish.

28. Cooperation with the University of Ottawa Faculty of Law had continued for the sixth consecutive year and had contributed to the preparation of six studies. The Codification Division would be reaching out to other academic institutions to increase the possibilities for cooperation and to pursue a more diverse geographical spread; it was now in contact with one academic institution in the Asia-Pacific region. He renewed his call for delegations to express an interest in contributing to the preparation of *Repertory* studies through the involvement of their national or regional academic institutions. The Secretariat would continue to take advantage of the involvement of interns and academic institutions in the preparation of *Repertory* studies, mainly in the fields of research and collection of documentation. It was understood, however, that the Secretariat bore the ultimate responsibility for the quality and the final preparation of all the studies.

29. With regard to funding, in resolution [70/117](#) the General Assembly had reiterated its call for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory*. A note verbale had been sent to all permanent missions to the United Nations, reminding them of the possibility of making voluntary contributions to the trust fund and inviting them to bring the question of funding for the *Repertory* to the attention of private institutions and individuals that might wish to assist in that regard. Since the issuance of his 2015 report, the Secretary-General had welcomed a contribution to the trust fund by Turkey. As of 30 June 2016, the total balance of the fund had been US\$ 41,768. Since voluntary contributions to the trust fund remained a crucial element for sustaining progress on the *Repertory* and maintaining its website, he called on the continued support of Member States in those endeavours.

30. **Mr. Avila** (Dominican Republic), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that fulfilment of the Special Committee's mandate depended on the political will of Member States and on full implementation and optimization of its methods of work. Given the important functions of the Special Committee, Member States must make genuine efforts to that end by shaping a solid thematic agenda based on new topics and the study of current ones that would permit optimal use of the resources assigned to the Special Committee by the General Assembly.

31. CELAC underscored the importance of the obligation to settle disputes by peaceful means and recalled that the Charter provided the basic framework in that regard. It also stressed the need to comply with the relevant resolutions of the General Assembly. It reiterated its firm conviction that legitimacy in the use of sanctions was essential to their effectiveness. Thus, sanctions must be imposed and applied in conformity with the Charter and with other norms of international law, in particular those relating to human rights. CELAC underlined the relevance of the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed to General Assembly resolution 64/115 and called upon the Security Council to take it into account in its methods of work. The Special Committee should also continue to examine all issues relating to the maintenance of international peace and security so as to strengthen the role of the United Nations. The briefing and the ensuing discussion on implementation of that document at the Special Committee's last session had been very useful; such briefings should be given annually. The question of the application of sanctions by the Security Council, including due process, was of interest to the entire membership, as it could affect the Organization's credibility.

32. Furthermore, in line with General Assembly resolution 67/96, the Special Committee should continue to consider the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions under Chapter VII, along with the proposals submitted on the question. The fact that no State had yet requested that kind of assistance did not mean that the issue should be removed from the Special Committee's agenda, since it was preventive in

nature. CELAC noted that in most cases, the Security Council had granted exceptions in order to allow States to request an authorization of access to frozen funds for a variety of basic and extraordinary expenses. It was recognized in the most recent report of the Secretary-General on the matter (A/71/166) that the General Assembly and the Economic and Social Council had continued to play their respective roles in mobilizing and monitoring, as appropriate, the economic assistance provided by the international community and the United Nations system to the third States affected by the application of sanctions. Also important in that regard was the work of the Secretariat in compiling, coordinating and analysing information relating to the economic and social problems in such third States, offering solutions and evaluating requests made by those States to the Security Council under Article 50 of the Charter.

33. CELAC recognized the notable contribution of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* to international law and to the international system, the work of the Secretariat in updating those important documents, and the efforts and progress made regarding the incorporation of the *Repertory* volumes in the United Nations website. CELAC appreciated the progress made in recent years concerning the backlog of the *Repertory* and the *Repertoire* and called for greater efforts to close the existing gap. It was grateful to those Member States that had contributed to the trust fund.

34. The challenge at hand was to reinvigorate the important work of the Special Committee, enabling it to exercise its mandate efficiently and in so doing make a valuable contribution to the revitalization of the General Assembly, the most important organ established by the Charter. CELAC would continue to contribute to the work of the Special Committee on all the proposals on its agenda, and encouraged all Member States to do the same, in line with the mandate conferred upon the Special Committee by the General Assembly. The Community recalled in that regard the proposals made by the Bolivarian Republic of Venezuela and Cuba. It also welcomed the initiative to mark the seventieth anniversary of the International Court of Justice by means of a draft resolution, as recommended by the Special Committee at its past session. CELAC appreciated the Special Committee's

decision to hold intersessional informal meetings to analyse in depth the proposal on the pacific settlement of disputes submitted by the Non-Aligned Movement and called on all States to participate in a constructive, open and transparent manner in the discussion of that proposal. The Community had a genuine interest in strengthening the substantive agenda of the Special Committee and was mindful of the responsibility of Member States for ensuring the most efficient use of the resources of the United Nations.

35. **Mr. Nasimfar** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the Movement continued to attach great importance to the work of the Special Committee, which held great potential for clarifying and promoting general international law and the provisions of the Charter. The Special Committee should play a key role in the current reform process of the United Nations, as mandated in General Assembly resolution 3499 (XXX). The Non-Aligned Movement was of the view that the United Nations was the central and indispensable forum for addressing issues relating to international cooperation, economic development and social progress, peace and security, human rights and the rule of law, based on dialogue, cooperation and consensus-building among States. It attached high importance to strengthening the role of the United Nations and recognized the efforts being made to develop its full potential.

36. Democratization of the main United Nations organs and respect for the General Assembly's role and authority, including with regard to questions relating to international peace and security, were important elements in the reform process. The General Assembly was the chief deliberative, policymaking and representative organ of the United Nations, and its intergovernmental and democratic character, as well as its subsidiary bodies, had contributed extensively to promoting the purposes and principles of the Charter and the Organization's objectives.

37. The Non-Aligned Movement remained concerned that the Security Council continued to encroach on the functions and powers of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of the latter organs and by attempting to set norms and establish definitions in areas that came within the purview of the General

Assembly. The reform of the Organization should be carried out in accordance with the principles and procedures established by the Charter and should preserve its legal framework. The Special Committee could contribute to the examination of legal matters in that process by continuing to study the legal nature of the implementation of Chapter IV of the Charter, in particular Articles 10, 11, 12, 13 and 14 dealing with the functions and powers of the General Assembly.

38. Security Council-imposed sanctions remained an issue of serious concern to the members of the Non-Aligned Movement. The imposition of sanctions should be considered as a last resort and only when there was a threat to international peace and security or an act of aggression, in accordance with the Charter. They were not applicable as a preventive measure in any and all instances of violation of international law, norms or standards. They were blunt instruments, the use of which raised fundamental ethical questions of whether the suffering inflicted on vulnerable groups in the target country was a legitimate means of exerting political pressure. The purpose of sanctions was not to punish or otherwise exact retribution on the population. The objectives of sanctions regimes should be clearly defined and based on tenable legal grounds, and their imposition should be for a specified time frame. They should be lifted as soon as the objectives were achieved. The conditions demanded of the State or party on which sanctions were imposed should be clearly defined and should be subject to periodic review. The Movement also expressed its deep concern at the imposition of laws and coercive economic measures, including unilateral sanctions, against developing countries, which violated the Charter and undermined international law and the rules of the World Trade Organization.

39. Following a successful meeting of the Special Committee in terms of agreement on rationalizing its work and improving its working methods, the Non-Aligned Movement looked forward to holding intersessional informal meetings with interested delegations in order to finalize its proposal on the "Pacific settlement of disputes and its impact on the maintenance of peace", as well as the proposal by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies. It also looked forward to hearing regular briefings on all aspects of the

document entitled “Introduction and implementation of sanctions imposed by the United Nations,” contained in the annex to General Assembly resolution 64/115, and noted that the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions would be discussed by the Special Committee on a biennial basis.

40. The Non-Aligned Movement took note of the progress made by the Secretariat since the last report in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. However, it noted with concern that the backlog in the preparation of volume III of the *Repertory* had not been eliminated, and it called upon the Secretary-General to address that matter effectively and on a priority basis.

41. **Mr. Joyini** (South Africa), speaking on behalf of the African Group, said that the Special Committee had the potential to play an exceedingly important role in the Organization, but it had not lived up to its full potential, mainly because of its methods of work and its tendency to allow ideological battles to prevent it from performing its function, namely legal analysis. The Special Committee’s work should be directed primarily at ensuring that the United Nations lived up to the goals of the rule of law and justice. The Organization could not require its Member States to adhere to the rule of law while making no attempt itself to demonstrate or reflect that important principle. The Special Committee’s work should contribute to protecting the Organization from the charge of hypocrisy.

42. As the primary organ mandated to ensure peace, security and stability in the world, the Security Council needed first and foremost to become more representative; it also needed to review its working methods. Maintaining the status quo would only contribute to the further erosion of its credibility and legitimacy and would result in a weakening of the Organization.

43. Several topics on the Special Committee’s agenda could benefit from careful scrutiny. In particular, the proposal submitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies — which the African Group fully supported — warranted

in-depth discussion and analysis. Such consideration could help the Special Committee to break free of the ideological chains that so often hindered its work and deliberations. The African Group looked forward to holding intersessional informal meetings with a view to finalizing both that proposal and the proposal submitted by the Non-Aligned Movement on the pacific settlement of disputes.

44. **Ms. Mezdrea** (Observer for the European Union), speaking also on behalf of the candidate countries Albania and Montenegro and the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia and Iceland, said that the decisions and recommendations contained in chapter V of the report of the Special Committee (A/71/33) represented a balanced outcome and a good basis for meaningful further work by the Committee. The Special Committee was to be commended for its recommendation to mark the seventieth anniversary of the International Court of Justice by means of a commemorative draft resolution: the positive impact on the peaceful settlement of disputes made by the International Court of Justice certainly deserved to be recognized. The European Union also fully endorsed the Committee’s recommendation that the question of assistance to third States affected by sanctions should be considered by the Special Committee at the seventy-second session of the General Assembly and biennially thereafter. It was convinced that, in the longer term, the Committee’s membership would agree to removing the question from its agenda altogether. Instead, there was merit in the request for the Secretary-General to brief the Special Committee annually on the document entitled “Introduction and implementation of sanctions imposed by the United Nations” contained in the annex to General Assembly resolution 64/115, which could contribute to a better understanding of developments in implementing targeted sanctions as a critical tool for the maintenance of international peace and security.

45. The European Union welcomed the constructive discussions during the Special Committee’s latest session on the proposals of the Non-Aligned Movement on pacific settlement of disputes and of Ghana on cooperation between the United Nations and regional organizations. That positive spirit should be preserved with the aim of achieving substantive progress. The European Union supported the

Committee's call to hold intersessional informal meetings.

46. However, the European Union noted the lack of substantial progress on other proposals identified in the report of the Special Committee, which duplicated revitalizing efforts elsewhere in the Organization. The relationship between the various organs within the United Nations system was clearly defined in the Charter and there was no need for further clarification by the Special Committee, nor was there currently any point in seeking an advisory opinion from the International Court of Justice on the use of force.

47. The European Union remained unconvinced about the added value of the proposals to update the 1992 United Nations *Handbook on the Peaceful Settlement of Disputes between States* and to establish a United Nations website dedicated to that issue, given the multiple resources already available online. It called for a proper prioritization of the limited resources allocated to the Secretariat so as to avoid duplication of effort. The list of items on the agenda of the Special Committee should be reviewed, taking into account their practical relevance and the likelihood of reaching a consensus, before examining proposals for new items. The duration and frequency of the Special Committee's sessions should also be re-examined. The European Union continued to advocate strongly the implementation of the 2006 decision on reforming the working methods of the Special Committee, as reflected in General Assembly resolution 70/117.

48. The European Union took note of the progress made in reducing the backlog in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and in updating those two publications during the reporting period. It welcomed the increased use of the internship programme and the further strengthening of cooperation with academic institutions for the preparation of studies. Considering the importance of the *Repertory* and the *Repertoire*, both as research tools for the international community and as a means of preserving the institutional memory of the Organization, the European Union called upon the Secretary-General to continue his efforts to update the two publications and make them available electronically in all language versions. It expressed gratitude to those States that had made voluntary

contributions to the trust fund for the elimination of the backlog in the *Repertory* and to the trust fund for updating the *Repertoire*, and reiterated its call for other Member States to do likewise.

49. **Ms. Diéguez La O** (Cuba) said that the importance of the mandate of the Special Committee was underscored by the current international situation, in which attempts were being made by some countries to reinterpret the principles of the Charter to promote a political agenda supporting interference in the domestic affairs of States, to the detriment of integrity and sovereignty, particularly in developing countries. It was vitally important to uphold those principles and to preserve and strengthen the leading role of the General Assembly as the principal normative, deliberative, policymaking and representative body of the United Nations.

50. The Special Committee was the appropriate framework for negotiating amendments to the Charter, including those stemming from the current United Nations reform process. It was also the appropriate forum for proposing recommendations that would make it possible to implement all the provisions of the Charter and ensure that all Member States and United Nations organs acted in conformity with its purposes and principles and with international law. Accordingly, the Special Committee should promote and be open to any proposal for a resolution, decision or action on the part of United Nations organs, with implications for the implementation of the Charter.

51. In 2016, a number of useful initiatives had been put forward but, despite the efforts made, the results had fallen short of expectations. Some delegations had continued to raise obstacles, thereby blocking the adoption of proposals that would strengthen the work of the United Nations. Such was the case with the proposals put forward by the delegations of the Russian Federation and Belarus. Nevertheless, despite the attempts to obstruct the Special Committee's work, concrete results had been achieved in the form of an agreement to hold an intersessional meeting to discuss the proposal on the pacific settlement of disputes made by the Non-Aligned Movement; the progress made with regard to the proposal of Ghana on cooperation between the United Nations and regional and subregional organizations; and the recommendation concerning a commemorative draft resolution to mark

the seventieth anniversary of the International Court of Justice.

52. Her delegation welcomed the support provided by the Secretariat and called on it to create the necessary conditions for fulfilling the agreements reached at the Special Committee's most recent session by providing opportunities for substantive debate on proposals. Another positive aspect of the past year's work had been the agreement reached to hold briefings on the subject of sanctions, thereby providing Member States with relevant first-hand information.

53. Some delegations sought to abolish the Special Committee or reduce its working sessions, even though its importance and necessity had been demonstrated by the proliferation of initiatives in the past year. Those delegations argued that the Special Committee did not produce concrete results, although they themselves systematically refused to discuss substantive proposals and interfered with the adoption of any decision, merely stating their disagreement without giving any reasons.

54. Although the current situation of the Special Committee had improved slightly compared with previous years, the continued lack of political will on the part of certain States impeded greater progress. Cuba opposed all attempts to biennialize or reduce the work of the Special Committee and supported its current agenda. Expressing gratitude to the Bolivarian Republic of Venezuela, Belarus, the Russian Federation, Ghana and the Non-Aligned Movement for their contributions to the Special Committee's work, she urged other delegations also to submit substantive proposals and to participate constructively in the Special Committee's discussions.

55. **Mr. Meza-Cuadra** (Peru) said that the rationale for founding the Special Committee, as set out in General Assembly resolution 3499 (XXX), had been to create a forum for considering in depth any proposals or suggestions regarding the Charter and the role of the United Nations with regard to the maintenance of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law in relations between States. Recalling the Manila Declaration on the Peaceful Settlement of International Disputes, which had been one of the Special Committee's concrete achievements, Peru reaffirmed the duty of States to act in good faith

and in conformity with the principles and purposes enshrined in the Charter with a view to avoiding disputes among themselves likely to affect friendly relations among States.

56. His delegation welcomed the decisions and recommendations adopted by the Special Committee at its most recent session, particularly with regard to the commemoration of the seventieth anniversary of the International Court of Justice, an institution that played a fundamental role in the system of peaceful settlement of disputes established by the Charter. In both its judiciary and advisory functions, the Court served to promote and clarify international law in the cause of peace. Lastly, his delegation welcomed the progress made in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

57. **Mr. Ahmed** (Sudan) said that the Special Committee had a key role to play in the reform of the United Nations, in accordance with its mandate as set forth in General Assembly resolution 3499 (XXX). The role of the General Assembly, as the largest and most representative United Nations body, in formulating policy on the maintenance of international peace and security should be strengthened. The Charter set out clear functions for the principal United Nations organs, but in actual practice the Security Council had exceeded its powers by addressing matters that came under the scope of the General Assembly and the Economic and Social Council. Hence there was a need to restore balance between the Security Council, on the one hand, and the General Assembly and the Economic and Social Council, on the other.

58. The Security Council's approach to imposing sanctions was a matter of great concern to Member States. Such sanctions were a blunt instrument and undermined stability and development. Given the Security Council's current practice, there needed to be a full review of its working methods, rules and procedures, membership, powers and mandate as part of a long-awaited comprehensive reform process. A more just, democratic and representative, and less politicized and selective, Security Council must be created.

59. Unilateral sanctions and the use of force without international authorization constituted a grave violation of international law and the Charter. Such actions were

motivated by narrow political interests and aggravated tensions and disputes; they did not serve international relations or development and were rejected by most Member States. His delegation called on those responsible to desist from such actions and to comply with international instruments. It supported all international and regional efforts to settle disputes by peaceful means and to strengthen the International Court of Justice.

60. The Manila Declaration on the Peaceful Settlement of International Disputes, approved in 1982 by the General Assembly, served as a comprehensive framework for the peaceful settlement of disputes. His delegation applauded regional initiatives to that end, in particular those of the African Union, which was witnessing continued development and progress and had found African solutions to African problems. The United Nations should encourage regional mechanisms to help achieve peace and security on the basis of Chapter VIII of the Charter; in that connection, the Special Committee should continue to consider the proposal from Ghana on promoting cooperation between the United Nations and regional organizations.

61. The Special Committee should be revitalized and made more effective so that it could play a key role in addressing issues within its mandate. His delegation called for constructive participation in the work of the Special Committee in order to achieve progress on the proposals submitted to it and arrive at useful recommendations that would contribute to strengthening the United Nations and enable it to achieve its objectives under the Charter.

62. **Mr. Leonidchenko** (Russian Federation) said that the work of the Special Committee had contributed to the rule of law at the international level. While it might be useful to consider some changes to the Special Committee's working methods, it was important not to diminish its potential in any way. The work of the Committee should continue to be carried out on a permanent basis.

63. Many useful discussions had taken place at the Special Committee's most recent session. One of the important topics considered by the Committee was the peaceful settlement of disputes. In the early 1990s, based on material compiled by the Special Committee, the United Nations had prepared a *Handbook on the Peaceful Settlement of Disputes between States*. The

Russian Federation had introduced a proposal to update the *Handbook* on the basis of the experience accumulated. It would also be useful to establish a special section of the United Nations website dedicated to the peaceful settlement of disputes between States, with links to relevant United Nations documents.

64. His delegation welcomed the efforts of the Secretariat to prepare the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. In compiling the *Repertoire*, the Secretariat should follow the clear rules and standards laid down for that purpose in the report of the Secretary-General dated 18 September 1952 (A/2170). His delegation also welcomed the Special Committee's recommendation that the General Assembly should mark the seventieth anniversary of the International Court of Justice through the adoption of a draft resolution on the subject, and was willing to participate in such a commemoration.

65. **Ms. Abayena** (Ghana) said that her delegation attached great importance to the work of the Special Committee, particularly its contribution to the revitalization of the United Nations in order to enhance the ability of the Organization to deal with current challenges. It reiterated its support of the Special Committee and urged continuing engagement and constructive dialogue for the attainment of common goals. It was particularly pleased with the progress made in 2016 on the various proposals submitted and with the deliberations held on improving on the Special Committee's working methods. During the 2016 session, her delegation had submitted a working paper on strengthening the relationship and cooperation between the United Nations and regional arrangements and agencies in the peaceful settlement of disputes. Clear mechanisms and actions needed to be identified in order to deal effectively with the gaps and challenges encountered in that relationship. In view of the significant role played by regional organizations in promoting the rule of law, respect for human rights and international humanitarian law, and in maintaining peace and security, the United Nations needed to work assiduously to improve coordination and cooperation in that regard. Her delegation's proposal focused on identifying gaps and exploring institutional mechanisms to bring some clarity to the relationship, forge strategic partnerships and facilitate more effective and timely interactions between the United

Nations and regional organizations and arrangements. Ghana appreciated the constructive comments made on its proposal at the 2016 session of the Special Committee and looked forward to further deliberations during the intersessional period with the aim of finalizing both that proposal and that of the Non-Aligned Movement on the pacific settlement of disputes.

66. **Mr. Kafou** (Libya) said that his delegation attached great importance to the work of the Special Committee as the main forum for discussing the legal aspects of the reform of the United Nations. It had submitted a number of proposals for the reform of the Organization's work and supported all proposals made by other Member States to that end. The Special Committee should continue to play an effective role with regard to the reform of the United Nations and the adoption of measures to reinvigorate its main organs, based on the principles of justice and democracy. It was particularly important to strengthen the role of the General Assembly, the main deliberative organ involved in implementing policies for the maintenance of international peace and security and the peaceful settlement of disputes. The Special Committee's ability to fulfil its mandate depended on the political will of its members. His delegation welcomed the progress made by the Secretariat in reducing the backlog of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. Both documents should be published in all official languages, including Arabic, so that researchers and others could benefit from them. Libya would continue to support the work of the Special Committee in accordance with the common vision of all Member States.

67. **Ms. Argüello González** (Nicaragua) said that her country, a founding member of the United Nations, was strongly committed to the vital work of the Special Committee. The General Assembly continued to be the pre-eminent universal democratic body mandated to consider all issues within the limits authorized by the Charter. Her delegation was concerned that the Security Council was conferring upon itself the power to address topics that did not come within its purview, such as climate change, to give just one example.

68. Nicaragua welcomed the results achieved at the Special Committee's most recent session thanks to the

constructive spirit shown by delegations. It applauded the initiative recommending that the seventieth anniversary of the International Court of Justice should be commemorated through the adoption of a draft resolution by the General Assembly. It likewise supported the Special Committee's decision to hold intersessional informal meetings with the aim of finalizing the proposal of the Non-Aligned Movement on the pacific settlement of disputes. She called on all delegations to participate constructively in the discussion of that proposal.

69. Her delegation was opposed to proposals to shorten the sessions of the Special Committee or hold them biennially; more than ever, it needed all the time available to it to discharge its important functions.

70. **Ms. Pierce** (United States of America) said that that the report of the Special Committee ([A/71/33](#)) reflected some positive movement in its work, particularly with regard to the continuing examination of the matters with which it should concern itself. A significant challenge to the Special Committee's efficiency was the number of long-standing proposals before it. There was a considerable degree of overlap among those proposals, and many of the issues covered had been taken up elsewhere in the United Nations. Her delegation therefore supported further scrutiny of stagnant items on the Committee's agenda, by sponsors and members alike, with a view to the rationalization of its work.

71. In the area of sanctions, there had been positive developments elsewhere in the United Nations that were designed to ensure that the Organization's system of targeted sanctions remained a robust tool for combating threats to international peace and security. The Special Committee should therefore decide that there was no further need for it to discuss the question of assistance to third States affected by sanctions. The Special Committee's recommendation on the initiative of the European Union that the question should be considered biennially after the seventy-second session of the General Assembly, and that the Secretary-General should be requested to submit biennial reports, was a reasonable step that made good practical sense.

72. The United States continued to believe that the Special Committee should not pursue activities in the area of international peace and security that would be duplicative of or inconsistent with the roles of the

principal organs of the United Nations as set forth in the Charter. That included consideration of revised working papers 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 for a legal study of General Assembly and Security Council functions and powers, respectively. Moreover, the United States had consistently stated that it did not support the proposal for the General Assembly to request an advisory opinion on the use of force from the International Court of Justice. Her delegation remained cautious about adding new items to the Special Committee's agenda. While it was not opposed in principle to exploring new items, they should be practical and non-political and should not duplicate efforts elsewhere in the United Nations system. If a proposal such as that submitted by Ghana on strengthening peacebuilding and related cooperation between the United Nations and regional organizations could help fill gaps or add value, then it should be seriously considered by the Committee. The United States stood ready to participate constructively in intersessional discussions on that and other proposals. It welcomed the events planned to mark the seventieth anniversary of the International Court of Justice and supported the Committee's recommendation that the General Assembly should adopt a commemorative draft resolution in that regard. Her delegation commended the Secretary-General's ongoing efforts to reduce the backlog in preparing the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and to make them available in electronic form in all official languages on the United Nations website.

73. **Mr. Baba** (Nigeria) said that although, since its establishment, the Special Committee had negotiated several texts that had subsequently been adopted by the General Assembly, it had not recently come up with any such instruments. Consequently, at its next session, it should revisit proposals by Member States with the aim of developing new instruments for consideration and adoption, in line with its mandate. Since the Special Committee played an important role in clarifying and interpreting the provisions of the Charter, his delegation underscored the need to reinvigorate its work.

74. With regard to the Special Committee's mandate on the question of the peaceful settlement of disputes,

his delegation reaffirmed that respect for the sovereign equality of all nations, and promotion of the rights and responsibilities of all States under an equitable and just international system, were key to achieving international peace and security. In addition, the role of the International Court of Justice in the attainment of international peace and security could not be over-emphasized. Everything possible should be done to strengthen the tools of multilateral engagement by promoting cooperation and consensus-building among Member States.

75. Sanctions should always be imposed in conformity with the provisions of the Charter and the general principles of international law; their purpose should not be to punish a country's population but to ensure that the country complied with its international obligations. Not every violation of an international obligation should attract sanctions, as other peaceful means could be explored. Member States should make the most effective use of such means, in accordance with the principles of the Charter. The International Law Commission should be requested to consider the legal consequences of sanctions affecting third States.

76. Nigeria had consistently pursued a foreign policy of promoting global peace and security and had demonstrated its respect for the rule of law in its relations with other States and with international organizations. As a responsible member of the United Nations, it would continue to fulfil its international obligations and respect the sovereign equality of nations, as enshrined in Article 2 of the Charter.

77. **Ms. Scott** (Namibia) said that in reforming the United Nations, consideration should be given to the democratization of its principal organs and respect for the General Assembly's role and authority. Namibia reiterated its concern over the Security Council's continuing encroachment on the functions and powers of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of those organs. Namibia strongly believed that the reform of the Organization should be undertaken in accordance with the principles and procedures established by the Charter. The Special Committee should contribute to the examination of legal matters in the reform process. It must continue to study the legal nature of the implementation of Chapter IV of the Charter, particularly Articles 10 to 14, which

dealt with the functions and powers of the General Assembly.

78. The imposition of sanctions by the Security Council should be considered as a last resort. According to the Charter, sanctions could be imposed only when there was a threat to international peace and security or an act of aggression. They should not be applied as a preventive measure in any or all instances of violation of international law. The objectives of sanctions were not to punish or otherwise exact retribution on the population. They should be clearly defined and based on reasonable legal grounds, their imposition should be for a specified time frame and they should be lifted as soon as their objectives were achieved. The conditions demanded of the State or party on which sanctions were imposed should be subject to periodic review.

79. Her delegation noted with satisfaction the success of the Special Committee's most recent session in terms of agreeing on rationalization and the improvement of its working methods. Namibia looked forward to intersessional informal meetings being held to finalize the proposal of the Non-Aligned Movement on the pacific settlement of disputes and the proposal of Ghana on cooperation between the United Nations and regional organizations. It called on all Member States to constructively engage on other proposals with a view to making substantive progress at the next session of the Special Committee.

80. Finally, Namibia had taken note of the progress made by the Secretariat since the last report in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. However, since the backlog in the preparation of volume III of the *Repertory* had not been eliminated, it joined other delegations in calling upon the Secretariat to address the problem effectively and on a priority basis.

81. **Mr. Remaoun** (Algeria) said that the proposal submitted by the Non-Aligned Movement on the pacific settlement of disputes, and all the other proposals and working papers submitted by Member States, were highly relevant. Consequently, his delegation looked forward to the intersessional informal meetings to be held prior to the next session of the Special Committee. It also welcomed the recommendation made by the Special Committee to

mark the seventieth anniversary of the International Court of Justice by means of a commemorative draft resolution.

82. Algeria took note of the decision to consider biennially the question of assistance to third States affected by the application of sanctions. Sanctions should be applied cautiously, as a last resort and within a clear framework, in order to minimize any adverse consequences for vulnerable groups, civilian populations and third States; they should be imposed within a set time frame and be based on tenable legal grounds, and their objectives should be clearly defined.

83. The provisions of the Charter should be respected, in particular those relating to the functions and powers of each of the principal organs of the Organization, and the right balance should be maintained among those organs. The United Nations reform process, including the revitalization of the General Assembly, would benefit from the Special Committee's activities, especially if an agreement could be reached on the initiative, proposed by the Bolivarian Republic of Venezuela, to establish an open-ended working group to study the proper implementation of the Charter with respect to the functional relationship of its organs. It was essential to explore new approaches aimed at reinvigorating the work of the Special Committee and enhancing the efficiency of its working methods. Genuine political will was needed in order to advance the long-standing issues on the agenda.

84. His delegation welcomed the progress made in the publication and updating of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and called for appropriate means to be given to the Secretariat for its work on the *Repertory*.

85. **Mr. Islam** (Bangladesh) said that the renewed focus on reinvigorating the work of the United Nations, particularly the General Assembly, created an opportunity for infusing further momentum into the Special Committee's work. Some of the issues under the remit of the Committee were already being addressed sporadically in other forums, yet the Committee's potential to deal with those issues in a cohesive fashion remained largely untapped. That trend needed to be reversed through the demonstration of sufficient political will by all Member States. For

example, there was a need to collectively reflect on how to use the Special Committee to enhance the effectiveness of proven tools such as mediation, conciliation, arbitration and international judicial opinions to promote peaceful settlement of disputes and thus strengthen the international rule of law.

86. The Special Committee had given added value to the ongoing debate on the merits and demerits of sanctions regimes, especially when they hurt the interests of civilians or third parties. Sanctions regimes were often couched in legal and technical provisions that posed various compliance challenges, depending on the legal and administrative contexts at the national level. The Special Committee could help to move forward the relevant discussions, through its consideration of related questions with the frequency agreed upon at its most recent session.

87. It should be the substance of the Committee's work that guided its working methods. If there was sufficient proof of the collective will to take that work forward, no major difficulty should be encountered in further streamlining its working methods.

88. **Mr. Ali Mousavi** (Islamic Republic of Iran) said that the Special Committee was an appropriate platform for Member States to review their commitment to the purposes and principles of the Charter. Its deliberations could provide a common understanding for strengthening the rule of law at the international level. Under the Charter, all Member States had an obligation to refrain from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the Organization. However, because of the unlawful threat or use of force by some Member States to advance their national interests, international peace, security and stability were jeopardized. His delegation accordingly supported the proposal submitted by Belarus and the Russian Federation that an advisory opinion should be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

89. The General Assembly, as the main representative organ of the United Nations, should be able to exercise its mandate in respect of issues relating to the

maintenance of international peace and security without any interference; the consideration of a situation or dispute by other organs of the United Nations, in particular the Security Council, was not a legal impediment to the Assembly's exercise of that mandate. General Assembly resolutions could play a major role in realizing the purposes of the United Nations, as indicated in the 1996 advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, in which the Court noted that General Assembly resolutions, even if they were not binding, might sometimes have normative value.

90. Sanctions could be imposed as a last resort, only after determination of the existence of an actual threat to peace or a breach of peace, based on valid evidence and not mere speculation and misinformation. Even more importantly, sanctions could be adopted only after peaceful measures had been exhausted or proven to be inadequate. In so doing, the Security Council must act in strict conformity with the purposes and principles of the Charter and avoid exceeding its authority or infringing the principles of international law. It should avoid double standards, selectivity and arbitrary methods and should not exceed its competence under the Charter when implementing sanctions. There should be a mechanism for the Council to promptly lift all sanctions when there were no grounds for retaining them.

91. Having considered the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/71/166), his delegation was of the view that sanctions imposed pursuant to the arbitrary and politically motivated determination of threats to peace and security, based on political manipulation of the Council by some permanent members, could not be seen as legitimate and lawful; furthermore, the special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council on third States should be addressed. Some developing countries were unjustly targeted by arbitrary unilateral sanctions, which were morally wrong and ethically unjustifiable, not only undermining the rule of law at the international level, but also infringing the right to development and violating basic human rights. Such measures, which

had almost always been initiated by one State against many developing countries, ran counter to international law and the Charter of the United Nations, especially where they deprived nations of their lawful and legitimate rights under treaties. In many cases they had been imposed as a result of extraterritorial application of domestic legislation against legal and natural persons in other countries, which was all the more in contravention of international law.

92. His delegation welcomed the report of the Special Rapporteur on the negative impact of unilateral coercive measures (contained in document [A/71/287](#)). In the report, the Special Rapporteur had emphasized that in each situation around the world where unilateral coercive measures were found to have a negative impact on human rights, the right to a remedy should be effectively available and protected, and appropriate mechanisms at the national or international level should be available for the victims to obtain remedies, compensation and redress. The fact that the populations of a large number of States were effectively deprived of access to any such mechanism contravened some of the basic obligations enshrined in most human rights treaties.

93. His delegation expressed its support for all the valuable proposals put forward at the Special Committee's sessions, in particular the proposal by the Non-Aligned Movement on the pacific settlement of disputes and the proposal by Ghana on cooperation between the United Nations and regional organizations. It looked forward to further deliberation on them.

94. **Mr. Shi Xiaobin** (China) said that his delegation hoped that all concerned parties would continue to engage in pragmatic consultations with a view to improving the Special Committee's working methods and efficiency, including by considering the inclusion of relevant and feasible new agenda items. However, the Committee's work and possible new items must be within its purview, as mandated by the General Assembly.

95. International disputes should be settled through peaceful means, in line with the purposes and principles enshrined in the Charter, and dispute settlement methods should not be imposed on any State. At the Special Committee's 2016 session, the sponsors of the proposal on the pacific settlement of disputes had indicated that it was not intended to limit

the principle of consent or the free choice of peaceful means of dispute settlement. His delegation was grateful for that clarification and stood ready to participate in the Committee's discussion of the question. It likewise supported the Special Committee's proposal for the General Assembly to adopt a draft resolution commemorating the seventieth anniversary of the International Court of Justice, in order to acknowledge the important role of the Court in the peaceful settlement of international disputes.

96. The proposal by Ghana on cooperation between the United Nations and regional organizations was worthy of discussion. In particular, consideration should be given to how the roles and advantages of regional organizations could be fully leveraged while ensuring that their statutes and actions were in line with the purposes and principles of the Charter, so as to achieve synergies in the promotion of international peace and security.

97. The question of the implementation of the provisions of the Charter relating to assistance to third states affected by the application of sanctions should be retained on the Special Committee's agenda, since discussions on that issue were still necessary. While all States had the obligation to strictly abide by and implement the Security Council resolutions on sanctions, the domestic legislative, judicial and law enforcement activities undertaken for that purpose should comply with international law, including the Charter. Enforcement jurisdiction must not be exercised extraterritorially, in violation of the principle of the sovereign equality of States.

98. His Government had made donations to the trust funds established for the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. It hoped that the Secretariat would implement the requests contained in the Special Committee's report concerning the simultaneous publication of the *Repertory* and the *Repertoire* in all official languages of the United Nations.

99. **Mr. Rao** (India), referring to the impact of the application of sanctions in the context of the maintenance of international peace and security, said that under Article 50 of the Charter, the Security Council had the primary responsibility for finding solutions to the problems of third States affected by the

sanctions that it had imposed. It was important to ensure that sanctions were issued in accordance with the provisions of the Charter and did not violate the principles of international law. Furthermore, the Security Council was obliged to focus on the direct impact on third States of any sanction imposed under Chapter VII of the Charter, and to ensure timely and adequate assistance to affected third States, giving consideration to humanitarian aspects, with their consent.

100. Recalling the obligation for States to settle their disputes by peaceful means, pursuant to Articles 2 and 33 of the Charter, his delegation supported keeping the question of the peaceful settlement of disputes between States on the Special Committee's agenda. The Special Committee should continue to consider the proposal by the Non-Aligned Movement on the pacific settlement of disputes as well as the proposal by Ghana on cooperation between the United Nations and regional organizations. However, while the Special Committee should examine legal aspects of the question, duplication of work among different United Nations bodies should be avoided.

101. India commended the efforts of the Secretary-General in preparing and updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which were very important reference sources and effective means of maintaining the institutional memory of the Organization and disseminating its work.

102. **Mr. Bailen** (Philippines) said that, through the 1982 Manila Declaration on the Peaceful Settlement of International Disputes, the Special Committee had contributed significantly to the maintenance of peace and security. The Philippines reiterated its support for both the proposal of the Non-Aligned Movement on the pacific settlement of disputes and the proposal submitted by Ghana on cooperation between the United Nations and regional organizations. In that regard, the Charter underscored the essential role of regional organizations or arrangements in the peaceful settlement of disputes and the maintenance of international peace and security, in support of the Security Council. The Association of Southeast Asian Nations (ASEAN), which had consolidated itself as an important regional organization that, inter alia, upheld international law and promoted regional peace, had

much to contribute in that regard. Under the chairmanship of the Philippines in 2017, a specific priority of ASEAN would be the peaceful resolution of disputes in accordance with universally recognized principles of international law, including the United Nations Convention on the Law of the Sea.

103. The Philippines supported the Special Committee's consideration of the question of assistance to third States affected by sanctions under Chapter VII of the Charter. It also supported the initiative of the Non-Aligned Movement to commemorate the seventieth anniversary of the International Court of Justice, which played an important role in the peaceful settlement of disputes and the development of international law.

104. **Mr. Pak Chol Jin** (Democratic People's Republic of Korea) said that among the key purposes and principles enshrined in the Charter of the United Nations were the settlement of international disputes by peaceful means, respect for sovereign equality and the obligation to refrain from the threat or use of force against sovereign States. However, the international situation had now become much more complex as certain States, through irregular acts, blatantly deviated from the Charter, thereby undermining the basis of international relations and posing grave threats to international peace and security. Certain States were openly engaging in unilateral, high-handed and arbitrary actions under various guises, including democracy, counter-terrorism, protection of human rights and globalization. The aggression and intervention committed by certain States against other sovereign States were having catastrophic effects, not only on a few States but on entire regions and throughout the world.

105. For example, by spreading false information about the possession of weapons of mass destruction by Iraq and subsequently perpetrating a military invasion under that pretext in 2003, the United States had arrogantly expanded its interference in the internal affairs of States, resulting in riots and disturbances against sovereign countries in the Middle East. That, in turn, was now the source of the migrant and refugee situation prevailing in the European Union, which was aggravating terrorism on a global scale and turning the peace and stability of the Middle East into an unsolvable crisis.

106. While the Security Council, which assumed primary responsibility for the maintenance of international peace and security, should carry out its mandate by reasonable and responsible means, it was in fact serving the interests of certain States, as demonstrated by the current complicated situation on the Korean peninsula. The Security Council had adopted unlawful resolutions imposing sanctions against the Democratic People's Republic of Korea and condemning nuclear tests conducted for self-defence, peaceful satellite launches and regular ballistic rocket launches as threats to international peace and security, without any internationally lawful ground. Nowhere in existing international law, including the Charter, could a single provision be found to the effect that nuclear tests, satellite launches and ballistic rocket launches were threats to international peace and security.

107. The Security Council was continuing to apply a double standard by making an issue of the build-up of a nuclear deterrent and peaceful satellite launches by the Democratic People's Republic of Korea, while ignoring the latter's justifiable calls for the suspension of military exercises conducted jointly by the United States and the Republic of Korea, which seriously endangered the peace and security of the region. It was also turning a blind eye to the nuclear tests, satellite launches and ballistic missile launches conducted by the United States, and even its deployment of a terminal high-altitude area defence (THAAD) system to the Republic of Korea. The abuse of the United Nations as a tool for high-handedness and arbitrariness must no longer be tolerated, and the Security Council should immediately put an end to the disgraceful history of misuse of the United Nations in a manner contrary to the maintenance of peace and security on the Korean peninsula. The Security Council should also be reformed in line with the wishes of the international community.

108. It was well known that the United States had invented the "United Nations Command" in 1950 in order to cover up its responsibility for provoking the Korean war and to justify its military intervention in that conflict. The Command had maintained forces of aggression and military bases under the flag of the United Nations for the past 60 years, contributing to aggression and aggravating tension in the Korean peninsula and the region. His country's leader, Mr. Kim Jong Un, had said that the United States

should scrap its anachronistic policy of hostility towards the Democratic People's Republic of Korea and withdraw its forces of aggression and war matériel from the Korean peninsula. Accordingly, his delegation strongly urged the United States to dismantle immediately the illegal United Nations Command, in accordance with General Assembly resolution 3390 (XXX).

The meeting rose at 1.05 p.m.