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Chairman: Mr. Benmehidi (Algeria)
later: Mr. Stastoli (Vice-Chairman) (Albania)

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The meeting was called to order at 10.15 a.m.

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

(A/64/33, A/64/125 and A/64/225)

1. **Mr. Bichet** (Switzerland), Chairman of the Special Committee, introduced the report of the Committee on its session held from 17 to 25 February 2009 (A/64/33), during which it had considered the matters entrusted to it by General Assembly resolution 63/127. Chapters III to VI of the report dealt with the Committee's handling of substantive issues. Chapter III, in paragraphs 14 to 20, focused on its consideration of the revised working paper submitted by the Russian Federation, entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations". The Committee had subsequently decided to submit to the General Assembly for consideration, with a view to its adoption, the working document entitled "Introduction and implementation of sanctions imposed by the United Nations", contained in the Annex to its report. Paragraphs 21 to 27 of the report covered the Committee's consideration of the implementation of the provisions of the Charter relating to assistance to third States affected by sanctions. Paragraphs 28 to 30 covered its discussion of the revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions. Paragraphs 31 to 36 reflected the Committee's discussion of the further revised working paper submitted by Cuba at its 2009 session, entitled "Strengthening of the role of the Organization and enhancing its effectiveness". The Committee had also discussed the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace (paras. 37 and 38). The last part of Chapter III (paras. 39-42) covered the Committee's consideration of the revised working paper submitted by Belarus and the Russian Federation on the question of requesting 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.

2. The Committee had held a general exchange of views, summarized in chapter IV (paras. 43 and 44), on

the question of the peaceful settlement of disputes. Chapter V (paras. 45-49) reflected the Committee's discussion of 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*. Its recommendations in that regard were set out in paragraph 49. Chapter VI (paras. 50-59) summarized the Committee's discussion of its working methods and the identification of new subjects. It had decided not to keep on its agenda the proposal by the Rio Group entitled "Consideration of the legal aspects of the reform of the United Nations".

3. **Mr. Mikulka** (Secretary of the Committee), speaking as the Director of the Codification Division, gave a general overview of the progress made on publication of the *Repertory* and the *Repertoire*, as described in the report of the Secretary-General (A/64/125). An updated chart had been distributed showing the status of the *Repertory*. In 2009, volume IV of Supplement No. 8 had been finalized and submitted for translation and publication. Additional studies relating to volume II of Supplements Nos. 7, 8 and 9, and volume IV of Supplement No. 9, concerning Articles 9, 14, 21, 60, 66, 67, 69 and 72 of the Charter, had been completed. In all, 28 volumes had been published, 7 had been finalized and submitted for translation and publication, and 15 had still to be completed, 6 of which were at different stages of preparation. No work had yet started on Supplement No. 10. Studies from 35 completed volumes and studies on individual Articles of the Charter were available on the United Nations website for the *Repertory*. Four studies, on Articles 9 and 14 of the Charter, intended for volume II of Supplements Nos. 7, 8 and 9, had been completed through cooperation with Columbia University Law School. Progress had been made on other studies pertaining to volume II through collaboration with French-speaking academic institutions.

4. A note verbale had been sent to all Permanent Missions to the United Nations, reminding them of the appeal by the General Assembly for voluntary contributions to the trust fund established pursuant to resolution 59/44, in order to eliminate the backlog in the *Repertory*. Contributions had been received over the past year from the Governments of Ireland, Lebanon, Turkey and the United Kingdom. The amount currently available in the trust fund was about US\$ 60,000. Some of the available funds had financed the work of a consultant for one month in connection

with the production of 13 studies for inclusion in volume IV of Supplements Nos. 8 and 9, so making it possible to complete volume IV of Supplement No. 8.

5. **Mr. Boverter** (Security Council Practices and Charter Research Branch, Department of Political Affairs) updated the Committee on the status of the *Repertoire*. The Branch had been working simultaneously on the preparation of the fourteenth and fifteenth Supplements, covering the period from 2000 to 2007. All the procedural and constitutional chapters of the fourteenth Supplement were complete and were available in the advance version on the *Repertoire* website. Most chapters of the fifteenth Supplement, covering the period 2004-2007, were also available on the website in the advance version, and the remainder would be posted in early 2010. Sections from the final chapter in Supplement, providing a chronological record of the Security Council's consideration of items on its agenda, had also been posted and the rest of the chapter would be completed by the end of the year. The Branch had been laying the groundwork for preparing the sixteenth Supplement, to cover the period 2008-2009, by tracking and recording the most contemporary practice of the Security Council in internal databases. All language versions of the eleventh Supplement (1989-1992) were currently accessible on the website in the advance version and were expected to be published in late 2009 or early 2010. New chapters and case studies were regularly being posted on the *Repertoire* website, which was being completely redesigned and improved to allow quicker access to information and enable users to access data more readily across different periods and Supplements. In 2009 the Branch had received about 200 requests via the English website for information about the practice of the Security Council.

6. He expressed gratitude to those Member States which had supported the work of the Branch by contributing to the trust fund for the updating of the *Repertoire*, including Croatia, Mexico and the Russian Federation. The Secretariat was also grateful to Germany, Italy and Norway for their sponsorship of associate experts. An appeal would shortly be made to Member States for further contributions to the trust fund.

7. **Mr. Lundkvist** (Sweden), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania,

Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, the Republic of Moldova, Norway and Ukraine, said that the European Union was ready to approve the text of the working document on the introduction and implementation of sanctions contained in the Annex to the Committee's report. Sanctions applied in accordance with the Charter were an important tool for the maintenance and restoration of international peace and security. They must be targeted carefully and must take account both of the rights of due process for the individuals concerned and of the need to minimize the adverse consequences of sanctions for third parties. They should be monitored effectively and reviewed periodically in order not to be applied longer than necessary. The European Union was willing to participate constructively in the process of improving procedures for the implementation of sanctions. He welcomed the final report of the Informal Working Group of the Security Council on General Issues of Sanctions, which had resulted in an impressive list of best practices and methods. The Security Council had made important progress in the listing and de-listing process for sanctions and in the granting of exemptions. The European Union particularly welcomed the thorough review process conducted by the Committee established pursuant to Security Council resolution 1267 (1999). The improved procedures instituted by the Security Council in 2008 for sanctions against Somalia and the Democratic Republic of the Congo should be extended to other United Nations sanctions regimes. The transparency of all United Nations sanctions regimes and their procedures should be further enhanced. The question of assistance to third States affected by sanctions was no longer relevant and could be removed from the Special Committee's agenda.

8. Welcoming the efforts by the Secretariat to clear the delay in publication of the *Repertory* and the *Repertoire*, he commended the Secretariat on the completion of the thirteenth Supplement of the *Repertoire*. Both publications were important research tools for the international community, especially the diplomatic community and universities, and were a means of preserving the institutional memory of the Organization. He encouraged Member States, other than those which had already done so, to contribute to the special trust funds established for the two publications.

9. The decision adopted in 2006 on reforming the working methods of the Special Committee should be implemented. Its session should be reduced to one week, in order to focus on the key items on its agenda. Items on which agreement had been reached should be taken off the agenda, and those on which consensus seemed unlikely should not be included, or should only be reviewed once in every two or three years. He welcomed the Special Committee's decision not to keep on its agenda the proposal by the Rio Group entitled "Consideration of the legal aspects of the reform of the United Nations".

10. **Mr. Jomma** (Tunisia), speaking on behalf of the African Group, expressed serious concern at the imposition of unilateral economic sanctions against developing countries as an instrument of foreign policy. That practice was a violation of international law and an infringement of the right to development. Sanctions should be imposed in accordance with the Charter of the United Nations and international law and should be considered only after all means of peaceful settlement of disputes under Chapter VI of the Charter had been exhausted. Sanctions should be imposed for a precise time frame, be reviewed periodically and be lifted as soon as their objectives were achieved. They should be non-selective and be targeted so as to mitigate their humanitarian impact. He emphasized the need for strict adherence to Article 50 of the Charter, which was not merely procedural.

11. The African Group continued to take a keen interest in the proposal submitted by the Libyan Arab Jamahiriya, especially the possible payment of compensation to targeted and third States for damage caused by sanctions found to have been imposed in a manner inconsistent with the Charter. He urged Member States to make effective use of existing procedures and methods for the prevention and peaceful settlement of disputes and reaffirmed the importance in that regard of judicial mechanisms, including the International Court of Justice.

12. He commended the ongoing efforts by the Secretariat to reduce the backlog in the publication of the *Repertory* and the *Repertoire*.

13. **Mr. Al Habib** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said the Movement attached great importance to the strengthening of the role of the United Nations, which was the central forum for

addressing issues of international cooperation, economic development and social progress, peace and security, human rights and the rule of law. Important elements in the process of reforming the United Nations were the democratization of its principal organs and respect for the role and authority of the General Assembly as the chief deliberative and policy-making organ of the Organization. The Non-Aligned Movement was concerned about the continuing encroachment by the Security Council on the functions and powers of the General Assembly and of the Economic and Social Council, by addressing issues within the competence of those two organs, and its attempts at norm-setting and establishing definitions.

14. Sanctions imposed by the Security Council were also an issue of concern to member countries of the Movement. The imposition of sanctions should be considered a last resort and adopted only in the presence of a threat to international peace and security or an act of aggression. Sanctions must not be applied preventively, in cases of mere violations of international law, or to punish or otherwise exact retribution on the populace. The objectives of sanctions should be clearly defined and based on tenable legal grounds. They should be imposed for a specified time frame and be lifted as soon as their objectives were achieved. The conditions demanded of the State or party on which sanctions were imposed should also be clearly defined and be subject to periodic review.

15. **Mr. Laidlaw** (New Zealand), speaking on behalf of the CANZ group of countries (Canada, Australia and New Zealand), said that sanctions, sparingly used, were a vital tool in the maintenance and restoration of international peace and security. Since all Member States were required to implement sanctions, there was a valid role for the General Assembly in respect of sanctions-related issues. He endorsed the principles outlined in the working document entitled "Introduction and implementation of sanctions imposed by the United Nations" (A/64/33, annex). Primacy should be given to implementing mandatory Security Council decisions. However, the processes followed by the Council's sanctions committees, especially when including names on lists, sometimes seemed to lack transparency and accountability. He therefore welcomed Security Council resolution 1822 (2008), in particular the requirement to review all names currently included in the consolidated list of entities and/or persons identified by the Security Council

Committee established by resolution 1267 (1999). The CANZ group also supported the guidelines developed by that Committee for its work. He welcomed the requirement, in paragraph 7 of the working document on the introduction and implementation of sanctions, for fair and clear procedures in the listing and delisting of individuals and entities. He supported adoption of the document, but had some concerns about the section on “unintended side effects of sanctions”. Humanitarian aid should be provided with the consent of the host State. Appropriate humanitarian exemptions must be made to sanctions and humanitarian assistance should be available for the affected civilian population, regardless of whether sanctions were in place. He endorsed the need for cooperation between States by exchanging information about the legislative, administrative and practical implementation of sanctions.

16. **Mr. Rodiles** (Mexico), speaking on behalf of the Rio Group, said the Special Committee must proceed with a solid thematic agenda, based on the items already included as well as the topics newly identified, in order to make optimum use of its resources. He reaffirmed the importance of peaceful means of solving disputes. Legitimacy in the use of sanctions regimes was critical to the effectiveness of sanctions and contributed to the maintenance of international peace and security. The Special Committee should continue to consider all items related to the maintenance of international peace and security, including the working paper submitted by the Russian Federation, entitled “Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations”.

17. He paid tribute to the work of the Secretariat in updating, and placing on the United Nations website, the *Repertory* and the *Repertoire*.

18. **Ms. Negm** (Egypt) emphasized the important role played by the Special Committee in achieving the purposes and principles of the Charter in such areas as the peaceful settlement of disputes and the application of international law without politicization, selectivity or double standards. She accordingly welcomed the further revised working paper submitted by Cuba entitled “Strengthening the role of the Organization and enhancing its effectiveness”, a key aim being to ensure the maintenance of international peace and security while avoiding infringement on the mandates of other principal United Nations organs, in particular

the General Assembly and the Economic and Social Council. By the same token, she supported the Austrian initiative entitled “The role of the Security Council in strengthening a rules-based international system”, annexed to document A/63/69-S/2008/270, which articulated vital issues and recommendations designed to promote an international system based on the rule of law at the international level. The current negotiations on the enlargement and reform of the Security Council should also continue with a view to improving its representativity, transparency and democratic nature, which would in turn bolster the legitimacy of its resolutions.

19. Egypt favoured adoption of the working document on the introduction and implementation of sanctions imposed by the United Nations (A/64/33, annex), which emphasized the use of sanctions only as a last resort following the exhaustion of all means of peaceful settlement and refusal by the State concerned to comply with United Nations resolutions. It also emphasized the need for consideration of the humanitarian impact of sanctions. In that same context, the failure of States to make officially known the consequences of or harm inflicted by sanctions, including on their citizens, was an insufficient means of demonstrating the absence of any unintended adverse side effects on third States. She therefore encouraged affected third States to catalogue any such unintended consequences. She also stressed the importance of the proposal to seek the advisory opinion of the International Court of Justice concerning legal penalties for the use of armed force by States without prior authorization from the Security Council, in cases other than exercise of the right of self-defence.

20. She commended the efforts made in cooperation with academic institutions to reduce the backlog in the preparation of the *Repertoire* and the *Repertory*. She urged the continuation of those efforts and looked forward to the appearance of both publications on the United Nations website in all official languages with a view to raising their profile.

21. **Mr. Shautsou** (Belarus) endorsed the conclusions and draft decisions contained in the Special Committee’s report. The chief purpose of the United Nations was the maintenance of international peace and security through the peaceful settlement of disputes on the basis of international law. Unfortunately, the use of sanctions and other enforcement measures had been increasing. Sanctions

must be treated as a last resort when other peaceful means of settlement appeared to be failing. They must not be applied preventively, in cases of a mere violation of international law, and should be imposed only in the presence of a threat to international peace and security or an act of aggression. The United Nations must remain the only organization to approve the use of force against those violating international law. No such action in any other quarter, circumventing the Security Council, should be permitted. Unfortunately, the legitimacy of sanctions was undermined by the lack of a clear legal mechanism for their introduction, application and removal. A system must be introduced to ensure the proportionality of sanctions to the scale of the threat or violation concerned. When sanctions were imposed, their “humanitarian limits” must be defined and a calculation made of the probable consequences for third countries and the civilian population, especially the most vulnerable groups. Means must also be found to mitigate the effects of sanctions on third States. Most of those aims were covered in the document annexed to the Special Committee’s report.

22. The Security Council played the primary, but not the exclusive, role in maintaining international peace and security. Increasing the role of other organs, such as the General Assembly, within their respective mandates enabled a larger number of States to take part in decision-making on global problems.

23. He welcomed the Special Committee’s decision to keep on its agenda the proposal recommending that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

24. *Mr. Stastoli (Albania), Vice-Chairman, took the Chair.*

25. **Mr. Xu Yu** (China) said the prudent use of sanctions should be a last resort after all means of peaceful settlement had been exhausted. Strict criteria should be established for sanctions, setting clear time limits and minimizing as far as possible any humanitarian effects or adverse impact on third States. Strict observance of the Charter of the United Nations and the fundamental principles of international law could enhance the role of the Organization in effectively maintaining international peace and

security. He supported the adoption of the working document on the introduction and imposition of sanctions (A/64/33, annex). Since sanctions produced effects beyond their intended scope, he supported the continued consideration by the Special Committee of the question of assistance to third States affected by sanctions.

26. He welcomed the progress made in compiling the *Repertory* and the *Repertoire* and hoped further efforts would be made to publish them simultaneously in all the official languages of the United Nations.

27. In the absence of a clear mandate from the General Assembly, no new item on the Special Committee’s agenda should focus on the question of amending the Charter. That question should only be considered in an integrated manner, within the overall context of reform of the United Nations.

28. **Mr. Tabi** (Cameroon) welcomed the progress made on the working document entitled “Introduction and implementation of sanctions imposed by the United Nations”. In the past 10 years, the proliferation of conflicts had resulted in frequent recourse to sanctions, which had inflicted collateral damage on third States. Important though they were for the maintenance of international peace and security, sanctions must not be allowed to become a burden on third States. Sanctions should only be applied when all other means of peaceful settlement of disputes had been exhausted and their undesirable consequences for third States must be limited as far as possible. Even targeted sanctions often had unintended harmful humanitarian consequences. The provisions of Article 50 of the Charter must be strictly adhered to and special attention must be paid to the question of assistance to third States affected by sanctions. The capacity of the Department of Economic and Social Affairs should be strengthened to enable it to improve the coordination of assistance to affected third States.

29. He emphasized the role of the International Court of Justice as the principal judicial organ of the United Nations and the only international court with general jurisdiction. The peaceful settlement of disputes was at the heart of Cameroon’s foreign policy, as shown when the case concerning the land and maritime boundary between Cameroon and Nigeria was decided by the Court.

30. He welcomed the efforts of the Secretariat to reduce the backlog in the preparation of the *Repertory*

and the *Repertoire*, adding his voice to the appeal for voluntary contributions to the trust fund.

31. **Mr. Kuzmin** (Russian Federation) said that the Special Committee made a valuable contribution to strengthening the legal foundations of the United Nations. It was unfortunate that it had been less productive in recent years and it was time for it to realize its full potential. He welcomed the cooperation shown by other States during the completion of the working document on the introduction and implementation of sanctions. The document contained a number of useful recommendations for improving the sanctions machinery. It reflected the most recent developments in the application of collective enforcement measures under Chapter VII of the Charter and in the practice of the Security Council relating to sanctions. It emphasized the importance of targeting sanctions and reducing their humanitarian impact and the need to observe human rights standards when imposing sanctions. Approval of the document by the General Assembly, in line with its Charter prerogatives, would be a significant step forward. The Special Committee made a valuable contribution by enabling States to exchange views on enhancing the effectiveness of the Organization.

32. **Ms. Ramos** (Cuba) said it was important to democratize the United Nations, respecting the principles and procedures established in its Charter, and the Special Committee was the appropriate forum for negotiating any amendment to the Charter arising from the current reform process. A permanent solution must be found regarding the application of the Charter's provisions on assistance to third States affected by the implementation of sanctions. The imposition of sanctions was an extreme measure, to be considered only when a peaceful means of resolving disputes had been exhausted and following a careful assessment of the economic, social and humanitarian effects. Sanctions regimes should have clear, precise objectives and should be suspended or lifted as soon as those objectives had been achieved. Any attempt to use sanctions to alter the political or legal system of a State was a violation of international law.

33. States should be flexible and collaborate during discussion of the proposals before the Special Committee, including the document submitted by Cuba on strengthening the Organization's role. The limited achievements of the Special Committee in recent years stemmed from a lack of political will and were not the

result of its working methods. Any issues pending with regard to the working document on the implementation of sanctions presented by the Russian Federation should be dealt with, so the document could be sent to the General Assembly for approval.

34. **Mr. Sharifov** (Azerbaijan) said that sanctions remained an important tool in the efforts of the United Nations to maintain international peace and security and, while it was necessary to proceed with utmost caution, the need for the Security Council to act promptly in that regard should be recognized. In cases of conflict between two States, the Security Council rarely determined which was the aggressor and which the victim; however, the ambiguous language of its resolutions should not prevent it from implementing sanctions, especially in situations of protracted conflicts, population displacement and foreign occupation.

35. The Security Council's failure to discharge its responsibilities on behalf of Member States did not exempt the United Nations from its Charter-based responsibility to maintain international peace and security. General Assembly resolution 377 (V) of 1950 had resolved that if the Security Council failed to exercise its primary responsibility for the maintenance of international peace and security, the General Assembly should consider the matter immediately with a view to making appropriate recommendations, including the use of armed force when necessary.

36. At the Special Committee's previous session, some delegations had expressed concern about attempts to justify the unilateral use of force without Security Council authorization under the false pretext of self-defence. However, the right of States to defend themselves was one of the two lawful exceptions to the Charter's broad ban on the use of inter-State force.

37. His Government shared the view that sanctions should be designed with care so as to minimize any possible adverse impact on civilian populations and third States. While stressing the importance of Article 50 of the Charter, his delegation agreed that it provided a mechanism for discussion of the effects of sanctions, but did not require the Security Council to take any specific action.

38. He welcomed the efforts of the Secretariat to eliminate the backlog in the publication of the *Repertory* and the *Repertoire*, the enhanced cooperation with academic institutions in that regard,

and the progress in making both publications available on the Internet.

39. **Mr. Ben Lagha** (Tunisia) said that sanctions should be conceived and implemented in accordance with the provisions of the Charter of the United Nations and only when all other peaceful solutions had been exhausted. They should be imposed for a specific period and lifted as soon as their answers had been achieved. Third States affected by sanctions had the right to consult the Security Council under Article 50 in order to obtain the necessary assistance. The absence of such assistance could jeopardize the effectiveness of the sanctions regime and affect the credibility of Security Council's decisions.

40. The Special Committee was examining a number of proposals concerning the criteria for adopting and applying sanctions, assistance to third States affected by their implementation and the strengthening of the role of the United Nations. Following several years of discussions, some of the proposals were at a stage where they should be adopted, which would provide new impetus to the Special Committee.

41. The fact that the Special Committee had not achieved any specific results in recent sessions should lead delegations to reflect on its working methods; although the full accomplishment of its mandate required the political will of Member States.

42. **Ms. Nguyen Thi Thanh Ha** (Viet Nam) said that the document on the introduction and implementation of sanctions submitted to the General Assembly for adoption reflected serious negotiations among Member States to reach an agreement in order to enhance the effectiveness of sanctions, monitor their application, and minimize their negative effects. Her delegation hoped that the text would soon be adopted by the General Assembly. It attached importance to the issue of third States affected by sanctions and appreciated the more focused approach adopted by the Security Council by using targeted sanctions. The Council should provide further guidance to its sanctions committees to ensure fair, clear procedures.

43. Viet Nam supported the Special Committee's consideration of the working papers submitted by Cuba and by the Russian Federation and Belarus. It also commended the Secretariat for its efforts to make the *Repertory* and the *Repertoire* available on the Internet and noted with appreciation the voluntary contributions of Member States to the trust fund for the elimination

of the backlog in the *Repertory*, while encouraging further cooperation with academic institutions to improve the quality of the two publications.

44. **Mr. Chekkori** (Morocco) said that sanctions should be imposed only as a measure of last resort when there was a threat to international peace and security. They should be imposed for a specific period of time, monitored regularly and lifted as soon as their objective had been achieved. Furthermore, efforts should be made to ensure that they did not have negative consequences for third States. His delegation hoped that the working paper on sanctions submitted by the Russian Federation would soon be adopted by the General Assembly, as it was the result of long negotiations and was a fair and balanced text that took into account the numerous concerns expressed by Member States. Once adopted, the document would make a significant contribution to enhancing sanctions procedures and limiting their undesirable effects on the populations of third States.

45. With regard to the *Repertory* and the *Repertoire*, his delegation supported the effort to continue publishing them in printed form, and also to improve accessibility by making them available electronically and in different languages.

46. **Mr. Kim Chol Min** (Democratic People's Republic of Korea) said that when addressing international issues due attention should be given to respecting the principle of sovereign equality. Currently, peace and development were adversely affected by high-handedness and arbitrariness; for example, by threatening sovereign States with force and imposing sanctions against them. Moreover, certain countries misused the United Nations as a tool for justifying oppression. The efforts of peace-loving States to safeguard their sovereignty and develop their economies were condemned and they became targets of sanctions, while no measures were taken to counteract the armed invasions of Afghanistan, Iraq and Palestine and the resulting slaughter of civilians. Selectivity and double standards prevailed when addressing issues relating to some countries, owing to the interests of, and the unilateral norms established by, other States.

47. A new international order based on justice and impartiality was urgently needed. Efforts should be made to democratize the United Nations by enhancing the powers and functions of the General Assembly where all Member States had equal rights. Important

issues relating to international peace and security were often dealt with in line with the interests of specific countries, while the development agenda was neglected. Furthermore, the Security Council increasingly encroached on the powers and functions of the General Assembly and the Economic and Social Council, creating an imbalance among the principal organs of the United Nations. One result of the reform should be that the General Assembly would be empowered to ratify Security Council resolutions on international peace and security, such as sanctions and the use of force.

48. Priority should be given to eliminating the remnants of the Cold War in the United Nations. The United Nations unified command in South Korea, illegally set up by the United States many years ago, abusing the name of the United Nations, was an example of a serious violation of the principles and purposes embodied in the Organization's Charter that undermined its credibility. His Government had sent several letters to the Secretary-General in 1994, 1998 and 2006 concerning the dismantlement of the United Nations Command called for in General Assembly resolution 3390 (XXX). In response, the Secretariat had clarified that the Command was not a United Nations mission, but a military force headed by the United States of America. As part of its reform the United Nations should eliminate the legacy whereby some countries had abused its name for their own political and military purposes.

49. **Mr. Debabeche** (Algeria) said that the implementation of sanctions against a State had serious consequences and should be used solely as a last resort. Only a real threat to peace or an act of aggression could justify such a decision, but there had been a tendency to politicize the implementation of sanctions, which was even more reprehensible when it resulted from a unilateral approach detrimental to the collective action of the United Nations.

50. His delegation supported the submission of the Russian Federation's working paper on sanctions to the General Assembly for adoption and continuation of discussions on the working paper submitted by Cuba concerning the strengthening of the role of the Organization. It considered that Article 50 of the Charter was relevant in relation to the question of third States affected by sanctions and welcomed the decision of the Economic and Social Council to include the matter in the agenda of its next substantive session.

51. Lastly, his delegation endorsed the revised working paper submitted by the Russian Federation and Belarus on the issue of requesting an advisory opinion from the International Court of Justice on the legal consequences of the use of force by States without prior authorization by the Security Council.

52. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said the Charter provided a vision of a just and peaceful order in international relations among States based on respect for its principles, especially the sovereign equality of States, prohibition of the threat or use of force, peaceful settlement of disputes and non-intervention in the internal affairs of States. Observance of those principles by all Member States would guarantee a peaceful order based on the rule of law, as opposed to rule by power. His delegation therefore supported the Special Committee's continued consideration of the maintenance of international peace and security.

53. The Security Council was bound by the same international normative rules as Member States and should not exceed its authority or act in breach of the rules of international law. The International Court of Justice had held that Member States were required to comply with Security Council decisions only if they were in accordance with the Charter. Moreover, the Council's power to determine that a situation was a threat to international peace and security and impose sanctions was limited by certain procedural and substantive rules. Hence, his delegation considered that the Security Council should be held accountable if it imposed sanctions based on speculation and unreliable information or under political pressure. In such cases, the targeted State should be entitled to full compensation for any damage resulting from unlawful sanctions. His delegation shared the concern expressed over the use of unilateral sanctions against developing countries as an instrument of foreign policy, which clearly contravened international law and the Charter and reiterated its proposal that the International Law Commission should consider the imposition of unlawful sanctions by the Security Council under the topic of "Responsibility of international organizations".

54. The General Assembly should be able to exercise its mandate concerning international peace and security without interference. The fact that a situation was being considered by other United Nations organs, particularly the Security Council, did not legally impede the General Assembly from examining it.

According to Article 12 of the Charter, the two Organs could deal in parallel with, and make recommendations or, the same matter concerning the maintenance of international peace and security. Nevertheless, when the Security Council was performing its duties with regard to a dispute, the General Assembly could not make recommendations on the same matter.

55. **Ms. Tansu-Seçkin** (Turkey) urged delegations to conclude work on the basic conditions and standard criteria for the introduction and implementation of sanctions based on the revised working paper submitted by the Russian Federation. The question of assistance to third States affected by sanctions should be addressed and a working group established within the Sixth Committee could be entrusted with the task. Her delegation attached great importance to the principle of free choice of the means with which a dispute was settled and hoped that continued efforts would be made with regard to the publication and updating of the *Repertory* and the *Repertoire*.

56. **Mr. Rushdan** (Malaysia) said that Malaysia had noted with concern the tendency to use the Security Council's powers under Chapter VII of the Charter to further agendas, concerning non-proliferation and other issues, as in the case of Security Council resolution 1816 (2008) on piracy off the coast of Somalia. When considering the use of Chapter VII powers, Member States should bear in mind that they should be used sparingly and judiciously in order not to penalize third States unintentionally. The criteria established in the Charter and in international law should be adhered to when imposing sanctions, as well as the right of targeted States to be heard before implementation. The Security Council should not conduct monitoring activities to target specific States. Also, certain powerful States sometimes carried out arbitrary targeting against other States in the guise of providing technical assistance. Consequently, implementation guidelines should be developed.

57. Regarding Security Council resolutions 1737 (2006), 1747 (2007) and 1803 (2008) on non-proliferation and the failure of Iran to comply with the requirements of the International Atomic Energy Agency, Malaysia noted that provision had been made to deal with non-compliance, but the consequences had not yet been tested.

58. Malaysia proposed that the Special Committee or the Security Council should elaborate guidelines on

Article 51 of the Charter so that there would be less room for the misuse that allowed countries to create threats to international peace and security. That would obviate the need for an advisory opinion from the International Court of Justice on the legal consequences of the use of force by States without prior authorization by the Security Council. A more pertinent and urgent question that needed to be addressed by the Court or the international community was the ambit and triggers for use of force under Article 51, which was especially relevant in view of recent threats to use pre-emptive strikes in the name of self-defence.

59. **Ms. Cabello de Daboin** (Bolivarian Republic of Venezuela) said that the reform of the Charter was the most important matter being considered by the Special Committee, owing to the need to achieve a true democratization of the Organization by modifying the composition of the Security Council and eliminating the veto powers of its permanent members. The General Assembly was the supreme and most representative organ of the United Nations and should elaborate the main policies and deal with critical international issues.

60. Sanctions were an extreme measure and should only be adopted when all other remedies had been exhausted. Accordingly, any sanctions imposed by the United Nations should be selective and have clear, legitimate objectives in keeping with the Charter, because their purpose was to modify the conduct of a Member State or entity that threatened international peace and security, and not to be measures of reprisal or a means of overthrowing legitimate authorities. When sanctions were ordered their duration should be established and they should be lifted as soon as their objective was achieved. They should be monitored taking the humanitarian situation into account. Selective sanctions should be imposed to avoid secondary effects, such as the violation of human rights and fundamental freedoms. Furthermore, sanctions should not prevent the provision of any humanitarian and medical assistance for the civilian population authorized by the recipient State.

61. **Mr. Ayoob** (Afghanistan) said that Afghanistan attached great importance to the work of the Special Committee, because it was involved in the activities of the Al-Qaida and Taliban Sanctions Committee. It was committed to implementing its obligations under the relevant Security Council resolution (S/RES/1267

(1999)) and urged all States to implement their obligations in good faith.

62. Sanctions remained an important tool under the Charter in efforts to maintain international peace and security, but they should be implemented so as to balance their effectiveness against possible adverse consequences. The progress made by the Security Council in establishing new procedures for the listing and delisting of individuals and entities on sanctions lists was very welcome, and the Security Council sanctions committees should study each case carefully, establish clear criteria and mechanisms for listing and delisting, and give positive consideration to requests of States concerning the listing and delisting process.

63. The peaceful settlement of disputes was a basic principle of international law and the most effective tool for maintaining international peace and security; however, the important role played by judicial mechanisms, including the International Court of Justice, should not be disregarded.

64. Afghanistan appreciated the contribution to the institutional memory of the international system made by the *Repertory* and the *Repertoire* and commended the Secretariat for the progress achieved in incorporating the volumes on the United Nations website.

65. The reform of the United Nations should be carried out in accordance with the principles and procedures established in the Charter, preserving its legal framework. The Special Committee could contribute to examine the legal issues involved in the process to reform and democratize the Organization.

66. **Ms. McLeod** (United States of America) said that the United States did not believe that the Special Committee should try to devise norms concerning the design and implementation of sanctions. It should not pursue activities in that area that would duplicate or be inconsistent with the roles of the principal organs of the United Nations. The United States could not support the working paper submitted by the Russian Federation and Belarus with regard to requesting an advisory opinion on the use of force from the International Court of Justice, because it considered that the provisions of the Charter were adequate; however, there appeared to be an opportunity for further discussion on the issue.

67. Member States continued to assert that Article 50 of the Charter required the Security Council to take action to assist third States affected by the imposition of sanctions; but it merely provided a mechanism for the discussion of the effects of sanctions on third States, without requiring the Council to take any specific action. The United States applauded the Council's efforts to impose targeted measures that minimized unintended economic consequences for States. Consequently, it saw no reason for Member States to consider the establishment of a special fund to address an abstract concern.

68. She commended the Secretary-General's efforts to resolve the backlog in the publication of the *Repertory* and the *Repertoire*, which provided a useful resource on the practices of United Nations organs.

69. **Mr. Park** Chul-Juo (Republic of Korea), speaking in exercise of the right of reply and referring the allegation by the representative of the Democratic People's Republic of Korea that the United Nations Command on the Korean peninsula had been established illegally, said that the use of the United Nations flag by the unified command had been authorized in Security Council resolution 84 (1950). That resolution likewise officially recognized the United Nations Command as the entity that should carry out the functions of maintaining peace on the Korean peninsula.

70. In 1975, the General Assembly had adopted resolution 3390 (XXX) A urging all parties concerned to enter into negotiations on new arrangements designed to replace the Armistice Agreement, reduce tensions and ensure lasting peace in the Korean peninsula, and resolution 3390 (XXX) B, mentioned by the delegation of the Democratic People's Republic of Korea, which ran counter to resolution A. Hence the two resolutions offset each other and it was misleading to state that there was only one authoritative resolution on the issue. Furthermore, his delegation considered that it was neither the time nor the place to discuss the status of the United Nations Command, which could only be decided in tandem with the replacement of the Armistice Agreement by a peace agreement.

71. **Mr. Yun** Yong Il (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said he regretted having to use that right, but Security Council resolution 84 (1950), which the Republic of Korea maintained was the legal basis for the unified

command, made no provision for creating a United Nations command; it merely mentioned a unified command under the United States of America, and because both parts of the resolution had been adopted without the participation of the former Soviet Union, a permanent member of the Security Council, it had no validity since it contravened Article 27, paragraph 3, of the Charter of the United Nations. Regarding resolution 3390 (XXX), the principal difference between versions A and B of the resolution was that the latter considered it necessary to dissolve the United Nations Command in South Korea and withdraw all the foreign troops stationed in South Korea in order to encourage peaceful reunification in accordance with the South-North Joint Communiqué of 4 July 1972. Furthermore, the North-South Declaration of 15 June 2000, which clarified the positions of the two nations, and the subsequent Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity (4 October 2007) opened the way for the Korean people to reunify the Korean peninsula by themselves, without foreign intervention. His delegation regretted that the Republic of Korea had tried to justify the legality of the United Nations Command, a typical example of foreign intervention in the Korean issue. He called on the delegation of the Republic of Korea to help implement the Joint Declaration of 15 June 2000 which paved the way to Korean reunification as endorsed by all Member States in the General Assembly.

72. **Mr. Park Chul-Juo** (Republic of Korea), speaking in exercise of the right of reply, emphasized that the United Nations Command was recognized by Security Council resolutions 83 (1950) and 84 (1950), which had been adopted in accordance with due process, and that the status of the United Nations Command could only be decided in tandem with the replacement of the Armistice Agreement with the peace agreement. The Government of the Republic of Korea fully respected all the agreements between South and North Korea, including the two 2000 and 2007 declarations. He hoped that the two Governments would have a candid and frank dialogue on all relevant issues.

73. **Mr. Yun Yong Il** (Democratic People's Republic of Korea), speaking in exercise of the right of reply, thanked the delegation of the Republic of Korea for indicating its willingness to respect the declarations made by the leaders of their nations. The United

Nations Command did not get instructions or financial assistance from the United Nations and it did not comply with any provision of the Charter, such as Articles 43, 46 or 47. For all intents and purposes, the Command was an anachronistic mechanism and a mere tool used by the United States for strategic purposes on the Korean peninsula and in north-east Asia. Needless to say, the United States army under the United Nations Command had committed serious crimes against civilians during the Korean War in both parts of the Korean peninsula, and continued to place obstacles to the efforts to achieve reunification of all Korean people.

74. The immediate dismantling of the United Nations Command and the withdrawal of all United States troops from South Korea would guarantee the suspension of hostilities and the reunification of the Korean peninsula.

The meeting rose at 1 p.m.