

Agenda Item 163: Report of the Special Committee on the Charter of the United Nations and on the strengthening of the role of the Organization

Statement by Mr. A. Gopinathan, Joint Secretary, Ministry of External Affairs

on October 12, 2000

Mr. Chairman,

I wish to thank Dr. Saeid Mirzaee Yengejeh of Iran, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, for his skilful leadership and guidance during its last session in April. I would also like to extend our appreciation to the other members of the Bureau.

The Charter Committee at its last meeting dealt with several important issues, *inter alia*, assistance to third states affected by sanctions, basic criteria for imposing and implementing sanctions, peaceful settlement of disputes between States, the future of the Trusteeship Council, the status of the Repertory of the practice of the United Nations Organs and the Repertoire of the practice of the Security Council, and also considered the question of improvement in its working methods.

My delegation attaches the highest importance to the question of assistance to third States affected by the application of sanctions under the Charter and considers it necessary to find a permanent solution to this problem urgently. Economic embargoes and trade sanctions have caused great hardship to third States and their people, especially the developing countries. While the Security Council has the competence to impose and enforce sanctions under Chapter VII of the Charter vis-a-vis a target State, the Charter did not intend that the adverse consequences for non-target third States would remain unattended. The Security Council which has the power to impose sanctions also has the responsibility of alleviating the damages suffered by third parties by simultaneously creating mechanisms to provide such relief.

Mr. Chairman,

We fully endorse the main findings and recommendations of the Ad hoc expert group meeting, convened pursuant to resolution 52/162, contained in the Report of the Secretary General (document A/53/312), which recommended that the Security Council should give careful consideration to the potential effects of sanctions both on the 'target State' and on third countries before imposing such measures, the need for appropriate and timely exemptions for humanitarian purposes, and that the concept of burden-sharing and equitable distribution of costs, as reflected in Articles 49 and 50 of the Charter of the United Nations, were relevant both in minimizing collateral damage and encouraging full cooperation in the implementation of sanctions. The ad hoc group of experts also considered that the cost of implementing sanctions should be viewed as the opportunity cost of a possible alternative to an international military action or a peacekeeping operation, the costs of which are internationally shared and rightly emphasized the need for sharing, by the international community, on a more equitable basis, the cost of carrying out preventive or enforcement measures, such as economic sanctions, particularly the consequences for affected developing countries, either by voluntary or assessed contributions.

The Sixth Committee should focus its consideration on the substance of the recommendations of the expert group which need to be evaluated in the light of resolution 51/208 which mandated the establishment of 'appropriate mechanisms or procedures' with a view to achieving the objective of

Article 50. Obviously, these can only be achieved by establishing appropriate permanent mechanisms within the United Nations system, with adequate financial resources, provided on a predictable basis through assessed contributions so that they could be activated automatically in each case of adverse impact of sanctions on third States. The Security Council, which mandates sanctions, also has the nodal responsibility for finding solutions to the problem of third States affected by UN sanctions, and must take the necessary steps to urgently translate into action the resolve of the Heads of State and Government set out in the Millennium Declaration "to minimize the adverse effects of United Nations economic sanctions on innocent populations, to subject such sanctions regimes to regular reviews and to eliminate the adverse effects of sanctions on third parties".

On proposals made for the maintenance of international peace and security, we consider the revised proposal by the Russian Federation, on basic conditions and criteria for imposing sanctions and implementing measures, a useful basis for further consideration of this topic. It may be noted that the proposals are in line with the recommendations of the *ad hoc* expert group meeting. My delegation fully endorses the NAM position on the question of sanctions. Sanctions should be used as a measure of last resort after all available options under the Charter have been exhausted and have proved ineffective and inadequate. Sanctions must be implemented strictly in accordance with the Charter. It is necessary to look at the humanitarian consequences of open ended sanctions regimes, which were not envisaged in the Charter, nor is it either fair or equitable to have a system of sanctions continue indefinitely without the opportunity or scope of an impartial review.

We have noted with interest Cuba's proposal on strengthening of the United Nations and its explanations during the last meeting of the Charter Committee. India attaches great importance to reform of the United Nations, including the democratization of the Security Council and transparency in its working methods. We reiterate India's commitment to the strengthening of the United Nations and enhancing its efficiency. In this regard, it is relevant to recall the remarks of the Secretary General while introducing his report on the work of the organization, that our "Heads of State and Government have called for a reform that will make the Council more representative and legitimate, but also more effective." We hope therefore that the reform and expansion of the Security Council will receive, after the Millennium Summit, the attention it deserves.

The second broad area of work of the Charter Committee relates to the peaceful settlement of disputes. On the proposal by Sierra Leone for establishment of a 'dispute prevention and early settlement service', my delegation welcomes the clarifications offered by the co-sponsors and the revised proposal made by the United Kingdom, which sought to clarify the scope and objectives of the draft, as well as to incorporate references to relevant existing mechanisms, including those created by major multilateral treaties. The co-sponsors have also taken into account the note by the Secretariat entitled "Mechanisms established by the General Assembly in the context of dispute prevention and settlement", prepared in response to a request by the Special Committee. This new orientation which encourages the use of existing mechanisms is a welcome change. However, we wish to reiterate our view that the fundamental principle that States parties to a dispute are free to choose from the available means of peaceful settlement should not be affected.

Regarding the Repertory of Practice of the United Nations Organs and the Repertoire of the Security Council, my delegation wishes to thank the Secretary General for his progress report on ongoing efforts to update the publications. These two publications constitute invaluable reference sources for member States, academic and research institutions and interested individuals. The persistent delay in their publication is therefore a matter of utmost concern, and their early updating and continued regular publication should be given higher priority with specified resources being allocated for this purpose.

Mr. Chairman,

The Committee, at its last session also had before it a working paper submitted by Japan on improving its working methods. We support all constructive proposals for improving the efficiency and effectiveness of the Committee's work. The proposal for timely submission of proposals for consideration is particularly relevant as it would enable all delegations to study and examine the proposals in advance and thus lead to better informed and focussed discussions. We also support the principle that the time spent on the adoption of the Committee's report be reduced to allow more time for substantive discussion on the agenda items. However, the proposal to follow the method adopted by the Ad Hoc Committee on Terrorism in this regard may not be practicable as the two Committees do not follow similar procedures in their consideration of the substantive matters before them. The practice of holding the Committee's session in spring should continue, as it has proved its usefulness by allowing all delegations to prepare for and participate effectively in its work. Considering the importance and complexity of the issues dealt with by this Committee, the duration of its meetings must be maintained, as any reduction would adversely affect the very purpose of its establishment.

My delegation was pleased to note the importance the Millennium Summit attached to the necessity to enhance the rule of law in international affairs through the wider acceptance of international treaties and conventions and strengthening of the International Court of Justice. This was apparent not only by the significant number of signatures and ratifications that took place during the Treaty Signing and Ratification Event organised by the Secretary General, in which eighty four States, including my own, participated, but also in his Report on the Work of the Organisation