

**STATEMENT BY DR. M. GANDHI, COUNSELLOR & LEGAL ADVISER ON
AGENDA ITEM 155: REPORT OF THE SPECIAL COMMITTEE ON THE
CHARTER OF THE UNITED NATIONS ON THE STRENGTHENING OF THE
ROLE OF THE ORGANIZATION AT SIXTH COMMITTEE OF THE 58TH
SESSION OF THE UNGA ON OCTOBER 9, 2003**

Mr. Chairman,

At the outset, we would like to congratulate Mr. Giuseppe Nesi, Vice Chairman of the Special Committee for his excellent presentation of the Report on the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the role of the Organisation at its last session held in April 2003.

The Special Committee on Charter has been working for the last several years on the question of effective implementation of Article 50 relating to Assistance to Third States affected by the application of sanctions under Chapter VII of the Charter, to which my delegation attaches the highest importance.

Economic embargoes and trade sanctions have caused great hardships to third States and their people, especially the developing countries. We believe that the Security Council has the primary responsibility in the imposition of sanctions. It should also be fair and equitable in its application of sanctions. We believe that the Security Council has the responsibility to assess the possible effects of sanctions prior to their imposition. The Security Council should apply a clear and coherent methodology for the imposition, application and lifting of sanctions. Sanctions should be clearly defined, targeted, imposed for a specific time-frame, subject to periodic review and lifted as soon as the reason for the imposition has ceased to exist. Sanction regimes should be subjected to constant review.

We believe that effective measures need to be taken to minimise the adverse effects of sanctions. Providing adequate and timely assistance on the basis of assessment of humanitarian conditions in the targeted and affected third States could be one such measure. The Council should consider establishing a Fund financed from assessed contributions based on the scale applicable to the peace-keeping operations as well as by voluntary contributions. My delegation reiterates our support for the establishment of a Working Group within the Sixth Committee to take up the matter of sanctions and their impact on third States.

Mr. Chairman,

On proposals made in the area of the maintenance of international peace and security, we consider the revised proposal of the Russian Federation for a Declaration on the basic conditions and standard criteria as providing a useful basis for further consideration of the topic. However, the need for developing a universal consensus on the core issues addressed in the proposal cannot be over-emphasised.

We have followed with great care and interest the discussions on the Libyan proposal on the strengthening of certain principles concerning the impact and application of sanctions. We believe that the Charter defines the precise manner and the circumstances in which sanctions or other coercive measures could be imposed.

With regard to the proposal to confer a right on the target State to seek and obtain just compensation for unlawful damage sustained by it owing to illegal or excessive sanctions, we would like to reiterate this delegation's view that conferring any such right would raise issues concerning the very legality of the sanctions imposed.

On the Russian proposal on Peace-Keeping Operations under Chapter VI of the Charter, my delegation would like to state that the political and operational aspects of peace-keeping have to be dealt with by other specialised committees and this Committee could contribute only from the legal angle.

Mr. Chairman,

The Cuban proposal aimed at redefining the powers and functions of the General Assembly and its relationship with the Security Council has been under the consideration of the Special Committee on Charter for some time now. India attaches great importance to reform of the United Nations, including the restructuring of the Security Council. We reiterate India's commitment to the strengthening of the United Nations and enhancing its effectiveness. We are willing to consider any forward-looking suggestions as long as they do not lead to duplication of work or involve a review of the basic structure of the Charter.

My delegation welcomes the adoption of General Assembly Resolution 57/26 of 19 November 2002 on the prevention and peaceful settlement of disputes based on the working paper sponsored by the delegations of Sierra Leone and the UK. We attach a high degree of importance to the principle of free choice of means in matters of dispute settlement. In our view, any recourse to a dispute settlement mechanism requires, first and foremost, consent of the parties to the dispute. We hope that the General Assembly Resolution 57/26 could be helpful for the prevention and the early settlement of disputes.

Turning to the proposal on the Trusteeship Council, India considers it improper to envisage a role for the Trusteeship Council, at this time, in dealing with the global commons or the common heritage of mankind. We believe that this area has been covered adequately in the UN Convention on the Law of the Sea, the Antarctic Treaty System as well as under several existing international treaties. While we do not see any value at this stage by getting up a global mechanism under the UN, we believe that consensus needs to be built up as to the manner by which the Trusteeship Council can be utilised.

Mr. Chairman,

We find ideas outlined in the Japanese-Korean proposal on the improvement of the working methods of the Committee to be useful. However, this delegation is not in favour of changing at the present time certain well-established practices of this Committee, including its decision-making procedure.

With regard to the identification of new subjects, my delegation is of the view that the Committee should first deal with proposals before it, instead of searching for new areas of work.

Thank you, Mr. Chairman.

[BACK TO TABLE OF CONTENTS](#)