



*Permanent Mission of*  
**Malaysia**  
*to the United Nations*

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**STATEMENT BY MS. BAIZURA KAMAL, REPRESENTATIVE OF MALAYSIA AT THE 6<sup>TH</sup> COMMITTEE OF THE SIXTY-THIRD SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON THE AGENDA ITEM 78: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANISATION, NEW YORK, 23 OCTOBER, 2008**

Mr. Chairman,

My delegation expresses its appreciation to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation for its report (A/62/33) submitted for consideration by the General Assembly at this 63<sup>rd</sup> session.

2. Malaysia notes that the Special Committee has concluded its work on the Working Paper by the Russian Federation at the 1998 session entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations". Malaysia commends the efforts of the Special Committee in this regard and supports the proposal that this paper and relevant sections of the Special Committee's Report be brought to the attention of the Chairman of the 4<sup>th</sup> Committee.

3. Malaysia commends the Russian Federation for its efforts in producing the revised Working Paper entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations". Malaysia supports the revised paper as the guidelines contained in the Working Paper aim to reflect the legitimate concerns in the use of sanctions against target States and contain practical recommendations that could minimize the unintended consequences on third States as well as civilian populations. The emphasis on targeted sanctions with adequate safeguards on humanitarian grounds, implemented in ways that balance effectiveness to achieve the desired results against possible adverse consequences, reflects the general consensus of United Nations Members as reflected in debates on issues of Security Council Resolutions against Iraq, Libya, Sudan, the Democratic Peoples Republic of Korea (DPRK) and Iran.

4. Malaysia is of the view that all Charter and international law criteria are strictly adhered to in the imposition of sanctions. In the rules of natural justice, there is a right for a person to be given a fair hearing and therefore, it is the same case for targeted

States to be given the opportunity to be heard before the imposition of any sanctions, whether unilateral or otherwise.

5. Malaysia strongly urges the permanent and non-permanent members of the Security Council to exercise the Chapter VII powers sparingly and judiciously with due regard to whether the "trigger" in Article 39 has been released. However, Malaysia understands that each perceived "threat" or situation differs and the urgency to act to maintain international peace and security must prevail, especially in response to situations of escalating violence and/or loss of life. Nevertheless, Malaysia supports the proposal by the Russian Federation in its Working Paper that sanctions "should be applied in conformity with the provisions of the UN Charter and international law only after exhaustion of all peaceful means of settlement; should be balanced; provide for clear objectives, conditions and time frame, for introducing and lifting them and be subjected to periodic review; and being aimed at modifying the behaviour of the target States, they should be based on the assessment of their possible adverse impact on third States or civilian populations so as to minimize or avoid such impact and should not lead to any retribution or human rights violations".

6. Malaysia notes that some delegations claim that deliberations on this topic had been exhausted. Further, in view of the Security Council's remedial action, the concerns were being actively addressed.

7. Although action is being taken, Malaysia is of the view that the item/paper should be kept on the agenda of the Special Committee as a forum to raise concerns and as a check and balance to the Security Council's exercise of its sanctions powers.

8. Malaysia also notes that there is a proposal to establish a working group to study the matter. However, several delegations have emphasised the remedial measures undertaken by the Security Council and the need to avoid duplication of the work.

9. In this regard, Malaysia acknowledges the more focused approach adopted by the Security Council on targeted sanctions and that no Government has actually raised any problems with any Security Council sanctions committed. In view of the seriousness of the decision, perhaps a survey of the continued relevance of the topic with capitals should be undertaken to enable a consensus decision to be made on the continued relevance of this agenda item.

Mr Chairman,

10. With regards to the revised Working Paper submitted by Belarus and the Russian Federation, proposing for a General Assembly Resolution to authorise the seeking of an International Court of Justice advisory opinion on three questions of international law as outlined in Chapter III Part G of the Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation (A/63/33/SUPP). Malaysia is of the view that further discussions and study is required

on this proposal with a view to formulating a suitable question, if any, to the International Court of Justice. In light of question No. 2 (regarding the determination of the existence of an act of aggression), Malaysia urges Member States to take into consideration resolution 3314 (XXIX) to ensure that there are no overlaps in the two. The main point to remember is that resolution 3314 should be followed in determining the existence of an act of aggression.

Mr Chairman,

11. Malaysia reiterates its view of the importance of the role of the International Court of Justice (ICJ) in the maintenance of peace among nations by adjudicating disputes among States as well as its issuance of advisory opinions as laid out under Article 96 of the Charter of the United Nations.

Mr Chairman,

12. Malaysia commends the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*.

13. Malaysia also notes with appreciation the contributions made by Member States to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*, and joins the Committee in reiterating its call for voluntary contributions to the trust fund for the updating of the *Repertoire of the Practice of the Security Council*, as well as the trust fund for the elimination of the backlog in the *Repertory of Practice of United Nations Organs*, and the sponsoring, on a voluntary basis, and with no cost to the United Nations, of associate experts to assist in the updating of the two publications.

Mr. Chairman,

14. Malaysia agrees with the view that the current status of work in the Special Committee was mainly due to the lack of political will on the part of some Member States, and was not a result of the working methods and that the quality of documents adopted by the Committee was more important than the length of time an item remained on the Committee's agenda. With regards to the proposal that no time limitation should be set for the submission of proposals, Malaysia is of the view that it is advisable that a reasonable amount of time should still be allocated for the submission of proposals. This is to ensure that no backlog occurs and so that enough time remains for the Committee to consider the submitted proposals thoroughly.

Thank you, Mr. Chairman.