

## STATEMENT

### REPUBLIC OF MAURITIUS

#### Opening of the Special Committee on the Charter of the UN and on the Strengthening of the Role of the Organization

Tuesday 21 February 2017, Conference Room 3, UN Headquarters

**Distinguished Chairperson,**

**Distinguished Members of the Bureau,**

**Dear Representatives of the Secretariat of the 6<sup>th</sup> Committee,**

**Dear Colleagues, Ladies and Gentlemen,**

My delegation wishes at the outset to congratulate the new Chair and his Bureau on their election and place on record our deep appreciation of the work conducted by the former Chair, H.E. Mrs. Janine Elizabeth Coye-Felson of Belize.

**Distinguished Chair,**

My delegation aligns itself on the statements made respectively by Iran on behalf of the Non-Aligned Movement (NAM) and by Algeria on behalf of the African Group.

It is now 42 years since the General Assembly decided to transform the Ad Hoc Committee created in the previous year into the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The main objectives were to examine suggestions and proposals regarding the Charter and the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of cooperation among all nations and the promotion of the rules of international law.

The Special Committee has thus been reconvened every year since 1975. The broad objective each time has been to consider the Special Committee's successive reports and renew or revise its mandate on an annual basis in its resolutions. The Special Committee has negotiated several texts resulting, *inter alia*, in the adoption by the General Assembly of important instruments such as the Manila Declaration on the Peaceful Settlement of International Disputes (GA

resolution 37/10 of 15 November 1982). The Special Committee was also instrumental in the preparation of the Handbook on the Peaceful Settlement of Disputes (1992).

**Distinguished Chair,**

When he was sworn in as the new UN Secretary-General last year, H.E. António Guterres pledged to build trust between people and their leaders and to reform the UN to better serve all people everywhere. During an Open Debate on "Maintenance of International Peace and Security: Conflict Prevention and Sustaining Peace" at the Security Council on 10<sup>th</sup> January 2017, H.E. António Guterres requested the Security Council to make greater use of Chapter VI of the Charter (Pacific Settlement of Disputes) as the UN must rebalance its approach to peace and security. He claimed that the reforms he has put in motion aim to achieve this and he wants to integrate all pillars of the UN under a common vision for action. It is thus heartwarming to see such a commitment to peace and security with a different mindset that favours conciliation and dialogue instead of sanctions.

As we are all aware, the UN Charter provides a basic framework for solving disputes peacefully. As the legitimacy of the use of sanctions is essential for them to be effective, sanctions must be imposed and implemented in full conformity with the UN Charter and international law. The question of the application of sanctions by the Security Council, including due process, is a matter of interest to the whole UN membership. Therefore, it is essential that the GA be consulted and informed adequately and that sanctions become last resort solutions. Thus, as rightly pointed out by the Secretary-General, Chapter VI of the Charter should be privileged, instead of the usual instinctive recourse to Chapter VII.

**Distinguished Chair,**

The Charter to the UN is not only the multilateral treaty which created the organization known as the UN and outlined the rights and obligations of the States signing it, but it is also the Constitution of the UN, laying down its functions and prescribing its limitations. The purposes of the UN are set out in Article 1 of the Charter. They are wide-ranging and provide a useful guide to the comprehensiveness of its concerns. Moreover, the UN Charter lays down the

fundamental obligation regarding the settlement of dispute between States in Article 2, paragraph 3.

In addition, Article 2 also lays down a variety of other principles in accordance with which both the UN and the Member States are obliged to act. These include the assertion that the UN is based upon the sovereign equality of States and the principles of fulfillment in good faith of the obligations contained in the Charter, the peaceful settlement of disputes and the prohibition of the use of force. It also provides that Member States must assist the organization in its activities taken in accordance with the Charter and must refrain from assisting States against which the UN is taking preventive or enforcement action. However, under Article 2(7) of the Charter, the UN may not intervene in matters essentially within the domestic jurisdiction of any State unless enforcement measures under Chapter VII are to be applied.

Furthermore, the UN General Assembly has reaffirmed the principle of peaceful settlement in several resolutions over the years and decades. In 1970, the UNGA adopted the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the UN. This became known as the Friendly Relations Declaration and is generally considered as an authoritative interpretation of the provisions of the Charter on the use of force and peaceful settlement of disputes.

Also, when we examine closely the UN Charter, there are various means of dispute settlement listed in paragraph Article 33: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or resort to regional agencies or arrangements to resolve disputes. The Friendly Relations Declaration, while repeating Article 2(3) of the Charter, provides additional detail as to the meaning of the principles of peaceful settlement.

It is also worth highlighting that membership of the UN may be suspended under Article 5 of the Charter by the GA, upon the recommendation of the Security Council, where the Member State concerned is the object of preventive or enforcement action by the Security Council, while Article 6 allows the expulsion of a Member State deemed to have persistently violated the Charter principles.

Article 18, which governs voting in the GA, stipulates that each member has one vote only and that decisions on 'important questions', including the admission of new members and recommendations relating to international peace and security, are to be made by a two-thirds majority of members present and voting. This is the case in spite of the enormous disparities in populations, size and resources between Member States. There is therefore real beauty in the UN Charter in that it empowers each Member State through the principle of sovereign equality and through the related voting power it confers.

**Distinguished Chair,**

The UN Charter is the most important document when it comes to the Rule of Law at the International Level. It is evident that the UN Charter has helped to create a new and a better world. It recognises the right of people to self-determination and independence and has created an organisation in which all States, whether big or small, are entitled to one vote, as stated earlier. It also prescribes that disputes between countries should be settled peacefully and force should only be used in accordance with the Charter.

In this regard, Mauritius wishes to underline the fundamental role of the International Court of Justice (ICJ) as the principal judicial organ of the UN in the peaceful settlement of disputes, especially given that the judgements and advisory opinions of the Court have helped to clarify the scope of international law and also the provisions of the Charter itself. Indeed, the ICJ's significance in settling disputes through peaceful means should be commended while compliance with its decisions must become the norm so that the Rule of Law prevails. This is echoed in OP 8 of GA Resolution 71/146 which recognizes the important role of the ICJ.

On this note, I wish to conclude by reiterating my country's full support to the Special Committee and hope that tangible progress may be made in the near future to ensure that the UN Charter is fully adhered to.

I thank you for your kind attention.