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**Remarks to the Colloquium on the United Nations Charter
and the Post-War International Order**

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“The United Nations Charter: Developments and Challenges”

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Mr. Chair,

Excellencies,

Ladies and Gentlemen,

I thank you for the opportunity to address you today, and I thank the Ministry of Foreign Affairs of China and the Chinese Society of International Law for organizing this important event.

I will focus my introductory remarks on the developments and challenges that have arisen with respect to the Charter of the United Nations.

Taken as a whole, in my view, the Charter has been remarkably resilient. That does not mean that certain aspects of the regime have not been put under pressure over the course of its history. Importantly, it also does not mean that the Charter has reached the end of its development, or that its capacity for further improvement has waned.

In analyzing the Charter, it is instructive to contextualize its opening verses. The preamble sets forth lofty aspirations—but they are not to be taken lightly.

The representatives of Governments assembled in San Francisco in 1945 were fully aware of the challenges they faced. They had lived through the “scourge of war” and emerged without illusions. They were optimistic and hopeful, but also professional and realistic—determined to unite the strength of the world, but not naïve to the hard work that would be required.

They also knew that the success of the enterprise required not only strong principles but also effective institutional arrangements. The Charter may be seen as a construct of these two elements—at one level there are the broad purposes and principles of Articles 1 and 2, and at the other, the structures to see them through, such as the General Assembly, the Security Council and a Secretariat staffed with international civil servants operating under the authority and direction of the Secretary-General.

It is in a way axiomatic to say that international law is central to the operations of the United Nations under the Charter. Notably, the preamble expresses the determination to “establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”, and this represents both a substantive and a structural imperative. Article 13 also calls on the General Assembly to initiate studies and make recommendations to “promote and encourage the progressive development of international law and its codification”. In the implementation of this mandate, the International Law Commission has been prolific in drafting international conventions and formulating and systematizing rules of international law in various fields.

Now, in terms of structure, international law has also been integral to the broadening of the international institutional landscape. The United Nations consists of not only its principal organs, but also their subsidiary bodies, and a number of other offices, funds and programmes. These entities have usually been created through resolutions adopted by the United Nations’ principal organs. The specialized agencies and related institutions, such as the International Atomic Energy Agency, have also been brought into relationship with the Organization through formal international agreements. Collectively, these various entities, acting in accordance with their legal mandates, have created a remarkably diverse and active institutional ecosystem at the international level.

As the milestone World Summit Outcome from 2005 confirmed, the various UN-system institutions are organized around three main, interrelated and mutually-reinforcing pillars: peace and security, human rights and development.

Peace and security often receives the most attention. On this front, we have certainly witnessed many developments and challenges, both substantive (for

example, the interpretation of the use of force and “intervention”, the exercise of self-defense and criteria for action under Chapter VII of the Charter, among many others) and structural, such as the composition and procedures of the Security Council and the authorization of enforcement action by regional organizations or States.

It is particularly notable, for instance, that peacekeeping, which often receives the most scrutiny of all, does not even appear in the Charter. While we may debate the success of particular missions, the time has long since passed where we would question whether the Charter gives the Organization—and particularly the Security Council—the power to establish, authorize and deploy peacekeeping forces to respond to international emergencies under certain circumstances. The drafters of the Charter might be rather amazed at the developments in this area—not to mention the complexity and scope of the United Nations’ peacekeeping forces.

What the innovation of peacekeeping shows is that when action is required—as it was with respect to the Suez crisis that precipitated the first armed United Nations peacekeeping force in 1956, and as it has been many times since—the international community can find a way, using the institutional structures that are available, to take the necessary steps.

United Nations action on peace and security has been a process of continuous development, with the primary aim of maintaining international peace and security and, as Article 1 provides, “tak[ing] collective measures for the prevention and removal of threats to the peace [and] the suppression of acts of aggression or other breaches of the peace”.

The challenge becomes ensuring that such action is both faithful to the purposes of the Organization, and that it adheres to international legal principles, such as the prohibition on the use of force except in certain, limited circumstances, including in self-defense or through collective action authorized by the Security Council. As we have seen, the legal answers in this area are not always clear—nor are they easy to implement.

The five permanent members of the Council—including China—have a particularly challenging responsibility in this regard. The international community often looks to them for action, and, in order to be effective, they must also uphold the principles and rules upon which the Charter is based—and this is not an easy task.

On the other pillars of the United Nations, we have also observed dramatic developments and encountered numerous challenges.

In the human rights area, for instance, the adoption of the universal declaration and the human rights covenants, the establishment of the Office of the High Commissioner for Human Rights and the creation of the Human Rights Council have given practical effect to the obligation of the United Nations to promote “universal respect for, and observance of, human rights and fundamental freedoms for all...”.

Many of the international human rights instruments enjoy near universal adherence. The challenge remains finding constructive ways, in collaboration with governments and other actors, to ensure that the regime is adopted, implemented and respected.

In the coming years, we may also see human rights principles increasingly applied to businesses and other private actors, which will give rise to new challenges. The United Nations has been proactive in this area through, among other things, the United Nations Global Compact, which presently consists of over 12,000 participants, including 8,000 businesses, in 145 countries around the world committed to ten principles in the areas of human rights, labour, the environment and anti-corruption.

Finally, on the development side, activities under the auspices of the United Nations have both reinforced the Organization’s development commitments under the Charter, and raised new practical, operational and legal challenges.

The concept of development is multifaceted. In recent years, United Nations activity has focused largely on the achievement of the Millennium Development Goals and the issue of sustainable development. While progress has been made, not all of the goals have been met. The post-2015 development agenda, when adopted by Member States, will seek to build on progress to-date, by, it has been proposed, merging the development, sustainable development and climate change agendas into a single, streamlined approach that would encompass all of these elements and focus foremost on the eradication of poverty.

This year alone a number of major international meetings on development will occur, including the third International Conference on Financing for Development, to be held in Addis Ababa in July; the summit on sustainable development, to be convened at United Nations Headquarters in September; and the twenty-first session of the Conference of Parties to the United Nations Framework Convention on Climate Change, which will take place in Paris in December.

Through these initiatives, the United Nations can help to catalyse mutually-beneficial development.

Consistent with the Charter, international law can and should play a larger role in the move toward a unified development regime. This may involve steps to refine and integrate broad development principles as well as measures to uphold development rights and obligations.

The foregoing highlights only a few of the broad challenges and developments that have arisen with respect to the Charter. It is a dynamic instrument, and, while staying true to the Charter's core principles and purposes, the United Nations must continue to evolve to account for twenty-first century challenges, such as terrorism, infectious disease, climate change and natural disasters, among others.

This will not be easy, and a great deal of hard work remains.

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization has been seized with these issues for some time; and the coming years may see an increased focus on this mechanism as a venue for substantive deliberations on matters of mutual concern.

In approaching this work, I am reminded of something that I learned recently, which is that in Chinese, the word "crisis" is pronounced *wei ji*, combined with two characters. One of the characters means "crisis", while the other means "opportunity". We would all be well-served to embrace this philosophy, and treat the challenges that we face as opportunities for progress. By overcoming them, we are able to reach for greater heights.

I hope that through our discussion today we can address the issues that I have raised in more depth and look for ways to further maximize the opportunities and attend the challenges that the Charter presents.

I thank you for your kind attention.