

## CONCEPT NOTE

### UNITED NATIONS SECURITY COUNCIL ARRIA-FORMULA MEETING

#### *The Russian occupation of Crimea: the role and limits of the UN Security Council and good offices of the UN Secretary-General in addressing violations of the UN Charter and international law*

Organized by the Permanent Missions of the Kingdom of the Netherlands, Poland, Sweden, the United Kingdom of Great Britain and Northern Ireland, and the United States to the UN in partnership with the Permanent Mission of Ukraine to the UN

**Date:** 15 March 2018

**Time:** 3 pm – 5 pm

**Location:** Conference Room 7, UNHQ, New York.

**Participation:** All UN member states are invited to attend. Speaking possibilities only for UN Security Council members and by invitation. The Arria-meeting will be open to the press.

#### Program

- **Welcoming remarks:** Permanent Representative of Sweden to the United Nations, Ambassador Olof Skoog.
- **Panel presentations:**
  - **Ms. Olena Zerkal**, Deputy Minister for Foreign Affairs of Ukraine.
  - **Ms. Fiona Frazer**, Head of the UN Monitoring Mission in Ukraine (TBC).
  - **Ms. Ayla Bakkalli**, Representative of Crimean Tatars.
- **Discussion:** statements by UN Security Council members and by invitation, Q&A.
- **Closing remarks:** Permanent Representative of Poland to the United Nations, Ambassador Joanna Wronecka.

#### Background

In February 2014, Russian Armed Forces launched a military operation to seize the Crimean Peninsula, part of Ukrainian territory, in acts of aggression against Ukraine. Since then the UNSC has been actively seized of the matter, conducting numerous briefings and consultations.

In March 2014, a draft UNSC resolution (S/2014/189), co-sponsored by 42 UN member states, which would have reaffirmed the sovereignty, independence, unity and territorial integrity of Ukraine within its internationally recognized borders as well as declared null and void the results of the so-called referendum on the change of status of Crimea, was vetoed by the Russian Federation. Shortly thereafter, the UN General Assembly (UNGA) adopted resolution 68/262 (“Territorial Integrity of Ukraine”), which reaffirmed the internationally recognized borders of Ukraine and the absence of any legal basis to change the status of Crimea. The same

position was confirmed by UNGA resolutions 71/205 and 72/190 (“Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”). These resolutions also characterized the Russian Federation as an occupying power, noted the primary responsibility of States to promote and protect human rights, and called on the Russian Federation to uphold all of its obligations under applicable international law as an occupying power.

The Russian occupation of Crimea constitutes one of the most flagrant breaches of the UN Charter since the Second World War. Russia’s actions have violated not only the UN Charter, but also contravened a number of bilateral and multilateral agreements and commitments, including the Budapest Memorandum, the Agreement on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation and the Agreement between Ukraine and the Russian Federation on the Ukrainian-Russian state border.

### **Objectives and guiding questions**

Chapter VII of the UN Charter confers on the UNSC responsibility to determine the existence of any threat to peace, breach of the peace or act of aggression and to make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security. Article 99 of the UN Charter also authorizes the Secretary-General to bring to the attention of the UNSC any matter which in his opinion may threaten the maintenance of international peace and security.

This meeting will mark four years since the attempted annexation of Crimea and the city of Sevastopol by the Russian Federation. It will provide an opportunity to hear first-hand accounts and expert perspectives on the issue of the occupation of Crimea as a violation of the UN Charter and other norms of international law. It will also present an opportunity to discuss the role that the international community, including the UNSC, the Secretary-General and regional organizations can play in addressing such violations of the UN Charter and in seeking a political solution to this conflict.

The participants are expected to raise, inter alia, the following questions:

- a. Which further measures can the Security Council, the Secretary-General and the United Nations as a whole undertake to address effectively the issue of the occupation of Crimea?
- b. What role can the Security Council play in implementing relevant existing and future decisions of UN bodies and international courts on the Russian occupation of Crimea?
- c. How can international law be used more effectively as a tool to reach a settlement at a time of asymmetrical/hybrid conflicts like this one?
- d. What are some of the challenges faced by the international community in addressing similar situations in a rules-based international order?