



General Assembly

Sixty-eighth session

Official Records

Distr.: General

8 January 2014

Original: English

Sixth Committee

Summary record of the 10th meeting

Held at Headquarters, New York, on Wednesday, 16 October 2013, at 10 a.m.

Chair: Mr. Silva (Brazil)*later:* Mr. Kohona (Chair) (Sri Lanka)

Contents

Agenda item 79: Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session (*continued*)

Agenda item 78: Criminal accountability of United Nations officials and experts on mission

This record is subject to correction. Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit (srcorrections@un.org), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

13-51403 (E)



Please recycle A small graphic of a recycling symbol, consisting of three chasing arrows forming a triangle.



In the absence of Mr. Kohona (Sri Lanka), Mr. Silva (Brazil), Vice-Chair, took the Chair.

The meeting was called to order at 10.05 a.m.

Agenda item 79: Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session (continued) (A/68/17)

1. **Ms. Tatarinovich** (Belarus) said that the work of the United Nations Commission on International Trade Law (UNCITRAL) was important for identifying new and promising practices that would enhance the system of international trade law, and for promoting the rule of law among States and other economic actors. Her delegation welcomed the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration. It had long emphasized the need for a balance between the interests of the investor, the State receiving the investment and the investor's State, and was pleased that the Rules enshrined the principle of consultation by the arbitral tribunal with the disputing parties on all key aspects of the disclosure of information in an arbitration proceeding relating to an investment dispute.

2. The Rules would be effective if they served to ensure that the rights of the disputing parties were not violated and that no undue pressure was brought to bear on the parties or the arbitration proceeding itself. Her delegation recognized the need to clearly distinguish between diplomatic protection and the rights of States parties to an international investment treaty to participate in an arbitration proceeding concerning the interpretation of that treaty. Any abuse of the right of the investor's State to provide information to an arbitral tribunal must be avoided. Moreover, confidential and sensitive information must be protected.

3. Belarus welcomed the decision to designate the UNCITRAL secretariat as the sole repository of information on arbitrations conducted under the Rules and looked forward to further work by the Commission and its Working Groups on the topic, particularly with regard to the issue of parallel proceedings initiated in respect of a commercial or investment dispute. It also welcomed the adoption of the UNCITRAL Guide on the Implementation of a Security Rights Registry and looked forward to future work by the Commission on the draft Model Law on Secured Transactions, cross-border insolvency, electronic commerce and micro-,

small- and medium-sized enterprises. The Commission's work on the guide on the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards would contribute to the production of a valuable information document. Its efforts in the area of public procurement should reflect regional and global regulations on the matter.

4. Belarus had consistently opposed any transfer of decision-making authority from the Commission as a whole to its Working Groups or to colloquiums or other mechanisms. The Commission's current working method provided for a broad and non-discriminatory exchange of views. It was essential to maintain the principle of consensus in preparing and adopting UNCITRAL documents in order to ensure their universal applicability. The Commission should continue its efforts to build State capacity with regard to the codification and progressive development of international trade law, drawing on the experience of other bodies in the United Nations system and broadening the practice of conducting assessment visits. It should also seek donors to support its technical assistance activities and play an active role in organizing training and other events in line with States' needs. In that regard, Belarus was grateful for the contribution of the UNCITRAL secretariat to a workshop on investment dispute settlement held in Minsk in November 2012 and looked forward to similar cooperative efforts in the future.

5. **Mr. Otsuka** (Japan), expressing appreciation for the Commission's contribution to the progressive harmonization and unification of international trade law, said that the UNCITRAL Guide on the Implementation of a Security Rights Registry would be beneficial for all States, as it could be widely used in legislative practice for the effective registry of security transactions, in addition to providing model registry forms. His delegation welcomed the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency, the recommendations on directors' obligations in the period approaching insolvency, and the revisions to the UNCITRAL Model Law on Cross-Border Insolvency: the Judicial Perspective. Those instruments should be helpful to both legislators and judges in uniformly interpreting the Model Law on Cross-Border Insolvency and legislation enacted on the basis of that Model Law.

6. His delegation was pleased that the Commission had finally found its strategic direction with regard to

micro-, small- and medium-sized enterprises and had established new mandates for Working Group I (Micro-, Small- and Medium-sized Enterprises) and Working Group V (Insolvency Laws). He hoped that careful consideration would continue to be given to new instruments, taking into account the need for coordination of existing national legislation on the matter.

7. **Mr. Abulhasan** (Kuwait) said that Kuwait, which had recently been elected a member of UNCITRAL, remained committed to developing and adapting its domestic legislation in line with international trade law instruments and looked forward to contributing to the work of the United Nations in the resolution of electronic commerce and international trade disputes. It afforded great importance to overhauling the rules and regulations on electronic commerce, which would not be complete unless they addressed the issue of electronic crime. UNCITRAL had an important role to play in that regard, and that role should be strengthened in order to promote the rule of law. His delegation called on the Commission to intensify its efforts to strengthen international economic relations, and on its Working Group III (Online Dispute Resolution) to continue to fulfil its mandate.

8. **Mr. Arbogast** (United States of America) said that his delegation welcomed the instruments adopted during the Commission's forty-sixth session, including the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the revised UNCITRAL Arbitration Rules, which aimed to make arbitrations initiated under an investment treaty concluded after 1 April 2014 accessible to the public through the publication of information on the commencement of the arbitration, key arbitration documents, open hearings and participation by third parties. The UNCITRAL Guide on the Implementation of a Security Rights Registry provided commentary and recommendations on legal and practical issues that needed to be addressed in a modern security rights registry. The guidance on procurement regulations to be promulgated in accordance with the UNCITRAL Model Law on Public Procurement ([A/CN.9/770](#)) and the glossary of procurement-related terms used in that Model Law ([A/CN.9/771](#)) would provide assistance in the area of public procurement. The revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency were intended to address the uncertainty regarding the application of the model law

and to provide valuable guidance to domestic courts. Part four of the UNCITRAL Legislative Guide on Insolvency Law provided a useful discussion of issues related to the responsibilities of directors of corporations that were nearing insolvency.

9. In light of the Commission's financial situation, the United States had submitted a paper ([A/CN.9/789](#)) encouraging members to consider many aspects of the operation of UNCITRAL, and his delegation was pleased that the Commission had begun considering whether changes were needed in its methods of operation. In particular, it was pleased that the Commission had discussed criteria for deciding when projects were to be undertaken and had acknowledged various tools through which it could introduce greater flexibility and efficiency in its working methods, including the use of experts or special rapporteurs.

10. His delegation also welcomed the Commission's recognition of the benefits of substantive cooperation with other organizations, such as the International Institute for the Unification of Private Law (UNIDROIT) and the Hague Conference on Private International Law, and looked forward to the Secretariat's upcoming report on possible joint projects with those organizations. It also looked forward to continued discussion of reform measures that could help to maximize the Commission's ability to accomplish more with its limited resources and to ensure a focus on the highest-priority projects. The Commission had, through the practical mechanism of international instruments designed to harmonize international trade law, contributed in a concrete manner to promotion of the rule of law internationally, and deserved recognition for that contribution.

11. **Mr. De Vega** (Philippines) said that UNCITRAL had helped to facilitate world trade by progressively harmonizing and unifying international trade law. Its conventions, model laws and other instruments served to reduce or remove obstacles to the flow of trade. The Commission was to be commended for finalizing and adopting the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration. His delegation was pleased that the Rules would be published as a stand-alone text, such that a mere reference in a treaty to the UNCITRAL Arbitration Rules would not call for their automatic application. That approach was consistent with the concept of party autonomy and would provide greater flexibility with regard to the applicability of those Rules to other generic arbitration

rules. The Philippines supported the proposal that the UNCITRAL secretariat should serve as the transparency repository.

12. The Commission's finalization and adoption of the Technical Legislative Guide on the Implementation of a Security Rights Registry and the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency were also noteworthy accomplishments of its forty-sixth session. His delegation had followed the Commission's work in the areas of public procurement, electronic commerce and online dispute resolution with keen interest and was especially interested in the recommendations of Working Group III (Online Dispute Resolution) on how the draft rules on online dispute resolution could respond to the needs of developing countries and those in post-conflict situations and how arbitration could render online dispute resolution more effective.

13. Micro-, small- and medium-sized enterprises accounted for most of the economic activity in many developing countries and should be helped to engage in trade at the international level by reducing the various legal obstacles they faced. His delegation therefore supported the creation of a mandate for a working group focused on the enterprise life cycle in relation to such enterprises, the aim of that work being to build an enabling legal environment that would simplify and facilitate the incorporation and registration of such enterprises.

14. The Philippines also looked forward to learning from and contributing to the preparatory work relating to public-private partnerships, which were an important alternative for securing resources for development. Indeed, the establishment of such partnerships was one strategy identified by his Government to achieve inclusive growth through infrastructure and development projects. It encouraged collaboration between the public and private sectors to achieve shared growth and development goals by utilizing the advantages of private-sector initiatives, coupled with efficient and accelerated provision of public services.

15. **Ms. Lee** (Singapore) said that the Commission had rightly emphasized the importance of formulating legislative texts, as opposed to soft law instruments, on which it was likely that consensus could be achieved, for which an economic need existed, and which would have a beneficial effect on the development of international trade law. While soft law instruments

such as guides and notes had their place, the harmonization and modernization of international trade law was best achieved through legislative texts. Moreover, it might be preferable for soft law instruments to be formulated by the Secretariat in collaboration with experts, with the outcomes to be discussed and approved by the Commission, rather than by working groups, whose processes could be extremely arduous and expensive. Several of the current Working Groups of UNCITRAL had moved from drafting legislative texts to working on more detailed soft law instruments arising from legislative texts, such as model legislative provisions, guides to implementation and notes. Some of the Groups had received mandates to work on very narrow topics. However, while the legal issues involved might be interesting, such work would not have the same impact as a legislative text in advancing the harmonization of international trade law.

16. The Commission's forty-sixth session had seen some developments that were substantial and useful but also some that gave rise to concerns. The work on the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, for instance, had been extremely difficult. Investor-State arbitrations were not commercial arbitrations. They were governed by public international law and not the national law chosen by the parties. Accordingly, the paradigms, values and techniques of commercial arbitration could not apply to investor-State arbitrations. Singapore supported transparency in such arbitrations as one means of ensuring their integrity, which had recently been subject to criticism. However, it shared the concerns of various States regarding intervention by non-governmental organizations in investor-State arbitrations.

17. The transparency rules represented a compromise among different interests, a central aspect of that compromise being that the rules would apply only to future investment agreements. The Commission had mandated Working Group II (Arbitration and Conciliation) to formulate a draft convention on the application of the transparency rules to existing treaties. While it had been agreed that there would be no expectation that States would or should use the mechanism offered by such a convention and that they should not be pressured to do so, any application of the transparency rules to existing treaties would raise serious issues. Investments made pursuant to those

treaties were premised on the legal environment established therein. Unilaterally changing that environment after investments had been made would destroy the certainty of the rules applicable to them, which would be contrary to the rule of law.

18. Singapore remained committed to the work of UNCITRAL and would continue to advocate the adoption of UNCITRAL texts among its partners in the Association of Southeast Asian Nations.

19. **Ms. O'Brien** (Australia), emphasizing her delegation's support for the efforts of UNCITRAL to progressively harmonize international trade law and implement modern private law standards, said that the application of uniform standards internationally would help to reduce barriers to international trade, commerce and investment. Close cooperation between UNCITRAL and other international and regional organizations engaged in the harmonization of private law, such as the Hague Conference on Private International Law and the International Institute for the Unification of Private Law, was important in order to avoid duplication of effort and ensure systematic and united development of the law of international trade.

20. Australia welcomed the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the opening of the UNCITRAL Regional Centre for Asia and the Pacific in the Republic of Korea. The Regional Centre had already begun to play a significant role in enhancing the Commission's engagement in the Asia-Pacific region through a seminar held in Australia in February 2013. Her Government also welcomed the establishment of the position of UNCITRAL Coordinator in Australia to coordinate UNCITRAL-related work in that country.

21. **Ms. Norsharin** (Malaysia) said that her delegation had participated in the work of the Commission's Working Groups, in particular Working Group II (Arbitration and Conciliation), and was looking into the issues raised in the discussions of Working Group III (Online Dispute Resolution). It took note of the work of Working Group II and of the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, which would take effect on 1 April 2014 and would apply only to future investment treaties. Malaysia supported mediation or conciliation as an investor-State dispute settlement mechanism, which improved the efficiency

and flexibility of dispute resolution, consumed fewer resources and facilitated the long-term working relationship between parties, while improving good governance and the regulatory practices of States. Her delegation had also noted the work of the other Working Groups and would closely monitor the implementation of any instruments that they adopted.

22. **Mr. Banerjee** (Canada) said that the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration constituted an important addition to the investor-State dispute resolution framework. His delegation supported the decision to continue work on the subject in the form of a convention. The UNCITRAL Guide on the Implementation of a Security Rights Registry was an important element in the package of tools developed by the Commission in the field of secured transactions and would be useful for States seeking to modernize or put in place a legislative regime for security interests. The Commission's approach to secured transactions would be useful in facilitating access to credit, and his delegation was pleased to see that work to develop a model law on the matter was continuing.

23. Canada had strongly supported the Commission's decision to hold a colloquium during the first part of the session of Working Group V (Insolvency Law). It was important to have the opportunity for further discussions on how best to build on the consensus regarding directors' liability and the concept of centre of main interests in the context of enterprise groups and to consider topics for future work relating to insolvency. With respect to the work of Working Group III (Online Dispute Resolution), it was important to ensure that the rules safeguarded consumer protection. It was also essential for the Working Group to examine alternatives to arbitration awards as means of ensuring effective implementation of online dispute resolution outcomes. Most existing online dispute resolution systems did not rely on binding arbitration and enforcement under the New York Convention of 1958 to implement outcomes, but rather used alternatives such as charge backs, trust marks and vendor deposits.

24. His delegation believed that the Commission's work with regard to micro-, small- and medium-sized enterprises would be useful for the development of harmonized rules and looked forward to the first project on simplified business incorporation. It was pleased to see that a broad discussion on planned and possible future work had figured prominently on the

Commission's agenda for its forty-sixth session, as such discussions enabled the Commission to make informed decisions and match priorities with resources. Similar discussions should be held in future years.

25. **Mr. Clarke** (United Kingdom) said that the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration were an important contribution to the international investment protection system. The United Kingdom supported the UNCITRAL secretariat's role as transparency repository under the Rules. However, any requests for additional funding to enable it to undertake that role should be made on a cost-neutral budgetary basis. His delegation hoped that the proposed convention on the application of the Rules would allow them to be widely used.

26. The United Kingdom had been pleased to participate in the work of Working Group V (Insolvency Law) on the development of legislative guidance on directors' obligations in the period approaching insolvency and on the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency: Judicial Perspective, which had subsequently been adopted by the Commission. It supported the proposal to hold a colloquium to consider future topics for the Working Group as well as to continue its work on group enterprise insolvencies, which represented the most economically significant issues in cross-border proceedings. Completion of the Working Group's existing mandate would yield an important addition to the UNCITRAL insolvency texts.

27. **Mr. Choi Yong Hoon** (Republic of Korea) said that the finalization and adoption of the five texts on transparency in treaty-based investor-State arbitration, security rights and cross-border insolvency were the most significant achievements of the Commission's forty-sixth session. His delegation remained a strong supporter of UNCITRAL and its current work programme, as well as the planned and possible future work in areas such as micro-business. UNCITRAL also had a key role to play in the promotion of the rule of law, which was a key factor in achieving sustainable economic progress and development.

28. His delegation had actively participated in all of the Commission's Working Groups and had contributed to its technical assistance activities. The UNCITRAL Regional Centre for Asia and the Pacific, located in the Korean city of Incheon, had hosted three international

conferences in 2012 with a view to promoting and disseminating UNCITRAL texts in the Asia-Pacific region. Those conferences, which had dealt with the international sale of goods, electronic commerce and online dispute resolution, and international commercial arbitration, had provided an opportunity for a timely discussion of international transaction rules in the Asia-Pacific region and had contributed to the promotion and dissemination of UNCITRAL texts and other relevant information. His Government would continue supporting the Regional Centre to the greatest extent possible.

29. **Mr. Shang Zhen** (China) said that the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency and the Technical Legislative Guide on the Implementation of a Security Rights Registry would undoubtedly be helpful in improving relevant domestic legislation. By enhancing the transparency of international investment arbitration procedures, the rules on transparency would help to dispel the impression that international arbitration tribunals tended to protect investors at the expense of the public interest and would reinforce social monitoring of the rule of law in the field of foreign investment management in host countries, thus building the trust of the international community in investment arbitration mechanisms. The revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency, which further defined the concept of centre of main interests, provided guidance and recommendations for the consideration of cross-border insolvency cases and the enforcement of verdicts and would certainly improve States' capacity to handle such cases. The Guide on the Implementation of a Security Rights Registry would help States to build a security registry system that would effectively protect the legitimate rights and interests of creditors, thus reducing transaction risks and fostering trade development. It would also facilitate the gradual harmonization and unification of laws on security rights registration.

30. His Government had participated in the drafting of UNCITRAL model laws and legislative guides, which had then been applied in China's domestic legislation; it would continue working with the Commission to promote the unification of international trade law and the development of international trade.

31. **Mr. Zemet** (Israel), observing that 2013 had been a particularly productive year for UNCITRAL, said that the good compromise achieved with regard to the application of the Rules on Transparency in Treaty-based Investor-State Arbitration to existing investment treaties reflected the collaborative spirit that prevailed in the Commission. His delegation fully supported the designation of the UNCITRAL secretariat as the repository under the Rules. Many countries, Israel included, would benefit from the work undertaken on the UNCITRAL Model Law on Cross-Border Insolvency and the revisions to the UNCITRAL Legislative Guide on Insolvency Law concerning directors' obligations in the period approaching insolvency and the nature of their liability, particularly prior to and during the negotiation of large debt arrangements. Those texts constituted a substantial contribution to the development of insolvency law.

32. His delegation continued to support the efforts of Working Group III to create practical online dispute resolution rules for low-value, high-volume cross-border transactions. Those rules should include a mechanism to ensure finality in resolving disputes arising from such transactions, which was crucial for enhancing consumer and business confidence in online international trade. His delegation was mindful, however, of the concerns of certain States regarding the compatibility of such a mechanism with applicable legislation and would continue working with other delegations to craft a solution to those concerns.

33. The future work envisaged by the Commission attested to its visionary role in the development of international trade law. The work of the UNCITRAL secretariat was crucial to the functioning of the Commission, and his delegation appreciated its professionalism and dedication.

34. **Mr. Leonidchenko** (Russian Federation) said that the work of the Commission made an essential contribution to the progressive development of international law, the promotion of the rule of law and the efficient settlement of commercial disputes. The various documents developed within UNCITRAL had been successfully applied in practice, for example in the crafting of his country's draft law on collateral and the registration thereof. One of the Commission's most important achievements in 2013 had been the adoption of the Rules on Transparency in Treaty-based Investor-State Arbitration and the amendments to the UNCITRAL Arbitration Rules. His delegation was

pleased that the adoption of those documents had been preceded by detailed deliberations within the Commission and extensive consultations with Governments and interested intergovernmental organizations. It hoped that the Rules would make a tangible contribution to the development of an agreed legal framework for the just and efficient settlement of international investment disputes. The UNCITRAL Guide on the Implementation of a Security Rights Registry would usefully complement the existing Legislative Guide on Secured Transactions, while the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency would be of significant help to judges in interpreting and applying certain aspects of the Model Law, thus contributing to the development of uniform practice on the matter.

35. As to future work, the UNCITRAL Notes on Organizing Arbitral Proceedings of 1996 should be updated. In the area of electronic commerce, his delegation would favour continued work to prepare a legislative instrument on electronic transferable records. It also welcomed the establishment of a working group to examine the legal aspects of creating an enabling environment for micro-, small- and medium-sized enterprises. It hoped that the colloquium scheduled to take place in 2014 to mark the thirty-fifth anniversary of the adoption of the United Nations Convention on Contracts for the International Sale of Goods would provide an opportunity for a thorough examination of the practical experience accumulated over the years in the interpretation and application of the Convention and other instruments in the area of contractual law.

36. **Mr. Gonzalez** (Chile) said that the Commission's work contributed to greater coherence in the unification and harmonization of international trade law with domestic legislation. The Rules on Transparency in Treaty-based Investor-State Arbitration, the Guide on the Implementation of a Security Rights Registry and the revisions to the Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency were tangible evidence of the Commission's ability to produce instruments that enjoyed international legal recognition. Chile had drawn on the UNCITRAL Model Law on Cross-Border Insolvency in drafting its law on the reorganization and liquidation of personal and corporate assets and was gradually harmonizing all its domestic legislation with relevant UNCITRAL guidelines. It had also played a

role in ensuring that the work of the Commission reflected international trends and that the topics addressed were consistent with or complementary to those that had already been defined. Chile therefore supported the planned work on microfinance and micro-, small- and medium-sized enterprises.

37. His delegation appreciated the Commission's stronger focus on developing countries and countries in post-conflict reconstruction situations, which had been accompanied by a growing demand for technical assistance. The regional centres played a valuable role in that regard by facilitating better needs assessment and localization of trade law reform projects and more precise identification of priority areas to be addressed in assistance and cooperation activities. His delegation supported all forms of UNCITRAL technical assistance aimed at enhancing the legislative process, from the adoption, application and interpretation of laws to the coordination of their implementation in the context of international trade. It also welcomed the discussions on the Commission's strategic direction and the coordination of its work with that of other relevant agencies. Chile would continue to support the work of the Commission and the activities of its various Working Groups, which should be continually evaluated and should address the priorities established by the Sixth Committee.

38. **Mr. Poetranto** (Indonesia) said that, as a new member of UNCITRAL, Indonesia would strive to contribute positively to the development of international trade law. In a world that was increasingly interdependent economically, there was a widely acknowledged need for an improved legal framework to facilitate international trade and investment. UNCITRAL played an important role in developing that framework, in keeping with its mandate of preparing and promoting the adoption and use of legislative and non-legislative instruments in a number of key areas of commercial law. His delegation had noted with appreciation the progress and continued efforts of the Working Groups to finalize the documents on arbitration and conciliation, security interests, insolvency law, public procurement, online dispute resolution and electronic commerce, and was committed to supporting those efforts. Indonesia had made financial contributions to the UNCITRAL Trust Fund to support the Commission's technical cooperation and assistance activities, but was of the

view that the Commission should continue to seek alternative sources of funding for those activities.

39. A stable and predictable legal framework was crucial for generating inclusive economic growth, as had been recognized during the Asia-Pacific Economic Cooperation (APEC) Summit in October 2013, when the leaders of 21 Pacific-rim economies had pledged to implement prudent policies to maintain stability and avoid creating trade and investment barriers. Nevertheless, his delegation had observed that many meetings of UNCITRAL and its Working Groups were sparsely attended. The level of participation in the Working Groups was especially alarming. He encouraged members of the Commission to improve their participation in those meetings.

40. **Mr. Hameed** (Pakistan) said that the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration would help to promote good governance, the rule of law and fairness in investment and arbitration processes. His delegation supported the provisions of article 7 of the Rules regarding disclosure of confidential information and welcomed the Commission's decision to make the Rules applicable to existing investment treaties to the extent that such application was consistent with the treaty in question and only when the concerned parties explicitly opted to apply them. That decision provided flexibility on the issue, which was important because many investment treaties had been finalized long before the Commission had begun its work on a legal standard for transparency. As those standards were still new, his delegation would recommend a prudent and gradual approach to the development of a convention on transparency in treaty-based investor State arbitration.

41. With regard to the UNCITRAL Guide on the Implementation of a Security Rights Registry, a secured transaction regime with an accessible security rights registry would ultimately benefit credit markets and promote investment, development and good governance. The development of national security rights registries along similar lines would enhance the cross-border flow of credit and promote international trade. The Guide to Enactment and Interpretation of the UNCITRAL Model Law on Cross-Border Insolvency was a well-timed undertaking, given the significant increase in cross-border insolvency proceedings in recent years. The legislative recommendations on directors' obligations in the period approaching insolvency were also important, as timely measures by

directors could help to address the effects of companies' financial distress.

42. Nonetheless, the Commission's activities should not be restricted to the identification of important topics, the preparation of texts and the promotion of their use. The provision of legislative technical assistance to developing countries should also be a priority. The relevance of the Commission's work in relation to such issues as regional integration and economic and social development was beyond doubt. That work should be integrated with broader United Nations efforts to promote the rule of law at the national and international levels. The implementation of UNCITRAL instruments would help countries to attract investment, resolve commercial disputes, build the trust of the international community and, most importantly, ensure good governance and the rule of law.

43. **Ms. König** (Germany) said that efficient and transparent dispute settlement mechanisms were of crucial importance to ensure effective legal protection for businesses and strengthen acceptance of arbitration at the international level. Her delegation therefore welcomed the adoption of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the establishment of a repository of information under the Rules, with the UNCITRAL secretariat to serve in that capacity within existing resources.

44. **Mr. Schöll** (Switzerland), Chair of the United Nations Commission on International Trade Law, said that he had taken due note of all the issues and concerns raised during the debate and expressed appreciation for the degree of commitment shown by Committee members to the work of UNCITRAL. While the Commission's membership was limited to 60 States, its rules of procedure allowed observer States to participate in its activities on an equal footing with members. Its instruments set world standards and thus affected all States; broad participation in its work was therefore highly desirable. He encouraged all States to take part in the deliberations of the Commission and its Working Groups.

Agenda item 78: Criminal accountability of United Nations officials and experts on mission (A/68/173)

45. **Mr. Gharibi** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that, as major contributors and recipients of

peacekeeping personnel, the countries of the Movement attached great importance to the issue of criminal accountability of United Nations officials and experts on mission. The Movement appreciated the outstanding contributions and sacrifices of United Nations peacekeepers, but stressed that all United Nations peacekeeping personnel should perform their duties in a manner that preserved the image, credibility, impartiality and integrity of the Organization. It also emphasized the importance of maintaining a policy of zero tolerance in all cases of sexual exploitation and abuse committed by peacekeeping personnel. The Movement looked forward to the continued consideration within the Committee of the report of the Group of Legal Experts on ensuring accountability (A/60/980).

46. Implementation of the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, adopted by the General Assembly in its resolution 62/214, would help to mitigate the suffering endured by victims of sexual exploitation and abuse. General Assembly resolution 61/291 on the comprehensive review of the whole question of peacekeeping operations in all their aspects should be implemented without delay, as it would strengthen accountability mechanisms and help to ensure due process in the investigation of sexual exploitation and abuse.

47. In that connection, full implementation of General Assembly resolutions 62/63, 63/119, 64/110 and 65/20 by all Member States could help to eliminate any jurisdictional gaps. Subsequently, an assessment could determine whether further action by the Assembly was required. Important policy and remedial measures had been agreed upon but still needed to be implemented. The Movement continued to believe that progress on short-term measures was needed and that it was premature to discuss a draft convention on the criminal accountability of United Nations officials and experts on mission. For the time being, the Committee should focus on substantive matters and leave matters of form for a subsequent stage.

48. **Ms. Dieguez La O** (Cuba), speaking on behalf of the Community of Latin American and Caribbean Nations (CELAC), said that criminal misconduct by United Nations officials and experts on mission harmed not only the victims but also the reputation of the Organization and had a detrimental effect on the

fulfilment of mandates. Such behaviour must not go unpunished. However, its consequences must be considered in the light of the principles of justice and international law, in particular respect for due process. While the report of the Secretary-General on the criminal accountability of United Nations officials and experts on mission (A/68/173) showed that some States had taken steps to establish jurisdiction over such offences, it also made it clear that more needed to be done in order to ensure that impunity was not tolerated. CELAC encouraged the Organization to continue to implement its policies on the matter in accordance with General Assembly resolution 66/93.

49. It was important for the Committee to continue to be informed of allegations of criminal activity or abuse by United Nations officials and experts on mission. CELAC was not convinced, however, that the number of reported cases reflected the true extent of the problem. The Secretariat should continue its efforts to improve the provision of information to and communication with concerned Member States from the outset of any incident with possible criminal implications. The Community had noted the Secretariat's efforts to establish a standard procedure for notifying Member States of serious allegations of misconduct involving uniformed personnel deployed as experts on mission and believed that the same procedure should be followed for incidents involving United Nations officials and non-uniformed experts on mission.

50. CELAC reaffirmed its support for a policy of zero tolerance of sexual exploitation and abuse and other criminal conduct, while reiterating the need to respect the rule of law in the implementation of that policy. The Secretary-General and Member States had a shared responsibility to prevent and punish criminal activities committed by persons working for the United Nations and to enforce standards of conduct in that regard. CELAC welcomed the practical measures described in the report of the Secretary-General concerning training and awareness-raising on United Nations standards of conduct and endorsed the three-pronged strategy of preventive measures, the enforcement of standards of conduct and remedial action to address sexual exploitation and abuse.

51. Discussions between the Secretariat and Member States on the training of United Nations officials and experts on mission and on the issues of privileges and immunities and the waiver thereof should continue.

There were many areas where cooperation could be improved but some, such as investigations in the field and during criminal proceedings and the provision and assessment of evidence in administrative and jurisdictional proceedings, presented particular challenges. The Latin American and Caribbean States stood ready to collaborate with other States in ending impunity for criminal activity by United Nations officials and experts on mission.

52. **Mr. Salem** (Egypt), speaking on behalf of the Group of African States, said that the issue under discussion was of great importance to African countries as a large number of United Nations officials and experts were currently deployed in Africa. While commending the contributions and sacrifices of United Nations peacekeepers, officials and experts on mission, the Group noted with concern the instances of sexual exploitation and abuse committed by a few of them. Such conduct undermined the Organization's image, integrity and credibility and caused grave harm to the victims. It was of paramount importance to ensure that criminal acts never went unpunished. Jurisdictional gaps must be eliminated, as they could lead to a more criminality and suffering. The African Group welcomed the efforts of many Member States to establish their jurisdiction, particularly over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts. Many Member States had also indicated their readiness to afford assistance in criminal investigations and extradition proceedings. The African Group stressed the importance of cooperation through information-sharing, exchange of experience and provision of legal assistance to help strengthen the capacity of national judicial institutions.

53. The Group also commended the improved predeployment training materials developed by the Conduct and Discipline Unit and encouraged troop-contributing countries to highlight the issues of sexual abuse and other criminal acts during mandatory predeployment training. Past General Assembly resolutions on the subject contained important policy and remedial measures which, if fully implemented, would be useful in addressing the issue. A zero-tolerance policy with regard to sexual abuse, other criminal acts and impunity should remain the guiding principle. Perpetrators of such crimes, regardless of their status, should be prosecuted. The obstacles to holding United Nations officials and experts on

mission criminally accountable must be overcome in accordance with the principles of the rule of law, due process and the Charter of the United Nations.

54. *Mr. Kohona (Sri Lanka) took the Chair.*

55. **Ms. Cujo** (Observer for the European Union), speaking also on behalf of the candidate countries Iceland, Montenegro, Serbia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania and Bosnia and Herzegovina; and, in addition, Armenia, Georgia and Ukraine, said that the European Union and its member States continued to support a zero-tolerance policy for crimes committed by United Nations officials and experts on mission. While the privileges and immunities of United Nations personnel should be upheld, officials and experts on mission must respect international law and the national legislation of the host State. No crime committed by them should go unpunished; impunity would have long-term detrimental effects on the credibility of the Organization and on its effectiveness. The European Union therefore welcomed the assurance in the Secretary-General's report on special measures for protection from sexual exploitation and sexual abuse ([A/67/766](#)) that allegations of criminal conduct against officials and experts on mission would be properly investigated. It was a positive sign that the number of reported cases referred to States of nationality for investigation and possible prosecution had significantly decreased during the most recent reporting period.

56. Training and awareness-raising on United Nations standards of conduct should remain at the centre of the preventive measures adopted by field missions. The European Union welcomed the implementation of such additional measures at Headquarters level by the Department of Peacekeeping Operations and the Department of Field Support. Cooperation between States and the United Nations in investigating allegations of criminal conduct was essential. It was also crucial for the States of nationality of persons accused of crimes of a serious nature to establish the necessary jurisdiction to investigate and prosecute such crimes. States must fully implement their obligations under international law, including applicable agreements.

57. The European Union and its member States supported the dual-track approach, combining short-term and long-term measures in order to deal with

existing jurisdictional gaps, and welcomed efforts to provide States with technical and other assistance in developing relevant national legal measures. They stood ready to consider a comprehensive legal framework that would clarify the circumstances under which States could exercise jurisdiction and the individuals and crimes subject to that jurisdiction.

58. **Mr. Norman** (Canada), speaking also on behalf of Australia and New Zealand, said that accountability was a fundamental aspect of the rule of law. The principle that no person was above the law was especially important for United Nations officials and experts on mission; they were the "face" of the United Nations to the outside world and their work embodied the Organization's commitment to promote security, development and human rights. When they engaged in criminal conduct, they undermined that work and harmed the Organization's reputation, credibility, impartiality and integrity.

59. Australia, Canada and New Zealand commended the work of the Conduct and Discipline Unit and the Office of Legal Affairs in investigating and referring cases of United Nations personnel involved in misconduct to the relevant States of nationality for investigation and possible prosecution. Those referrals underlined the Organization's commitment to accountability of its personnel and highlighted each State's responsibility for ensuring accountability. He urged Member States to continue cooperating with the Organization to process those cases and provide information to the Secretariat on actions taken in response to misconduct.

60. The three delegations welcomed the steps taken by States to establish jurisdiction over serious crimes committed by their nationals while serving as United Nations officials or experts on mission, but more work was needed to preclude individuals from evading accountability for their crimes. They called on all Member States to consider establishing jurisdiction over serious crimes and to report on efforts to investigate and, where appropriate, prosecute their nationals for such crimes. As a longer-term solution, they supported the proposal for a convention that would require Member States to exercise criminal jurisdiction over their nationals who were participating in United Nations operations abroad. Such a convention could further strengthen the integrity of the United Nations system and promote the highest standards of professionalism among its personnel.

61. **Mr. Batora** (Ethiopia) said that the agenda item under discussion was of great importance to Ethiopia as its nationals were active in United Nations peacekeeping operations and it was home to several United Nations offices. His delegation greatly valued the sacrifices made by United Nations peacekeepers and commended the Organization's work in preserving global peace and security. However, crimes committed by United Nations officials and experts on mission, in addition to causing grave harm to the victims, negatively affected the execution of the Organization's mandates and its cooperation with host countries, tarnished the sacrifices and efforts of its employees and seriously undermined its image, integrity and credibility. United Nations officials were expected to adhere to the highest standards of discipline and the rule of law and had a duty to abide by the law of the host State. There should be zero tolerance for criminal conduct by United Nations officials or experts on mission.

62. It was essential to ensure that criminal acts did not remain unpunished and that the perpetrators were prosecuted without delay. The privileges and immunities of the Organization's personnel should not serve as a pretext or excuse for the commission of crimes. His delegation called on Member States to establish jurisdiction over crimes committed by their nationals while serving as United Nations officials or experts on mission abroad, with a view to closing existing legal gaps and averting impunity. Ethiopian courts had jurisdiction over Ethiopian officials or experts on mission who could not be prosecuted in a host country for reasons of immunity, provided the offence of which they were accused was punishable under the law of both Ethiopia and the host country, and his Government was committed to taking all appropriate measures to ensure that officials or experts who committed crimes were brought to justice. It was also essential for Member States to provide assistance in criminal investigations and extradition proceedings and to cooperate with one another through the exchange of information and experience and the provision of legal support to strengthen the judicial capacity of national institutions.

63. In his delegation's view, the Committee should refer the matter to the International Law Commission for the preparation of draft articles. Meanwhile, the General Assembly should remain seized of the issue and Member States should continue to be informed of

allegations of criminal activity or abuse by United Nations officials and experts on mission.

64. **Mr. Joyini** (South Africa) said that the agenda item under discussion was perhaps more relevant than ever as the number of United Nations officials and experts on mission was steadily increasing, especially in Africa. His delegation had been involved from the outset in the discussions on the topic and continued to support the drafting of a convention as a long-term solution. In the short term, Member States should take the necessary steps to close the jurisdictional gap that enabled United Nations staff and experts to enjoy immunity for criminal acts committed by them in foreign jurisdictions. South Africa had taken such measures and commended those States that had also done so. South African courts also had extraterritorial jurisdiction over international crimes under the Rome Statute of the International Criminal Court Act of 2002.

65. His delegation welcomed the measures implemented by the United Nations regarding training and awareness-raising, protection of whistle-blowers, and the activities of the conduct and discipline teams. Only through timely sharing of information could the scale of criminal acts allegedly committed by United Nations officials and experts on mission be determined; his delegation therefore called on Member States to provide the necessary cooperation and support in that regard.

66. **Mr. Sinhaseni** (Thailand), stressing that the majority of United Nations officials and experts on mission were to be commended for their dedication and sacrifice and their contribution to the maintenance of world peace and security, said that criminal accountability was a fundamental component of adherence to the rule of law. All persons must be held accountable for their actions, regardless of their role or status. As a contributor of troops to United Nations peacekeeping operations, Thailand attached the highest importance to tackling any jurisdictional gaps that might allow United Nations personnel who committed serious crimes to escape justice. It strongly supported a policy of zero tolerance with respect to criminal conduct by United Nations officials or experts on mission and called upon all Member States to do likewise.

67. His delegation appreciated the information provided in the Secretary-General's report on the agenda item and the efforts of the United Nations in

providing technical advice and support to Member States in order to revise their domestic laws to allow for the necessary investigation and prosecution of alleged offences by United Nations officials and experts on mission. It also supported the training programmes that promoted compliance with the United Nations standards of conduct. Those efforts had resulted in a decrease in the number of allegations of crimes involving sexual abuse, violence and exploitation against women and children in the previous year.

68. His delegation also welcomed the cooperation among host and troop-contributing States under the regimes of existing treaties and other arrangements on mutual legal assistance in criminal matters, which was the only way to ensure that offenders were brought to justice. To ensure the successful prosecution of alleged criminals, States should adopt a more flexible test for satisfying the requirements of the dual criminality rule. They should not focus on the terminology or the constituent elements of the offence, which might differ from one legal system to another, but rather on the totality of the acts or omissions alleged against the person whose extradition was being sought. His delegation also encouraged the Secretary-General to exercise his discretion justly and reasonably in waiving immunity where such immunity could impede the course of justice.

69. **Mr. Arbogast** (United States of America) said that it was critical for United Nations officials and experts on mission to be held accountable if they committed crimes, and that the General Assembly should remain seized of the matter. Concrete steps must be identified in the current year, to close the gaps in national legislation and eliminate impunity for such crimes. His delegation welcomed the progress made in that regard, as reflected in the Secretary-General's report (A/68/173), and acknowledged the Organization's efforts to refer credible allegations against its officials to the offender's State of nationality. The number of such cases had been reduced by almost half during the reporting period. Given the relatively small number of referrals over the previous three years, however, it was difficult to draw any certain conclusions.

70. The practical measures that the Secretariat continued to take to strengthen training on United Nations standards of conduct might have increased awareness of the need to report violations. In order to

assess long-term trends, however, the Secretariat should provide a more comprehensive analysis on the outcome of its referrals in the State of the official's nationality over the next reporting period. His delegation would also welcome aggregated information on the nature of the crimes, requests to waive immunity and the standard for determining whether such referrals were made. It urged Member States to take appropriate action with regard to abuses committed by their nationals serving with the United Nations and to report to the Organization on the disposition of such cases in order to facilitate the identification of gaps in jurisdiction and legislation. It might also be useful for the Secretariat to provide a more systematic way for States to report on the outcome of such referrals.

71. His delegation remained unconvinced that a convention, as recommended by the Group of Legal Experts in its report (A/60/980), was the most effective means of ensuring accountability, particularly when it was unclear whether lack of jurisdiction over crimes was the principal reason for difficulties in carrying out prosecutions. The Committee should consider requesting a report by the Secretary-General examining other potential impediments, such as a lack of political will, resources or expertise to prosecute cases effectively, and local laws that did not adequately address the age of consent. Another possibility would be for a team of legal experts to draft model legislation that Member States could use as a starting point — though not a prescriptive template — for national legislation.

72. The burden was on Member States to curb abuses by their nationals, and his delegation urged States to redouble their efforts to develop practical ways of addressing the need for accountability, in particular for gender-based crimes and crimes against children. It would support efforts to provide Member States with assistance to close any gaps in their laws and legal systems relating to accountability.

73. **Ms. Aas** (Norway) said that the commission of serious crimes by United Nations personnel ran counter to all that the Organization stood for and could undermine its integrity and weaken the trust and support it needed to fulfil its important responsibilities. Preventive measures such as awareness-raising and training on standards of conduct were necessary. At the same time, however, it was important to put in place measures to ensure accountability for any serious

crimes committed. Her delegation called again on all States to establish jurisdiction for serious crimes which might be committed by their nationals while serving in a United Nations mission. States that had not yet done so should also provide information on their relevant legislation, so that the General Assembly could form a complete picture of the legal situation and possible loopholes in all Member States.

74. Her delegation also urged States to cooperate with each other and with the Organization whenever allegations of serious crimes were revealed. The resolutions adopted during recent General Assembly sessions had made concrete recommendations for strengthening such cooperation, many of them qualified by references to States' domestic laws. While any cooperation in criminal cases must comply with domestic laws, those laws should not serve as a justification for failing to cooperate; rather, States should be prepared to consider amending their domestic laws when that was warranted.

75. The various reports of the Secretary-General on the matter provided useful information on the 47 credible allegations of serious crimes that had thus far been brought to the attention of States of nationality; however, as very few responses had been received from those States, it was impossible to tell whether the allegations had been taken seriously. Most States had not responded at all and only one had indicated that it was taking action in respect of the case within its jurisdiction. As a result, the General Assembly did not have the necessary information to ascertain whether those credible allegations of serious crimes had been taken seriously.

76. The Committee should therefore consider what measures might be adopted by the General Assembly to improve Member States' reporting. As a starting point, the Secretariat could include as an annex to future reports a table showing all relevant cases, the types of alleged crimes, when the case had been brought to the attention of the State of nationality and the date and content of any response from that State, without necessarily naming the State in question. That information would not in itself enhance reporting, but it would give the General Assembly a clearer picture of the situation. As a long-term measure, her delegation continued to support the drafting of a convention requiring Member States to investigate and prosecute serious crimes committed by United Nations officials and experts on mission.

77. **Ms. Norsharin** (Malaysia) said that despite Member States' efforts to promote awareness of and a proactive approach to serious crimes committed by United Nations officials and experts on mission, such incidents continued to occur. Criminal accountability for such acts could not easily be ensured without the cooperation of the sending States. The work of the General Assembly and its committees to ensure the adoption of adequate preventive and criminal justice measures was therefore of great importance. Malaysia's domestic laws allowed it to claim extraterritorial criminal jurisdiction over offences such as terrorism, offences against the State, corruption, money-laundering, drug trafficking and trafficking in persons.

78. Her delegation supported the call in General Assembly resolution [67/88](#) for cooperation among States and the United Nations in the exchange of information and the facilitation of investigations and prosecutions in order to prevent impunity for serious crimes committed by United Nations officials and experts on mission. Malaysia's laws on extradition and mutual assistance in criminal matters provided the legal basis for such cooperation. Her Government stood ready to respond to requests from other States in connection with relevant criminal investigations or extradition proceedings, and remained committed to working with other Governments to explore appropriate mechanisms for dealing with the practical aspects of establishing extraterritorial criminal jurisdiction and obtaining evidence in respect of serious crimes committed by United Nations officials and experts in receiving States, including the information- and evidence-sharing mechanisms required if investigations were conducted by the United Nations.

79. The Sixth Committee working group on the matter should continue to identify substantive issues and explore practicable solutions independent of the measures envisaged in the draft convention proposed by the Group of Legal Experts in its report ([A/60/980](#)), particularly as most of the target groups contemplated in the work of the Group of Legal Experts were already adequately regulated under domestic laws, status-of-forces agreements and international humanitarian law.

80. **Mr. Choi Yong Hoon** (Republic of Korea) said that criminal accountability was the cornerstone of the rule of law. To uphold the rule of law, the Secretariat and all Member States should make every effort to seek

justice and end impunity. Failure to prosecute United Nations officials and experts on mission who committed serious crimes could create the false impression that they used the immunities given to them for their personal benefit; recurring abuses could seriously damage the credibility and impartiality of the Organization. His delegation therefore welcomed the referral to States of nationality of the nine cases mentioned in the Secretary-General's report (A/68/173). The States concerned should take the necessary steps, including thorough investigation, with regard to the cases within their jurisdiction and should inform the Organization of the progress and final outcome of the cases. His delegation welcomed the responses from three States indicating that the matter had been raised with relevant officials and noted the efforts of the United Nations to protect officials and experts on mission from retaliation and restore the reputations of those falsely accused.

81. His delegation believed that prevention was key and therefore also welcomed the practical measures taken to strengthen training on United Nations standards of conduct. The prevention of offences through such measures was the responsibility of both the Secretary-General and Member States. His Government applied rigorous criteria in selecting personnel to participate in United Nations peacekeeping operations and provided them with a three-month intensive predeployment training course designed to enhance professional ethics.

82. **Mr. Gonzalez** (Chile), acknowledging the measures taken by some Member States to establish criminal jurisdiction over serious crimes committed by United Nations officials and experts on mission and to cooperate and exchange information in order to facilitate the prosecution of perpetrators, said that such crimes must not go unpunished. They harmed the victims and jeopardized the reputation, credibility and effectiveness of the United Nations. Such acts and their consequences must, however, be judged in accordance with the principles of justice and international law, especially respect for due process.

83. The issue was of great importance to Chile as its nationals participated actively in peacekeeping operations and it was a large troop contributor. It supported a policy of zero tolerance for sexual exploitation or abuse or any other criminal conduct. Chilean troops deployed as part of the United Nations Stabilization Mission in Haiti were subject to the

jurisdiction of Chilean courts for any crimes committed while they were in Haitian territory, as specified in the relevant agreement.

84. While officials and experts on mission should enjoy immunity in the performance of their official functions, there must be no impunity for those who engaged in criminal conduct. Necessary assistance should be provided to the victims of such crimes to enable them to deal with the resulting pain and harm. Protection should also be provided to witnesses of such acts. His delegation welcomed the practical measures taken to expand training for officials and experts on mission, which was essential as a preventive measure. It was also important for the Secretariat to continue improving the provision of information to and communication with concerned States as soon as an incident with potential criminal implications occurred. If the number of cases involving criminal accountability continued to increase, States should consider negotiating an international treaty, possibly based on the draft convention prepared by the Group of Legal Experts. In that connection, his delegation welcomed the decision by the General Assembly contained in resolution 67/88 that consideration of the report of the Group of Legal Experts should be continued during its seventieth session in the framework of a working group of the Sixth Committee, and pledged its full support for the work of that working group.

85. **Mr. Sharma** (India) said that the commission of crimes by United Nations personnel on mission damaged the image, credibility and integrity of the Organization. India supported a zero tolerance policy and considered it extremely important that any violation of national or international law by officials and experts on mission was properly investigated and prosecuted. His delegation was confident that the concerned States would conduct thorough investigations and, if appropriate, prosecute the nine cases mentioned in the Secretary-General's report. In that connection, implementation of General Assembly resolution 67/88 would help to fill the jurisdictional gap in respect of States that did not assert extraterritorial jurisdiction over crimes committed abroad by their nationals.

86. Under the Indian Penal Code, extraterritorial offences committed by Indian nationals serving abroad were subject to the jurisdiction of the Indian courts and were punishable under Indian law. The Indian Code of

Criminal Procedure provided for mutual legal assistance in criminal matters, while the Extradition Act of 1962 provided for the extradition of persons guilty of extraditable offences under an extradition treaty. In the absence of such a treaty, the Government could offer assistance on a reciprocal, case-by-case basis in accordance with applicable national laws.

87. His delegation remained of the view that the development of an international convention on the issue was not necessary. It would suffice for States to ensure that their laws established jurisdiction for the prosecution of their nationals serving as United Nations officials or experts on mission if they engaged in criminal conduct, and that they provided for international assistance for the investigation and prosecution of the perpetrators of those crimes.

88. **Ms. Bouganim** (Israel) said that her delegation welcomed General Assembly resolution [67/88](#) and looked forward to seeing how States would develop their national legislation regarding criminal activity by their nationals participating in United Nations missions. It urged all Member States to take appropriate action to ensure that such crimes did not go unpunished. It also urged the States to which the nine cases had been referred in the most recent reporting period to inform the Secretariat of their progress in investigating those cases. Israel welcomed the three-pronged strategy adopted by the Secretariat to address misconduct, in particular sexual exploitation and abuse. On the question of negotiating a multilateral convention on the issue, it was of the view that it would be more effective and useful at the current juncture to address substantive and practical matters, leaving the matter of form for a later stage. Enhanced cooperation among States and between States and the United Nations would serve as a positive basis for progress, and her delegation urged States to take appropriate measures to develop practical ways to address the need for accountability.

The meeting rose at 1 p.m.