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Chair: Mr. Kohona. (Sri Lanka)
later: Mr. Stuerchler Gonzenbach. (Switzerland)

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

Agenda item 85: The rule of law at the national and international levels (*continued*) (A/68/213)

1. **Ms. Grignon** (Kenya) said that the rule of law was the bedrock of peaceful coexistence and sustainable development in any society. Since an impartial and independent judiciary was fundamental to the rule of law, under the country's 2010 Constitution the Kenyan judiciary had undergone fundamental reforms, including increased transparency in staffing, improved terms of service for judicial officers, increased recruitment and independent funding, all of which had made it possible to streamline court processes. Judicial reforms were being complemented by the establishment of new institutions in the justice and security sectors. The constitutional devolution of powers to county governments was bringing services closer to the people and promoting access to justice.

2. At the international level, her Government continued to uphold and promote the purposes of the Charter and of international treaties. In its commitment to fighting impunity, Kenya had ratified the Rome Statute of the International Criminal Court, which recognized the duty of every State to exercise criminal jurisdiction over the perpetrators of serious crimes. It had domesticated the principles and provisions of the Statute in its new Constitution and in its International Crimes Act, and had cooperated with the Court even when it was politically difficult to do so. However, the mechanical manner in which the Rome Statute was currently being interpreted and applied made little accommodation to the concerns of a cooperating State party and was often highly prejudicial to that State's national, regional and international interests. It was, in fact, counterproductive and antagonistic to the ideals of fighting impunity and promoting national healing and reconciliation and reparation for victims. Cooperation between the Court and a State party should be mutual. The system of international justice should ensure respect for the fundamental nexus between peace, security and justice. To contend that a State's methods and choices of action in the legal and administrative aspects of the cases had no bearing where the Court was concerned and to ignore the political consequences of the outcome of the cases was naive. It was perhaps time to give more thought to the principle of complementarity, in other words, to the principle that

the Court was a court of last and not of first instance. The member States must be willing to make collective efforts to question and adjust the system as necessary.

3. As in the fight against terrorism, all States must work closely together to uphold the rule of law and end impunity. The complexity of the effort posed a greater challenge for developing countries owing to competing budgetary demands. Those challenges could be met through capacity-sharing and capacity building, as required, and through technology and information transfer. In that regard, her delegation reiterated its support for the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law and called for adequate funding of its activities.

4. **Mr. Maope** (Lesotho) said that the rule of law was a prerequisite for peaceful coexistence and cooperation among States and for ensuring sustainable development and the safety and security of the planet. The high-level meeting of the General Assembly on the rule of law at the national and international levels held at its sixty-seventh session had underlined the need for universal adherence to the rule of law and had stressed the linkages between the rule of law, human rights and democracy.

5. Gross violations of international humanitarian law in recent years, notably the lack of protection of civilians in conflict situations, increased targeting of woman and children and the use of sexual violence as a method of warfare, were matters of grave concern. Where such violations were suspected, the matter should always be investigated in a thorough and independent manner without politicization. Significant progress had been made in the fight against impunity through the establishment of the International Criminal Court; support for the Court should be an imperative for the Sixth Committee.

6. International law must be respected equally by all States. Selectivity and double standards in the application and enforcement of international treaties undermined the very essence of the rule of law. The peaceful settlement of disputes was one of the fundamental principles of the international legal system. In that regard, it was encouraging that the International Court of Justice was considering a larger number of cases on a range of aspects of public international law.

7. There was a need for a genuine global partnership to enhance the capacity of Member States, particularly developing countries, to carry out their international law obligations and so to close the gap between commitments at the international level and implementation at the national level. Only a society based on the rule of law had the means to offer better living conditions for its people, prevent corruption and cure the ills of society.

8. Lesotho had put in place legal and institutional frameworks to ensure administrative fairness, compliance with the rule of law and public accountability. An example of Lesotho's strong commitment to the rule of law and good governance was its major achievement in tackling massive corruption in the multi-million-dollar Lesotho Highlands Water Project and successfully prosecuting both corrupt senior officials and the bribe-giving multinational corporations, which had been shown to have initiated the bribery. Success had been due mainly to strong political will by the Government, a competent judicial system and international cooperation and assistance from other countries and financial institutions. Those cases would serve as a precedent, showing that even developing countries could effectively prosecute large multinationals from the developed world.

9. **Mr. Wakil** (Nigeria) said that the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels had rightly called it an indispensable foundation for a more peaceful and just world and linked it with the three pillars of the United Nations, namely peace and security, human rights and sustainable development. His delegation again stressed that the rule of law and development should be seen as interrelated, with particular reference to the post-2015 development agenda. Nigeria had fulfilled the pledge made during that event by depositing instruments of accession to the International Convention against the Taking of Hostages and the International Convention for the Suppression of Terrorist Bombings, and it called upon other States that had made pledges to fulfil them. In addition to addressing issues of justice, equality and equity, good governance and democracy, due consideration should be given to promoting the rights and empowerment of women and girls.

10. The focus of the current session was on the rule of law and the peaceful settlement of international

disputes. In that regard, it appeared that States had made insufficient use of the means of peaceful dispute settlement enunciated in Articles 33 to 38 of the Charter of the United Nations. Nigeria had set an example by unreservedly accepting the judgment of the International Court of Justice in the case concerning the Land and Maritime Boundary between Cameroon and Nigeria. In August 2013 Nigeria had completed its withdrawal and hand-over of the Bakassi Peninsula to Cameroon. His delegation urged all countries that had not yet done so to accept the jurisdiction of the principal judicial organ of the United Nations without delay or to utilize one of the other means set out in the Charter for amicable settlement of international disputes.

11. His delegation also looked forward to seeing proposals from the Secretary-General on ways and means of enhancing the synergy between the rule of law and the three main pillars of the United Nations, as requested in General Assembly resolution [67/1](#).

12. **Mr. Ruru** (Indonesia) said that, at the national level, the rule of law provided the essential groundwork on which a country's political, economic and social institutions could be established. Thirteen years ago, as part of Indonesia's democratic transition, a comprehensive legal reform had been launched with the three-pronged strategy of building the capacity of the judiciary, the police and other public institutions; increasing access to the national justice system; and building constituencies for legal reform. Moreover, recognizing that civil society and the media had an important role in ensuring accountability and transparency, his Government had embraced them as partners through a fair set of rules allowing freedom of opinion while preserving the rights of others. It was also recognized that law enforcement should be carried out with respect for human rights.

13. In considering the rule of law at the international level, there were three points to bear in mind. The first was the need for the complete commitment of all States to an international order based on the Charter of the United Nations and international law; that entailed an obligation to respect the legal rights of other States. Second, the principal organs and specialized bodies of the United Nations must operate in accordance with the highest standards of justice and fairness; among other things, that required reform of the Security Council and revitalization of the General Assembly to make the Organization truly representative of the world in the

new millennium. Third, there was a need for a global partnership for capacity-building to support the efforts of developing countries to close the gap between commitments made at the international level and implementation at the national level.

14. As one of the initiators of the Manila Declaration on the Peaceful Settlement of International Disputes, Indonesia attached great importance to mechanisms for peaceful settlement, particularly those mentioned in Article 33 of the Charter, including negotiation, mediation and judicial settlement. Indonesia and its neighbours had relied upon the International Court of Justice to settle territorial disputes in a dignified and friendly manner. Strengthening the Court as the principal judicial organ should be part of the overall United Nations reform process.

15. **Mr. Alnummy** (Iraq) said that strengthening the rule of law was the necessary basis for United Nations efforts at preventing armed conflict and maintaining peace and security. Respect for the rule of law was a manifestation of civilization and progress, and adherence to its principles was essential both for States and for the chief organs of the United Nations. An international order based on the rule of law placed the human element in the forefront by linking the rule of law to development and human rights. That would entail intensifying efforts to achieve the Millennium Development Goals through partnerships between United Nations organs and the international financial institutions, government authorities, civil society and the private sector. His delegation reiterated its commitment to the principles governing relations between States as set out in the Declaration of the High-level Meeting of the General Assembly on the Rule of Law.

16. At the national level, positive changes had come about in Iraq with respect to the rule of law, beginning with the adoption of a new Constitution based on modern principles, including rule by the people, respect for the law and human rights, separation of powers, the peaceful transfer of power and the independence of the judiciary. Iraq's foreign policy was based on cooperation, respect for the sovereignty of other States, cultivation of friendly relations and peaceful settlement of disputes.

17. Strengthening the rule of law required efforts to strength the capacity of States to fulfil their international commitments. His delegation was ready

to continue the dialogue in order to ground the international order firmly on the principles of law, solidarity and peace.

18. **Mr. Desta** (Eritrea) said that, in its commitment to promoting the rule of law at the national level his Government had introduced new legislation aimed at enhancing peace, security and justice in the society, including measures to strengthen an impartial judicial system.

19. At the international level, pacific settlement of disputes was a key principle of the Charter. Adhering to that principle, Eritrea had fully complied with the arbitration awards rendered in its boundary disputes with Yemen and Ethiopia. It had also signed an agreement with Djibouti to have the State of Qatar mediate their border dispute.

20. Eritrea remained committed to upholding and developing an international order based on the rule of law with the United Nations at its core. In that regard, the Member States must work collectively to ensure that the authority of the Charter was maintained and that no country had the prerogative to place itself above international law or apply its principles selectively or with double standards; ensure that the fundamental principles of the Charter, such as the prohibition against the threat or use of force, were respected; take appropriate action against those that failed to live up to their treaty obligations; revitalize the General Assembly; and reform the Security Council and other multilateral institutions.

21. **Ms. Salim** (Libya) said that in a society without the rule of law peace and security were always threatened. The rule of law was essential for protecting human rights and individual freedoms, combating crimes of violence and advancing sustainable development. At the national level, strengthening the rule of law was a priority for Libya. The transitional Government and the General National Congress were working to build a State based on constitutional law that would include all elements of society, protect fundamental freedoms, provide for peaceful transfers of power, promote national reconciliation and restore confidence in government institutions. Congress had passed the electoral law setting up a Constitution Drafting Assembly and had adopted a transitional justice law. Her delegation commended the role of the United Nations Support Mission in Libya (UNSMIL) in providing technical assistance and capacity building.

Libya had signed an agreement with the United Nations setting out programmes aimed at restoring normal conditions and enhancing the rule of law.

22. At the international level, Libya reiterated its commitment to the Charter of the United Nations, international law and the international instruments to which it was a party. The high-level-meeting of the General Assembly had contributed greatly to a common understanding of the rule of law. Her delegation urged all Member States to use the mechanisms available for peaceful settlement of disputes, including the International Court of Justice, forums agreed upon in treaties and mediation. In that regard, her delegation welcomed the resolution on the thirtieth anniversary of the Manila Declaration on the Peaceful Settlement of International Disputes. While it also welcomed the resolution according Palestine non-member observer State status, it supported the legitimate request of the State of Palestine to be granted full membership in the Organization.

23. **Ms. Taratukhina** (Russian Federation) said that the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/68/213) showed that some steps towards streamlining the work in the United Nations in that area had been taken, and a new conceptual system of three tiers comprising the field, central and strategic levels had been established. However, the main task of optimizing the system of work had apparently not yet been accomplished, and it seemed that the result had been rather to create more entities. Perhaps it would be helpful to look at the difficult task of optimizing rule of law activities within the United Nations through the lens of the Fifth Committee.

24. Her delegation would appreciate more detailed information on the functions and tasks of the global focal point and the Rule of Law Coordination and Resource Group and what was meant by the reference to new actors in the rule of law. Moreover, no specific information had been provided on the proposed process of consultations with the engagement of eminent thinkers to contribute a series of articles on the rule of law to serve as a basis for further discussion. It should be recalled that the Member States had not authorized or been consulted on that process; thus, the outcome could not be imposed on Member States as the basis of their future work in the area. Her delegation would appreciate clarification about the consultation process and information about the experts involved.

25. The chosen focus during the current session was on the rule of law and peaceful settlement of international disputes, which was an essential element in preventing threats to international peace and security. Her delegation attached particular importance to the freedom of States to select among the many methods envisaged in the Charter for peaceful dispute settlement, including negotiation, arbitration and resort to special bodies. The International Court of Justice was, of course, an essential actor. The Russian Federation had ascertained through its own experience the high procedural standards maintained by the Court. The International Tribunal for the Law of the Sea had also demonstrated its exceptional legal qualifications for settling disputes in its area of law. The peaceful settlement of international disputes would appear to be the most fruitful topic for development within the United Nations context. Effort should go to strengthening the institutions for dispute settlement that enjoyed universal recognition and confidence among States, rather than establishing non-transparent new superstructures and preparing documents of unclear intent.

26. **Mr. Ružička** (Slovakia) said that his delegation had registered pledges during the high-level meeting of the General Assembly on the rule of law held the previous year, in which the Member States had reaffirmed their commitment to the rule of law and its fundamental importance for political dialogue and cooperation among all States. At the national level, his Government continued to strengthen its legal and institutional framework, particularly with respect to the most vulnerable groups, namely, women, children and minorities.

27. From the international perspective, the rule of law was essential to security sector reform in order to achieve public security and respect for human rights. A stable and independent legal environment was also crucial for creating the preconditions for long-term sustainable development in post-conflict areas. More generally, the rule of law was relevant to realizing and financing the post-2015 development and sustainability framework; particular in the effort to engage non-State actors. One of the questions posed by private business and non-governmental stakeholders was how to ensure a stable, transparent and predictable legal environment for long-term projects.

28. In order to ensure the existence of adequate adjudicative mechanisms for disputes between States,

the International Court of Justice should be strengthened through acceptance of its compulsory jurisdiction by all States Members of the United Nations. His delegation also called on States not yet parties to the Rome Statute of the International Criminal Court to consider ratification, since the fight against impunity should be a common endeavour.

29. **Ms. Khanchaveli** (Georgia) said that the debate had reinforced the notion that the rule of law constituted a fundamental element of peace and security, development and respect for human rights at both the national and international levels. The key to advancing the efficiency of international institutions in the peaceful settlement of disputes was to expand the scope of justiciability of international disputes, in which arena the International Court of Justice had a key role to play. Her delegation therefore called upon all States that had not yet done so to accept the compulsory jurisdiction of the Court.

30. In addressing sovereignty-related concerns about accepting the Court's jurisdiction, the solution could be found by increasing the discourse on the principle of sovereignty as responsibility. If consensus could be achieved on viewing sovereignty primarily from that angle, the world would be a different and much better place. Full justiciability of international disputes would also strengthen other non-judicial means of peaceful dispute settlement, as it would be clear to the disputing parties that if no agreement were reached, an objective third-party pronouncement was unavoidable.

31. **Mr. Tanin** (Afghanistan) said that his delegation was pleased that the rule of law remained high on the agenda of the United Nations. Twelve years ago, Afghanistan had been a country decimated by more than two decades of strife that had left State institutions in shambles and destroyed the social fabric. The country had embarked on a process of State-building and stabilization based on consolidation of the rule of law and had made important progress. The constitution adopted in 2003 guaranteed freedom of the press, the right to assembly and political expression. Despite a difficult security environment, the country had managed to hold presidential, parliamentary and provincial council elections through a free, fair, credible and transparent electoral process, the outcome of which was embraced by the vast majority of citizens. Security sector reform had culminated in the formation of a national army and police of increased professionalism, which had taken charge of security in

all parts of Afghanistan; his country was grateful to its international partners for their support in that regard.

32. In terms of governance, a major reform of the public administration was underway, aimed at transparency and accountability. The Government was working diligently to meet the commitments undertaken in the context of the Tokyo Mutual Accountability Framework. In order to implement at the national level commitments made under international conventions and protocols, Afghanistan was working to strengthen national legislation and the capacity of national institutions, including the Ministry of Justice and the Supreme Court.

33. The international justice system played a crucial role in furthering the rule of law at the international level and provided an important mechanism for the peaceful settlement of disputes, particularly through the valuable work of the International Court of Justice.

34. His delegation welcomed recent measures aimed at increased coordination and coherence in United Nations rule of law activities. The establishment of a three-tier system and the designation of the Department of Peacekeeping Operations and the United Nations Development Programme as the global focal point for the police, justice and corrections should enable the United Nations to provide better support to post-conflict States. His Government looked forward to close collaboration with the global focal point's joint planning and assessment mission to Afghanistan, with an emphasis on the principle of national ownership.

35. **Mr. Zeidan** (Observer for the State of Palestine) said that the rule of law was essential for governing and maintaining law and order in any State and peace and security in the international arena. At the national level, the State of Palestine worked continuously with its development partners to improve its judicial processes and capacity and to promote the rule of law domestically. Recently the Government had concluded a Development Assistance Framework with the United Nations for the years 2014-2016; one of the six pillars of the agreement was governance, rule of law, justice and human rights.

36. At the international level, the rule of law, in particular international humanitarian law, ensured protection for peoples living in situations of armed conflict, including foreign occupation. Regrettably, Israel, the occupying Power, continued to commit grave breaches of international humanitarian law,

exacerbating the conditions faced by the Palestinian people and further destabilizing the situation on the ground. Israel had persisted with its colonization of the Occupied Palestinian Territory, including East Jerusalem. In its advisory opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, the International Court of Justice had reaffirmed the international community's position that Israel had acted contrary to the terms of article 49, paragraph 6, of the Fourth Geneva Convention. It should also be noted that Israel's transfer of parts of its own population into the Occupied Palestinian Territory met the definition of a war crime in the Rome Statute of the International Criminal Court.

37. Israel's occupation and colonization of Palestinian and Arab lands was illegal in accordance not only with the above-mentioned instruments and customary norms but also with the relevant resolutions of the General Assembly, the Security Council, the Economic and Social Council and the Human Rights Council. Yet Israel persisted with its illegal campaign, even while its representatives talked about peace. Hopes that a comprehensive peace could be secured were undermined by the continued demolition of Palestinian homes and razing of Palestinian lands to make way for more illegal settlements, further eroding the viability of the two-State solution on the basis of the pre-1967 borders. In that connection, the State of Palestine condemned in the strongest terms the recent settlement announcements by the occupying Power and the terrorist attacks by its settlers against Palestinian civilians and their schools, churches and mosques.

38. Time was of the essence for the international community to act to prevent Israel's settlement enterprise from destroying the viability of the State of Palestine and the prospects for a negotiated two-State solution. His delegation urged all States to take concerted, collective action to disassociate their economies and institutions from Israel's illegal practices and to insist on respect for the rule of law. In that regard it welcomed initiatives by many States to deny funding to Israeli entities in the occupied Arab territories and to label Israeli settlement products as such, as South Africa had done.

39. **Ms. Elyahou** (Observer for the International Committee of the Red Cross) said that the International Committee of the Red Cross (ICRC) assisted States in implementing international humanitarian law and

developing the necessary legal and regulatory frameworks to strengthen the rule of law at the national level. Much of its work was carried out in conflict and post-conflict situations under the mandate conferred upon it by the 1949 Geneva Conventions and their Additional Protocols. ICRC endeavoured to speak to all parties to a conflict to remind them of their obligations under international humanitarian law and maintained a confidential dialogue with the relevant authorities to ensure that all individuals held in detention were treated humanely and that detention regimes observed basic procedural safeguards and fundamental guarantees.

40. Since greater respect for the rule of law could be generated if the appropriate legal frameworks were already in place before conflict erupted, ICRC also undertook a range of activities outside of conflict to improve respect for international legal norms and principles. At the request of States, ICRC assisted authorities in the domestic implementation of not only the Geneva Conventions and their Additional Protocols, but also two dozen other treaties pertaining to the protection of persons and objects in armed conflict. At the invitation of States ICRC also organized and participated in awareness-raising and training programs for members of the armed forces, law enforcement agencies, the judiciary, parliamentarians and civil society. The aim was to help establish strong and coherent legal frameworks and to ensure that, when hostilities occurred, those taking part understood that their actions must be guided by fundamental legal rules and principles.

41. Over its 150-year history, ICRC had seen that war crimes had been committed in virtually all conflicts. In such cases, it was incumbent upon States to hold the perpetrators accountable through fair and transparent criminal proceedings. States must also shed light on the fate and whereabouts of missing persons and address the needs of their families. The adoption of relevant laws and regulations that catered to the families' right to know and their right to reparation would help with the physical and psychological healing of families and communities.

42. **Ms. Arenas** (International Development Law Organization) said that the rule of law was a fundamental building block for peace, security, human rights and development. The International Development Law Organization (IDLO) was committed to tackling the enormous challenge of

restoring people's confidence in justice systems. Recently IDLO had pledged to identify and analyse the barriers that women faced as legal professionals and in accessing justice, and it encouraged Governments and the international community to devote more resources and energy towards addressing the unique challenges faced by women in the justice system.

43. Its new strategic plan closely followed the policy orientations articulated by the United Nations General Assembly to advance the rule of law. IDLO was also committed to contributing to the current discussions on integrating the rule of law into the post-2015 development agenda. Inequality was a major factor behind uneven and inadequate progress. The post-2015 development agenda should give priority to the reduction of inequality as a stand-alone goal. Fighting disparity and discrimination were fundamental to eradicating poverty and hunger and promoting sustainability, and that entailed translating equality and non-discrimination into good laws, policy and regulations and enhancing people's participation in making decisions that affected their lives.

44. There was a growing demand for rule of law assistance from a wide range of countries, and resources did not match demand. However, IDLO was pleased to report that it had significantly increased its programme portfolio. A generous grant from the Netherlands would enable it to provide additional capacity by the end of the year for furthering the rule of law.

45. IDLO was guided by and sought to contribute to the new arrangements for enhanced coordination as outlined in the Secretary-General's report (A/68/213), and it was pleased to continue its long-standing interactions with the Department of Economic and Social Affairs, UN-Women and the United Nations Development Programme. IDLO also welcomed the strengthened arrangements for joint engagement at the country level and hoped to contribute to the goal of enhancing the impact of international cooperation, particularly for countries emerging from conflict. It appreciated the spirit of openness and dialogue that characterized the Rule of Law Unit and hoped to contribute to its work. IDLO also looked forward to playing its part in the expanded partnerships and strategic dialogue that the Secretary-General intended to pursue in the area of the rule of law.

46. Bringing the law closer to people was the key to promoting sustainable and inclusive development. Furthering a culture of justice based on the rule of law was essential for a safer, fairer world.

47. **Mr. Zemet** (Israel), speaking in exercise of the right of reply, said that taking cheap shots at Israel seemed to be the favourite game of the Palestinian delegation. It was ironic that the Observer had chosen to condemn Israel in a debate focused on the rule of law. He had conveniently forgotten to mention the many human rights abuses committed by the security apparatus of the Palestinian Authority in the West Bank, not to speak of the widespread and appalling human rights abuses committed in Gaza by the Hamas terrorist organization. The State of Israel was the only real democracy in the region. Since its founding 65 years ago it had built a robust justice system that provided equality for all people, including women, minorities, homosexuals and youth; even the most heinous terrorists were entitled to due process and a fair trial. Out of respect for the Committee's valuable time he would not respond further to the baseless accusations. It was unfortunate that the Palestinian delegate insisted on politicizing the debate rather than making a meaningful contribution to the promotion of the rule of law.

48. **Mr. Zeidan** (Observer for the State of Palestine), speaking in exercise of the right of reply, said that the representative of Israel had presented the Committee with lies and misinformation. He had reminded the Committee of Israel's professionalism, but that professionalism was in the denial of the rule of law, the denial of the inalienable rights of the Palestinian people to self-determination, the denial of human rights. Israel was professional in death and destruction and deep stabilization, in violating international law, including United Nations resolutions. Israel was professional in occupation rather than the rule of law. The delegation of Israel had talked about "cheap shots." The lofty goals of the Charter were not "cheap"; self-determination was a Charter principle. Reminding the Committee of Israel's obligations under the Charter and international law was not a "cheap shot".

49. *Mr. Stuerchler Gonzenbach (Switzerland), Vice-Chair, took the Chair.*

Agenda item 84: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
(A/68/33, A/68/181 and A/68/226)

50. **Mr. Zinsou** (Benin), Chair of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the report of the Special Committee (A/68/33), said that the Special Committee had met in New York from 19 to 27 February 2013 and had deliberated on the questions mandated by General Assembly resolution 67/96. Of the report's five chapters, the first was purely procedural; the second dealt with issues relating to the maintenance of international peace and security; the third dealt with questions concerning the peaceful settlement of disputes; the fourth covered the discussions on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*; and the fifth dealt with the debate on working methods and the identification of new subjects.

51. There were a number of points raised that called for discussion in the Sixth Committee: the suggestion that the International Law Commission, in the context of its work on the responsibility of international organizations, should consider the legal consequences of sanctions arbitrarily imposed by the Security Council; the need to establish mechanisms for evaluating the effects of sanctions on third States and for assisting such States; the need to establish criteria to ensure that the composition of the Council reflected the general membership of the United Nations and an equitable geographical distribution and to define what constituted a threat to international peace and security; the need to conduct a legal examination of the implementation of Chapter IV of the Charter; the need for dynamic interaction between delegations on proposals before the Special Committee; the need to urge the regional groups to nominate candidates for Chair and other members of the Bureau of the Special Committee sufficiently in advance of a session so that they could hold initial consultations and engage in substantial preparations and the possibility of holding intersessional consultations on some items on the agenda. The Special Committee could not take up those questions on its own initiative without a specific mandate from the General Assembly.

52. On the question of equitable geographic representation, a number of examples illustrated the

problem. Recent elections to the International Court of Justice and the Security Council resulted or had at one point seemed likely to result in the over-representation of one region and under-representation of another. It was a matter of importance, therefore, to establish criteria to ensure that the composition of the organs of the United Nations truly represented the membership of the Organization.

53. **Mr. Korontzis** (Director of the Codification Division, Office of Legal Affairs), introducing the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/68/181), said that the report outlined the progress made in the past year and set out some conclusions in paragraph 13 for the consideration of the General Assembly.

54. With respect to the *Repertory of Practice of the United Nations Organs*, he wished to draw attention to the updated chart, available electronically through the PaperSmart Portal, on the status of the *Repertory*. Of the 50 volumes which should comprise the publication as a whole, 42 had been completed; 28 of those had been published and 14 had been finalized and submitted for translation and publication. Studies from the 42 completed volumes were available on the United Nations website. In addition, advance versions of several studies on individual Articles of the Charter for volume III of Supplements Nos. 7, 8 and 9 and a considerable number of the studies for Supplement No. 10 were also available on the website, awaiting completion of the respective volumes. The electronic version of the *Repertory* allowed for a full-text search in the three languages of publication, English, French and Spanish.

55. A number of studies had been completed with the cooperation of Columbia University Law School, the Faculty of Law of the University of Ottawa and Concord Law School. The Secretariat would continue to take advantage of the involvement of interns and academic institutions, primarily in the area of research and collection of documentation. It was understood, of course, that the Secretariat bore the ultimate responsibility for the quality and final preparation of all the studies.

56. With regard to funding, a note verbale had been sent to all permanent missions reminding them of the possibility of making voluntary contributions to the trust fund established pursuant to General Assembly

resolution 59/44. However, no contribution had been received during the reporting period. As at 30 September 2013 the balance of the fund stood at \$9,242, an amount that would not allow for further contributions from consultants. Since, in an environment of financial constraint, voluntary contributions were crucial to sustaining progress on the *Repertory* and maintaining its website, he would urge Member States to assist through voluntary contributions to the Fund.

57. **Mr. Boventer** (Security Council Practices and Charter Research Branch, Department of Political Affairs) said that his Branch continued to make good progress in updating the *Repertoire of the Practice of the Security Council*. In the past year it had focused on completing the seventeenth supplement covering the years 2010 and 2011, which should soon be available in its advance version. Drafting of the eighteenth supplement covering the years 2012 and 2013 would commence early in 2014. Progress in the preparation of the *Repertoire* was mostly due to efficiency-enhancing initiatives including specialized training of staff, review of editorial processes, automation of data collection, increased use of internal databases and continuous updating of drafting guidelines.

58. With respect to the backlog from earlier years, the twelfth and thirteenth supplements were published in English, with other languages soon to follow; the English-language version of the fourteenth supplement would be published in October 2013, with other languages to follow in 2014. The indexing of the fifteenth supplement was at its final stage, and editing of the sixteenth supplement was under way. His Branch was continuing to work with the Department for General Assembly and Conference Management to shorten the time lag between the completion of a supplement and its publication in all six official languages. It was also helping to address the backlog in the preparation of volume III of the *Repertory of Practice of United Nations Organs*; it had submitted all outstanding studies on Articles of the Charter for the period from 1985 to 1999 and was in the process of preparing those for the period from 2000 to 2009.

59. In addition, the Security Council Practices and Research Branch responded to requests for information from Member States, United Nations staff, students, academic scholars and researchers on the practice of the Security Council and its subsidiary bodies. It was also working to make the *Repertoire* section of the

Security Council website more user-friendly by providing tables and graphs of historical trends and expanding the search functions.

60. The progress made would not have been possible without the generous contributions to the trust fund for updating the *Repertoire*, including those from China and Turkey in 2012, and the sponsorship of an Associate Expert by Switzerland. To prevent new backlogs from forming, he would encourage all Member States to contribute to the trust fund or to consider such a sponsorship.

61. **Mr. Dehghani** (Islamic Republic of Iran), speaking on behalf of the Movement of Non-Aligned Countries, said that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should play a key role in the current reform of the United Nations. Important elements in the reform process were the democratization of the Organization's principal organs and ensuring respect for the General Assembly's role as the chief deliberative, policy-making and representative organ of the United Nations, including in questions related to peace and security. The Non-Aligned Movement reiterated its concern over the continuing encroachment by the Security Council on the functions and powers of the General Assembly and of the Economic and Social Council. Reform of the Organization should preserve the legal framework of the Charter, to which effort the Special Committee could make a contribution, particularly through its study of the implementation of Chapter IV, especially Articles 10 to 14.

62. Sanctions imposed by the Security Council remained an issue of serious concern to the Non-Aligned Countries. Sanctions should be considered a last resort, not a preventive measure, and should be imposed only when there was a threat to international peace and security or an act of aggression. They were blunt instruments, the use of which raised fundamental ethical questions about whether the sufferings inflicted on vulnerable groups in the target country were legitimate means of exerting political pressure. The objectives of sanctions regimes should be clearly defined and based on tenable legal grounds; sanctions should be imposed for a specified time frame and lifted as soon as the objectives were achieved. The conditions demanded of the State party on which sanctions were imposed should be clearly defined and subject to periodic review. The issue of

compensation should also be considered. In its resolution 64/115, the General Assembly had taken note of the document entitled "Introduction and implementation of sanctions imposed by the United Nations" and annexed it to the resolution. The Non-Aligned Movement looked forward to the Security Council's using the document as a guide in its future work.

63. The new subjects proposed at previous sessions of the Special Committee deserved meaningful consideration. The working paper submitted by the Bolivarian Republic of Venezuela had given rise to fruitful discussions, and the Movement looked forward to further deliberations on the proposal. The question of peaceful settlement of disputes, an important issue for the Movement, continued to be accorded attention in the Special Committee.

64. Although progress had been made in updating the *Repertory of Practice of the United Nations Organs* and the *Repertoire of the Practice of the Security Council*, the backlog in the preparation of volume III of the *Repertory* had not been eliminated. The Movement called upon the Secretary-General to address the problem effectively and on a priority basis.

65. **Ms. Dieguez La O** (Cuba), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that, in view of the important function of the Special Committee, it was imperative that it should have a solid thematic agenda based on the new subjects identified, in addition to its current topics. CELAC reiterated the importance of the obligation to settle disputes by peaceful means, for which the Charter provided the basic framework. The Special Committee should continue to examine all issues related to the maintenance of international peace and security.

66. Legitimacy in the use of sanctions was crucial in order for them to be effective. Sanctions must be imposed and applied in conformity with the Charter and other relevant norms of international law, particularly those related to human rights. CELAC stressed once again the importance of the annex to general Assembly resolution 64/115 and called upon the Security Council to bear it in mind in its work.

67. The Special Committee should also continue to consider the question of assistance to third States affected by the application of sanctions. Although no State had so far requested such assistance, the question

should nonetheless be addressed preventively. It should be noted that the Security Council had often made exceptions to allow States access to frozen funds for a variety of purposes. Moreover, the General Assembly and the Economic and Social Council had responsibilities in mobilizing and monitoring the economic assistance efforts of the international community and the United Nations system on behalf of third States affected by sanctions, and the Secretariat did work in that area in order to offer solutions and to evaluate the requests made by affected third States to the Security Council under Article 50 of the Charter.

68. CELAC attached particular importance to the work of the Special Committee. The challenge was to reinvigorate it so that it could effectively exercise its mandate as part of the machinery of the General Assembly, thus making a valuable contribution to the revitalization of the most important of the Charter organs. The Special Committee, when specifically requested by the General Assembly, could carry out the task of examining the legal aspects of the reforms already decided upon by the Assembly. A topic worthy of consideration was proposed in the working paper submitted by the Bolivarian Republic of Venezuela. CELAC encouraged all Member States to contribute to the work of the Special Committee. However, in view of the modest results produced during recent sessions of the Special Committee, there was a need to adopt better approaches to make its working methods more efficient.

69. The *Repertory of Practice of the United Nations Organs* and the *Repertoire of the Practice of the Security Council* made a notable contribution to international law. CELAC appreciated the progress made by the Secretariat in the past few years in reducing the backlog in those publications and was grateful to the Member States that had contributed to the trust fund.

70. **Mr. Salem** (Egypt), speaking on behalf of the African Group, said that the Group attached great importance to the work of the Special Committee and the role it should play in the revitalization of the United Nations. The Group recalled the agreements in the 2005 World Summit Outcome relating in particular to sanctions, the rule of law and the strengthening of the United Nations. While taking into account the previous adoption by the Special Committee of the document annexed to General Assembly resolution 64/115, the African Group emphasized that there were

other aspects of sanctions that should be discussed by the Special Committee. The power of the Security Council to impose sanctions should be exercised in accordance with the Charter and international law and only after all means of peaceful settlement of disputes under Chapter VI of the Charter had been exhausted. Sanctions should be imposed for a precise time frame, reviewed periodically and lifted as soon as the objectives were achieved. Furthermore, they should be non-selective and targeted in order to mitigate their humanitarian effects. On another matter of serious concern, the African Group viewed the imposition of unilateral economic sanctions against developing countries as an instrument of foreign policy as a violation of international law and the right to development.

71. The African Group was open to discussing all the proposals on the Special Committee's agenda and took a keen interest in the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security. With regard to the identification of new subjects, all Member States had the right to present relevant new proposals. Not allowing the Committee to consider such proposals while criticizing it for a lack of results was inconsistent. In that regard, the African Group recalled the proposal for the inclusion of a new item submitted by Ghana concerning cooperation between the United Nations and regional organizations on matters relating to maintenance of international peace and security.

72. Reaffirming the principles enshrined in the Charter relating to peaceful settlement of disputes, one of the essential goals of the United Nations, the African Group recognized the important role played by judicial mechanisms, including the International Court of Justice, and urged Member States to make the most effective use of existing procedures for the prevention and peaceful settlement of their disputes.

73. With regard to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, the African Group welcomed the conclusions of the Secretary-General in his report (A/68/181). It was pleased to note the progress made in eliminating the backlog and looked forward to the publication of both the *Repertory* and the *Repertoire* in all official languages of the United Nations.

74. **Mr. Marhic** (Observer for the European Union), speaking also on behalf of the candidate countries Montenegro and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania and Bosnia and Herzegovina; and, in addition, Georgia, Norway and the Republic of Moldova, said that sanctions remained an important instrument under the Charter for the maintenance and restoration of international peace and security. The practice of the Security Council in recent years demonstrated that sanctions could be targeted to minimize the possibility of adverse consequences for the civilian population and for third parties. In his report on the matter (A/68/226), the Secretary-General indicated that neither the General Assembly nor the Economic and Social Council had found it necessary in 2013 to take any action related to assistance to third States affected by sanctions, and that no State had appealed for such relief since 2003. In the light of those findings, clearly the question of assistance to third States affected by sanctions was no longer relevant and should be removed from the agenda of the Special Committee.

75. More generally, the European Union and its member States continued to advocate strongly for the implementation of the decision taken by the Special Committee in its report of 2006 (A/61/33, paras. 72 and 73) on reforming its working methods. A better use of resources would entail reviewing all existing agenda items and looking into the usefulness of further discussing them, taking into account their continued relevance and the likelihood of reaching a consensus, before examining proposals for new items. It might also be useful to re-examine the duration and frequency of sessions of the Special Committee.

76. With regard to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, the Union noted the progress made in reducing the backlog and welcomed the increased use of the internship programme and cooperation with academic institutions for the preparation of studies. Considering the importance of the *Repertory* and the *Repertoire* as research tools for the international community and as a means of preserving the memory of the Organization, the Secretary-General should continue his efforts to update the two publications and make them available electronically in all language versions. Noting that no new voluntary contributions had been received by the

trust fund, the European Union recognized that additional contributions were strongly encouraged in order to effectively eliminate the backlog in the *Repertory*.

The meeting rose at 1 p.m.