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## Sixth Committee

### Summary record of the 16th meeting

Held at Headquarters, New York, on Monday, 26 October 2015, at 10 a.m.

*Chair:* Mr. Charles . . . . . (Trinidad and Tobago)

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*The meeting was called to order at 10 a.m.*

**Agenda item 82: United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) (A/70/423)**

1. **Mr. Simonoff** (United States of America) said that the Programme of Assistance made a great contribution to educating students and practitioners throughout the world in international law and had clearly earned strong support, particularly in the context of a heightened focus on the rule of law. Knowledge of international law furthered the rule of law at the national and international levels and gave new generations of lawyers, judges and diplomats a deeper understanding of the complex instruments that governed an interconnected world. His delegation appreciated the creative ways in which the Codification Division had been able to keep important activities under the Programme going despite limited resources and encouraged it to continue its commendable efforts to secure voluntary contributions to supplement programme budget resources. There was no question that the regional courses in international law, the Audiovisual Library and other Programme activities were valuable and worthy of support.

2. **Mr. Shi Xiaobin** (China) said that, since its inception, the Programme of Assistance had played an important and positive role in promoting and disseminating international law and enhancing the capacity and competence of Member States, particularly developing countries. His delegation therefore welcomed General Assembly resolution 69/117, by which the Assembly had decided to include in the regular budget of the United Nations the necessary funding for the regional courses in international law and the Audiovisual Library. Coverage of the expenses of the Programme of Assistance through the regular budget would ensure the stability and sustainability of the Programme.

3. China attached great importance to the teaching and study of international law and had actively supported the Programme of Assistance. In recent years, it had made annual donations of US\$ 30,000 to the Programme to be used in support of Regional Courses in International Law for Asia and Africa, and of the Audiovisual Library. A number of Chinese scholars had made contributions to audiovisual teaching materials for the Library. In 2015, China had

hosted the fifty-fourth annual session of the Asian-African Legal Consultative Organization (AALCO), and set up the China-AALCO research and exchange programme on international law, with a view to facilitating the work of AALCO and deepening exchanges and cooperation in the field of international law among countries in Asia and Africa. China was willing to explore the feasibility of cooperation with the Programme of Assistance within the framework of the China-AALCO research and exchange programme and to further support the development of the Programme of Assistance.

4. **Mr. Madureira** (Portugal) said that the valuable activities of the Programme of Assistance, including the Audiovisual Library and the regional courses in international law, had run the risk of being discontinued owing to a lack of resources. However, in response to a strong and near-unanimous appeal from Member States, the General Assembly had adopted resolution 69/117 as a compromise to ensure that the Programme would continue. His delegation hoped, therefore, that 2015 would serve as a turning point and that the Programme of Assistance would be provided with the resources it needed to fulfil its mandate. He encouraged all delegations to continue supporting and contributing to the activities of the Programme for the benefit of lawyers and students worldwide. His delegation would continue to support the Programme in its invaluable mission of teaching and promoting international law.

5. **Ms. Nguyen Ta Ha Mi** (Viet Nam) said that the Programme of Assistance, through its regional courses in international law, the Audiovisual Library and other activities, continued to make a great contribution to educating students and practitioners throughout the world in international law and deserved strong support. Through the Programme, Member States were exposed to various areas of international law, which helped to foster understanding and enhance international relations. Therefore, her delegation remained firmly committed to fully supporting the Programme.

6. **Mr. Keokajee** (Thailand) said that the Programme of Assistance had helped in promoting understanding of international law and the rule of law, enhancing international peace and security, and strengthening friendly relations and cooperation among States. Its Audiovisual Library enabled international lawyers all over the world to have access to low-cost and high-quality legal training through the Internet.

Thailand supported the efforts of the Codification Division in exploring the possibility of making the Audiovisual Library's Lecture Series available on podcasts or in another downloadable format, in order to make them more accessible to users who experienced problems streaming them in developing countries. It was also important to raise awareness of the Audiovisual Library itself, so as to encourage more access by international lawyers in developing countries.

7. The regional courses in international law offered opportunities for lawyers in developing countries to receive high-quality training from renowned scholars and practitioners and for participants from different legal backgrounds to share their experiences and views on contemporary issues of international law, exchange ideas and establish valuable connections and networks. Thailand had hosted the regional course for Asia-Pacific in 2012 and stood ready to host the course again in 2016. It was pleased with the success of the regional course for Africa held in 2015 and hoped that other courses to be held in 2016 would be just as successful.

8. His delegation welcomed the positive development with regard to the budgetary allocations agreed in the Sixth Committee and the Advisory Committee on Administrative and Budgetary Questions and hoped that the same spirit would hold in the Fifth Committee and the General Assembly, leading to sufficient and predictable funding for the regional courses.

9. **Mr. Fernandez Valoni** (Argentina) said that the Programme of Assistance pursued a dual objective: dissemination of international law as a tool for fostering the rule of law, and capacity-building, particularly in developing countries. The publications of the Codification Division and the Treaty Section and complementary academic materials available through the Audiovisual Library of International Law were all highly valuable resources for public officials, legal professionals and students seeking to deepen their knowledge of international law.

10. His delegation noted with deep concern that the regional course for Asia-Pacific and the regional course for Latin America and the Caribbean had not been held. He also noted that the lack of resources in the Trust Fund of the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea was a

persistent situation; for example, it had not been awarded in 2014 owing to a lack of voluntary contributions, and although there had been enough resources for awarding the 2015 Fellowship, that was not the case for the 2016 award.

11. Every year, Member States acknowledged the contribution of the Programme of Assistance to the training of their officials in international law and renewed their commitment to support it. However, it seemed that a crisis point had to be reached before Member States would take appropriate action. Hence, faced with the possibility of the Audiovisual Library and the regional courses being discontinued, the General Assembly had adopted resolution 69/117, in which it had requested the Secretary-General to include additional resources under the proposed programme budget for the biennium 2016-2017 for the organization of the regional courses in international law for Africa, for Asia-Pacific and for Latin America and the Caribbean each year, and for the continuation and further development of the Audiovisual Library. It had also requested the Secretary-General to include in the regular budget, for consideration by the General Assembly, the necessary funding for the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea with effect from the biennium 2016-2017. His delegation supported both requests.

12. The financial situation of the courses and seminars on the law of treaties organized by the Treaty Section also deserved attention. Every year, the Secretary-General's report made it clear that the demand for training in international law was growing. It now fell on the Sixth Committee to see that the recommendations on the Programme of Assistance were reflected in the resolution that it would forward to the General Assembly. Member States should support the adoption by the Fifth Committee of the necessary financial support for the Programme.

13. Every lawyer present in the room had benefited in some way from the training provided through the Programme of Assistance, which did not just serve those in developing countries. It was therefore a responsibility of all to ensure that future generations would continue to receive such training, which made an undeniable contribution to respect for international law and to friendly relations among nations.

14. **Mr. Elias-Fatile** (Nigeria) said that the Programme of Assistance had had a positive impact on

students and practitioners of international law throughout the world, especially in developing countries. As a result of poor funding, the regional courses in international law for Asia-Pacific, Latin America and the Caribbean had not been held in 2014 and 2015, and the Amerasinghe Memorial Fellowship had not been awarded in 2014. There was also insufficient funding for the 2016 award. To ensure predictable funding for the Programme of Assistance, his delegation supported the proposal to include the regional courses, with at least 20 fellowships a year, and the Audiovisual Library in the regular budget of the United Nations. Should voluntary contributions be insufficient for granting at least one fellowship a year, his delegation would also support the proposal to have the Hamilton Shirley Amerasinghe Memorial Fellowship funded through the regular budget.

15. His delegation welcomed the adoption of General Assembly resolution 69/117, commended the Advisory Committee for the recommendations to implement the decisions taken in 2014, and urged Member States to consider those recommendations for implementation. The idea of having appropriate budgetary allocations for the regional courses for Africa, for Asia-Pacific and for Latin America and the Caribbean must be sustained, in order to strengthen the Programme of Assistance and its training courses around the world.

16. **Mr. Celarie Landaverde** (El Salvador) said that the Programme of Assistance had been established to strengthen the role of international law in international relations, consolidate international peace and security, and promote friendly relations and cooperation among States. Although those goals were a challenge for the international community, they remained useful and would bring about long-term benefits. A case in point was the International Law Fellowship Programme training course held from 22 June to 31 July 2015 at The Hague, with 20 Fellowship recipients, including one from the Ministry of Foreign Affairs of El Salvador.

17. For developing countries like his, the Programme provided a valuable training opportunity and generated a multiplier effect at the national level, both professionally and academically. His delegation therefore appreciated the efforts of the Codification Division to implement the Programme. It also called for the continued dissemination of legal publications and other materials related to the Audiovisual Library,

especially in countries that did not have special programmes on the topic.

18. **Mr. Onn** (Malaysia) said that the Programme of Assistance had helped to foster understanding of international law among practitioners and States. In that connection, the importance of the teaching, study, dissemination and wider appreciation of international law should never be underestimated. Despite the overwhelming response to the various courses organized under the Programme, including those conducted under the International Law Fellowship Programme and the regional courses in international law, the United Nations still faced financial constraints and resource limitations in undertaking such activities and might need to find more innovative ways to ensure their sustainability.

19. Although the courses offered under the Programme of Assistance were widely sought after, only a privileged few were able to attend them. Efforts should therefore be made to ensure that the courses were accessible to a wider audience. Given the lack of knowledge of the existence of the Audiovisual Library among potential users in developing countries, his delegation welcomed the Codification Division's willingness to look into the possibility of making the resources of the Lecture Series available in other more accessible formats. Establishing direct contacts and linkages with institutions of higher learning and bar associations in developing countries could help in the dissemination and wider appreciation of international law and in raising awareness of the existence of the Library.

20. **Mr. Alemu** (Ethiopia), commending the efforts of the Codification Division to carry out activities under the Programme of Assistance despite funding challenges, said that understanding and dissemination of international law were key components in strengthening international peace and security, promoting friendly relations and cooperation among States, and strengthening the rule of law at the national and international levels. As a matter of necessity, Member States should therefore intensify their commitment to the Programme of Assistance. It was regrettable that the Programme was continuously challenged by limited funding, making it impossible to implement all of its activities, and that the regional courses in international law for Asia-Pacific and for Latin America and the Caribbean had not been held in 2014 and 2015 owing to insufficient funding.

21. His delegation echoed the Advisory Committee's recommendation that the Secretary-General should be authorized to carry out the International Law Fellowship Programme, the United Nations regional courses in international law for Africa, for Asia-Pacific and for Latin America and the Caribbean in 2016 and in 2017 and that the continuation and further development of the United Nations Audiovisual Library of International Law should be financed from the regular budget and included by the Secretary-General in the proposed programme budget for the biennium 2016-2017.

22. The regional courses in international law provided an opportunity for lawyers from developing and least developed countries to stay abreast of current developments in international law and promoted cooperation among Member States. His delegation called upon the United Nations to organize the courses on a regular basis. Ethiopia had demonstrated its commitment to the Organization by hosting successive regional courses in Addis Ababa and would continue to do so. It had concluded the necessary host country agreement and would be pleased and honoured to host the regional course for Africa on a permanent basis.

23. **Ms. Riley** (Barbados) said that her delegation was pleased that the Codification Division had been able to successfully organize the regional course in international law for Africa and the International Law Fellowship Programme training course in The Hague in July 2015, and that sufficient funding had been made available to maintain the Audiovisual Library during 2015. It welcomed and encouraged the Division's efforts to make much of the information contained in the Library also available in podcast and DVD formats, to resume its desktop publishing during the biennium and to prepare a handbook comprising a collection of the legal materials for its training courses. Those initiatives would contribute to the wider dissemination of the training materials.

24. Understanding and appreciation of international law were essential to the development and implementation of multilateral treaties. In an increasingly globalized and interconnected world, with an ever-growing number of multilateral treaties, it was vital that the Programme of Assistance should be given the resources it needed to carry out its mandate. Her delegation therefore welcomed the Secretary-General's decision to include financing for the Programme within the regular budget of the United Nations, especially as

his successive reports had shown that voluntary contributions were insufficient to finance the Programme adequately.

25. Her delegation also welcomed the Codification Division's plans to organize regional courses for Latin America and the Caribbean in 2016 and 2017. Given the developing and evolving nature of international law, it was critical that succeeding generations of Latin American and Caribbean lawyers should be exposed to growing and emerging principles of international law. That was especially important in States where multilateral conventions must be incorporated into domestic law to have proper effect. In view of the role that the Programme of Assistance would continue to play in promoting respect for the rule of law at the national and international levels and sovereign equality and friendly cooperation between States, the General Assembly should approve funding for the Programme within the regular budget.

26. **Mr. Luna** (Brazil) said that the Programme of Assistance embodied the notion that peace could be achieved through law. Despite voluntary contributions by some countries, a number of the Programme's activities had become endangered owing to a lack of resources. His delegation therefore called for the Programme to be funded from the regular budget. In that connection, it welcomed General Assembly resolution 69/117, which requested the Secretary-General to include additional resources under the proposed programme budget for the biennium 2016-2017 for regional courses and for the Audiovisual Library. His delegation was committed to ensuring that the recommendations contained in that resolution were approved by the Fifth Committee, to ensure that the Programme of Assistance received the resources it unquestionably deserved.

27. **Mr. Hitti** (Lebanon) said that the Programme of Assistance was critical in reinforcing the rule of law, as it could help to fill the gaps between States with limited capacities and those with more resources. It was therefore deplorable to see the financial constraints facing the Programme; it should be funded from the regular budget to ensure its viability.

28. As testimony to the Programme's significance, the first international law seminar for Arab States would be held in Cairo in 2015. He commended those who had worked relentlessly to help organize the seminar, in particular the members of the Codification

Division, the host country Egypt and the League of Arab States. He was confident that the seminar would be a success and that it would augur well for the development of regular United Nations training programmes for Arab States.

29. **Mr. Msuya** (United Republic of Tanzania) said that his delegation supported the Programme of Assistance, including the Audiovisual Library, as a key tool to help simplify the complex issues relating to international law. It was pleased that the Codification Division had continued to cooperate with and provide guidance to the African Institute of International Law, and that the Secretary of the Advisory Committee had attended the inauguration of the Institute in February 2015. His delegation was also grateful that the regional seminar on international law for Africa had been held in Addis Ababa. He commended the Member States, the African Union, the Government of Ethiopia, international institutions and all those whose voluntary contributions had enabled those activities to take place.

30. However, his delegation noted with displeasure that, owing to financial difficulties, the regional courses in international law for Asia-Pacific and for Latin America and the Caribbean had not been held, and that the Hamilton Shirley Amerasinghe Memorial Fellowship had a shortage of funds. Those difficulties had also caused the discontinuance of the Codification Division's desktop publishing service. His delegation therefore supported the Advisory Committee's recommendations on the continuation of the Programme of Assistance in the biennium 2016-2017 and urged Member States to ensure that the Programme received full financial support through the regular budget of the United Nations.

31. **Ms. Sarenkova** (Russian Federation) said that the Programme of Assistance made an important contribution to the promotion of the rule of law at the international level. It was therefore encouraging to see that a number of activities under the Programme had been undertaken in 2015. Regrettably, however, the needs of the Programme in recent years had been unjustifiably ignored. Her delegation agreed with the Advisory Committee's conclusion that voluntary contributions had not proven to be a reliable source of funding. Given that some activities had not been held in the past owing to a lack of adequate funding, her delegation was pleased to note that the Advisory Committee had recommended that some of the Programme's activities should be financed from the

regular budget for the biennium 2016-2017. It hoped that, with appropriate support from Member States, the problem of shortage of funds for the full implementation of all components of the Programme could thus be resolved. Her delegation also wished to acknowledge the valuable personal contribution of the staff of the Office of Legal Affairs to the maintenance and development of the Programme.

**Agenda item 143: Administration of justice at the United Nations (A/70/151, A/70/187, A/70/188 and A/70/189)**

32. **The Chair** recalled that, at its 2nd meeting, the General Assembly had referred the current agenda item to both the Fifth and the Sixth Committees. In paragraph 49 of its resolution 69/203, the Assembly had invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

33. **Mr. Fornell** (Ecuador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that the Community reiterated its satisfaction with the progress made since the inception of the new system of administration of justice at the United Nations, which had helped to improve labour relations and work performance in the Organization. CELAC continued to support measures to protect the basic rights of United Nations personnel in conformity with internationally agreed standards, as well as all measures designed to help the United Nations to become a better employer and to attract and retain the best employees. CELAC was mindful of the important role that the Committee had played in making the system of administration of justice fully operational by drafting the statutes of both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, and would continue contributing its legal expertise for the resolution of all outstanding issues, such as those relating to the independent evaluation of the system, access to the justice system for persons with disabilities and other dispute resolution measures.

34. CELAC noted the conclusions of the Secretary-General's report (A/70/187) and invited Committee members to review the recommendations and proposals contained therein, bearing in mind the principles of independence, transparency, professionalism, decentralization, legality and due process. CELAC

supported the Office of Staff Legal Assistance and took note of the information provided with respect to the voluntary supplemental funding mechanism for additional resources for that body, as well as the request to approve the extension of the experimental period for the mechanism for one year, from 1 January to 31 December 2016. Those plans should be complementary and should take into account fully the views of stakeholders.

35. The Internal Justice Council continued to play an important role in helping to ensure independence, professionalism and accountability in the system of administration of justice, and should continue to provide its views on the implementation of that system, within the purview of its mandate established in paragraph 37 of General Assembly resolution 62/228. Cases in which persons hired by the United Nations system did not qualify as officials of the United Nations or any of its specialized bodies were a matter of concern, since those persons were excluded from the United Nations formal system of administration of justice and from the labour process of every country. In that regard, CELAC took note of the information provided with respect to disputes involving staff and non-staff personnel and the measures established to institutionalize good management practices to prevent or mitigate disputes in the various categories of staff.

36. CELAC acknowledged the substantial amount of work performed by the Dispute and Appeals Tribunals. It was ready to explore new ways to improve the use of the informal system and encouraged proper geographical and gender distribution in the designation of judges and staff. It noted the proposed amendment (A/70/189, annex) to article 8, paragraph 6, of the rules of procedure of the United Nations Appeals Tribunal and stood ready to contribute to the Committee's analysis of that proposal. Furthermore, it stressed the importance of the Management Evaluation Unit, which provided the Administration with the opportunity to prevent unnecessary litigation before the Dispute Tribunal, and called for the development of incentives to encourage recourse to the informal resolution of conflicts, which was a crucial element of the internal system of administration of justice.

37. More should be done to promote a culture of trust and conflict prevention throughout the Organization. Accordingly, CELAC reiterated its request for the Secretary-General to ensure that the structure of the Office of the United Nations Ombudsman and

Mediation Services not only reflected its responsibility for the oversight of the entire integrated office, but also had the support needed to perform its task, thus strengthening due process within the Organization and guaranteeing accountability and transparency in the decision-making process. CELAC awaited with interest the outcome of the work carried out by the interim independent assessment panel with regard to the establishment of a single code of conduct for all legal representatives, as well as the issue of the immunities of judges. Lastly, the Sixth and Fifth Committees should continue to cooperate closely with each other to ensure an appropriate division of labour and avoid encroachment of mandates.

38. **Mr. Marhic** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Turkey; and, in addition, Armenia, Georgia and Iceland, said that the continuous progress made in the administration of justice at the United Nations since 2009 represented a collective achievement. However, while the handling of cases through all phases of both the informal and the formal systems continued to improve in terms of efficiency and fairness of procedure, some challenges remained. The European Union welcomed the appointment by the Secretary-General of a panel of experts to conduct an interim independent assessment of the system of administration of justice in all its aspects and looked forward to receiving the panel's recommendations at the seventy-first session of the General Assembly. The panel should thoroughly analyse the managerial functioning, jurisprudence and working methods of the Tribunals; it should also evaluate the impact of case law on the work of managers in the United Nations, in order to verify if, and to what extent, the principles enshrined in the jurisprudence of the Tribunals were implemented in the practice of the Organization. That was a demanding task for which legal expertise and sufficient time would be needed.

39. The European Union would welcome any additional measures or suggestions to strengthen the system of administration of justice and improve its effectiveness. It noted that the Internal Justice Council, which had a key role to play in promoting independence, professionalism and accountability in the system of administration of justice, considered the panel of experts to be well placed to examine the issues at stake.

40. The European Union supported the role played by the Office of the United Nations Ombudsman and Mediation Services in advancing the use of informal conflict resolution, a crucial element of the system of administration of justice, which helped to avoid expensive and time-consuming litigation and minimized the negative impact of disputes. The increased rate of self-referrals to the Office signalled a heightened awareness of the benefits of mediation as a conflict resolution mechanism. The European Union also commended the Management Evaluation Unit for its work and noted with appreciation the high number of complaints disposed of every year. The fact that most of the Unit's decisions that had been appealed before the Dispute Tribunal had been upheld in whole or in part was a good indicator of its effective approach. The European Union was also pleased that the Unit systematically sought to identify and, wherever appropriate, settle requests with potential for informal resolution. Its institutionalization of good practices and dissemination of the jurisprudence of the Tribunals played an essential role in shaping administrative and management practices.

41. While the number of new cases before the Dispute Tribunal had significantly increased compared to the previous period, the Secretary-General's report (A/70/187) showed that the increase was linked to requests related to decisions affecting large numbers of staff members, and that apart from those requests the number of cases received had stabilized. The European Union would welcome information from the Secretariat on the mechanisms available within the Tribunal system to deal with single decisions leading to many staff complaints. More generally, transparency and accountability, coupled with legal certainty, should reduce the number of cases in the long run.

42. With regard to the Appeals Tribunal, the European Union was concerned by the sharp increase in interlocutory motions presented in 2014, and also noted that the Tribunal had reduced awards for moral damages in a number of cases. It would welcome information on the Tribunal's approach to those awards and supported the Internal Justice Council's suggestion that better guidelines would assist both the Dispute Tribunal and the parties. In addition, it urged the Secretary-General to ensure that the revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services were

promulgated, pursuant to General Assembly resolution 69/203.

43. The mainstreaming of good performance management practices, as confirmed or corrected by the case law of the Tribunals, as well as proactive case management by the Tribunals, was essential. In particular, the importance of good communications must be highlighted. The European Union commended the work done to date in various areas of the administration of justice system, including lessons-learned exercises. It encouraged the formulation of "lessons-learned" guides as soon as possible. Bearing in mind that, according to the Secretary-General's report, it was too early to identify measurable administrative effects on the timely disposal of cases or the ultimate disposition of applications for orders, or any costs saved as a result of amendments to the Tribunals' statutes, potential effects should continue to be monitored and relevant information should be included in the Secretary-General's report to the seventy-first session of the General Assembly.

44. The European Union was disappointed that a single code of conduct for all legal representatives had not yet been submitted, though it was pleased that such a code was now being prepared. It welcomed the refined proposal for a mechanism to address complaints under the code of conduct of judges and noted in particular that the scope of application was not limited to the performance of official duties. It also welcomed the proposal to extend the three ad litem judge positions until the end of 2016 and noted that the Secretary-General's proposal for harmonization of the privileges and immunities of judges was fully consistent with the Committee's recommendation that any changes concerning the immunity of the judges should not entail a change in their current rank or conditions of service.

45. The European Union welcomed the information provided by the Secretary-General with regard to the issue of accountability where violations of the Organization's rules and procedures had led to financial loss, and noted that, to date, no instances where a financial loss had resulted from gross negligence had been identified. It commended the Office of Staff Legal Assistance, whose counsel helped staff members to avoid mistakes, misunderstandings and, ultimately, unnecessary work, and strongly supported the call for the Office to continue to represent staff members in proceedings before the

Tribunals, as well as further encouraging its activities across the whole spectrum of justice within the United Nations.

46. With regard to the legal protection of non-staff personnel, the European Union continued to favour a differentiated system that provided an adequate, effective and appropriate remedy. In that regard, the Organization should always provide answers and, where appropriate, propose possible remedies to non-staff personnel, reflecting a broad preference for non-judicial mechanisms where possible.

47. **Ms. O'Brien** (Australia), speaking also on behalf of Canada and New Zealand, said that it was important to ensure that the system of administration of justice operated in a manner consistent with the relevant rules of international law and the principles of the rule of law and due process. The creation of informal and formal systems of justice for the United Nations had improved transparency, fairness, efficiency and accountability in relation to the rights and obligations of United Nations staff members. However, continuing efforts were needed to ensure that the system itself was transparent, impartial, independent and effective.

48. The three delegations acknowledged the ongoing positive contribution of the Office of Staff Legal Assistance in the internal justice system. Bearing in mind the considerable growth in the Office's caseload since 2009, they fully supported efforts to raise awareness among staff of the importance of financial contributions to the Office and encouraged the provision of incentives for staff not to opt out of the voluntary payroll deduction. They also welcomed the Secretary-General's efforts to reduce the backlog of cases and to increase the use of informal dispute resolution mechanisms, which could avoid unnecessary, time-consuming and costly litigation. They looked forward to further reporting on the implementation of innovative measures to encourage the effective use of such mechanisms. Furthermore, the three delegations supported initiatives to improve the current system of administration of justice and awaited with interest the recommendations emanating from the interim independent assessment of the system being conducted pursuant to General Assembly resolution 68/254.

49. A single code of conduct for all legal representatives appearing before the Dispute Tribunal or the Appeals Tribunal, as requested in Assembly

resolution 69/203, would ensure that all individuals acting as legal representatives — whether staff members representing other staff members, staff members representing themselves, or external counsel — were subject to the same standards of professional conduct in the United Nations system. It would also affirm that all parties to a dispute were equal, as well as complementing the imperative for any internal justice system to be accessible to all United Nations staff members, regardless of their duty station.

50. The three delegations noted the concern expressed by the Internal Justice Council regarding the lack of privileges and immunities for judges in the Dispute and Appeals Tribunals, and looked forward to considering the Secretary-General's proposal for the harmonization of the privileges and immunities of the judges. They also took note of the other recommendations and proposals contained in the Secretary-General's reports and looked forward to engaging constructively on those issues, including with colleagues in the Fifth Committee, to ensure that the administration of justice was timely, effective and fair.

51. **Ms. Carnal** (Switzerland) said that her delegation welcomed the appointment of a panel of experts to conduct an interim independent assessment of the system of administration of justice. Convinced of the need for an independent, effective and accountable United Nations justice system that was accessible to all staff members, her delegation recalled the importance of establishing appropriate mechanisms for the settlement of work-related disputes with non-staff personnel of the United Nations. As a host State, Switzerland noted the increasing public awareness of the differences in legal status between United Nations staff members and non-staff personnel, especially interns. If the protection offered by internal systems of justice was not extended to non-staff personnel, public support for the jurisdictional immunities of international organizations might be undermined. Her delegation also supported the establishment of a mechanism to resolve work-related disputes between management and the judges of the two Tribunals, who were themselves non-staff personnel of the Organization, and endorsed the Secretary-General's proposal for the harmonization of the privileges and immunities of the judges of the two Tribunals.

52. Her delegation welcomed the Secretary-General's refined proposal for a mechanism to address complaints against judges, although it still had some

reservations in that regard. In particular, while paragraph 5 of the proposal indicated that the types of conduct that would warrant the sanctioning of a judge would include violations of the standards established in the code of conduct for the judges of the Dispute Tribunal and the Appeals Tribunal, it was not clear what other grounds for sanctioning there could be. For the sake of legal clarity, the grounds for sanctioning should be more clearly defined.

53. While her delegation had noted the decision of the Appeals Tribunal in *Wasserstrom v. Secretary-General of the United Nations* that recommendations made by the Director of the Ethics Office on whether retaliation against a whistle-blower had taken place were not subject to judicial review, it would welcome a discussion on whether some form of judicial review against the conclusions of the Ethics Office was necessary to make the protection of whistle-blowers effective, and would like to know the opinion of the panel of experts on that matter. The difficulties that had been described by the Appeals Tribunal in managing motions filed outside the Tribunal's sessions would also merit attention by the panel.

54. **Mr. Townley** (United States of America) said that his delegation welcomed the assessment of the administration of justice system now under way and looked forward to the report of the panel of experts to be submitted at the seventy-first session of the General Assembly. The figures presented in the Secretary-General's report indicated that both the management evaluation process and the formal adjudication system were working well. It was also commendable that, in 2014, more than 200 cases pending in the formal system of administration of justice had been resolved without the need for a final adjudication on the merits. However, there remained some areas where further study would be useful and improvements might be made.

55. With regard to the impact of large-scale actions on the caseload of the Dispute Tribunal, it would be useful to know whether article 2, paragraph 4, of the statute of the Tribunal had been considered to address large numbers of applications challenging a single process or decision. If not, it would be helpful to examine whether further changes to the statute might more readily facilitate the consolidation of such appeals, in the interest of efficiency.

56. His delegation agreed with the Internal Justice Council that the mechanism for addressing complaints under the code of conduct for judges should ensure due process, including for the judges themselves. In particular, it was pleased that the refined proposal of the Secretary-General reflected the recommendation that individuals against whom a complaint was brought should not be identified unless and until the complaint was upheld. His delegation also agreed that the independent panel of experts should explore the Council's proposal that the Dispute Tribunal should have authority to order the parties to attempt to settle a case. With regard to the effects of the amendment to the statute of the Dispute Tribunal to permit appeals against interlocutory orders, it would be useful for the panel of experts to examine the possibility of one of the Appeals Tribunal judges being assigned to serve as a duty judge to handle such appeals, though consideration should also be given to the possible cost of such an approach.

57. The protection of those who reported misconduct or cooperated with investigations was a critical issue, particularly in the light of recent horrific incidents of sexual exploitation and abuse. It went without saying that managers must effectively address the issue of staff who engaged in such activities. His delegation also awaited with interest the outcome of the external review of the Organization's handling of sexual exploitation and sexual abuse allegations in the Central African Republic and the anticipated recommendations. With regard to whistle-blowers, his delegation noted with interest the view of the Internal Justice Council that decisions of the Director of the Ethics Office should be subject to judicial review. It would be helpful if the panel of experts could address how whistle-blower actions were handled in various national systems and what the advantages and disadvantages of various approaches might be.

58. In the United States, for example, federal employees who believed that they had been subjected to retaliation for whistle-blower activity could either file a complaint with the Office of Special Counsel, which was dedicated to investigating whistle-blower claims, or they could challenge a personnel action already within the jurisdiction of the United States Merit Systems Protection Board before that body on the basis that it had been taken for retaliatory reasons. Prior to 1989, if an employee filed a complaint with the Office of Special Counsel, he or she could not then

appeal to the Merit Systems Protection Board if the Office did not decide to pursue action on the employee's behalf; however, following the adoption of the Whistleblower Protection Act of 1989, employees were entitled to appeal to the Board even if they had already taken their case before the Office of Special Counsel.

59. It was also important to ensure that employees were not afraid to report misconduct. One option might be to encourage the Dispute Tribunal to exercise its referral power under article 10, paragraph 8, of its statute in cases where it was clear from proceedings — for instance, a challenge to an allegedly retaliatory action — that a manager had sought to discourage the reporting of misconduct. Such referral might provide a good basis for the Secretary-General to take action that would discourage any repetition of that type of behaviour. His delegation also supported revision of the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse ([ST/SGB/2003/13](#)) to further clarify the expected standard of behaviour.

60. **Mr. Luna** (Brazil) said that, while Member States were paying increasing attention to debates on the rule of law at the national and international levels, it was equally important to examine ways of improving the application of the rule of law and due process within the Organization. The system of administration of justice at the United Nations, both formal and informal, had proven indispensable for further strengthening adherence to legality and due process within the Organization, thus helping to preserve its integrity and efficiency and increasing its attractiveness as an employer. His delegation would continue to support all efforts to keep the system independent, transparent, professionalized, adequately resourced and decentralized.

61. Informal conflict resolution methods, such as mediation and conciliation, prevented unnecessary litigation and led to swifter and more cost-effective solutions, including in the formal system of administration of justice. His delegation recognized the relevance of the Office of the United Nations Ombudsman and Mediation Services and welcomed efforts in all areas of the formal system to encourage informal dispute resolution. In that connection, it noted with satisfaction that more than 200 cases pending in the formal system had been resolved in 2014 without the need for a final adjudication on the merits.

62. The experience of Brazil in developing policies to ensure access to justice had taught it that the provision of legal advice was crucial. In order for any system of administration of justice to fulfil its purpose, all persons for whom it existed should be aware of their legal entitlements and should, if necessary, receive assistance to engage in informal dispute resolution or seek judicial remedy. It was a matter of concern that many United Nations staff members, especially those in the field, had limited knowledge of the internal justice system. The Office of Staff Legal Assistance had a vital role to play in that regard and should continue its outreach and training activities.

63. Although the increased caseload of the Management Evaluation Unit, the Dispute Tribunal and the Appeals Tribunal over the last year could, from a positive perspective, be interpreted as reflecting staff members' increased awareness of and trust in the United Nations system of administration of justice, it clearly brought additional challenges in terms of human and material resources that, if overlooked, could endanger the efficiency and reputation of the system. The 115 per cent increase in the number of interlocutory motions filed before the Appeals Tribunal was particularly illustrative of the need to provide its judges with additional support in order to strengthen its ability to respond in a timely manner to urgent matters, including between sessions.

64. The interim independent assessment of the system of administration of justice would provide an opportunity to further improve the Organization's tools for ensuring respect for the rights and obligations of staff members and the accountability of managers and staff alike. His delegation looked forward to receiving the report and recommendations of the panel of experts during the seventy-first session of the General Assembly.

65. **Mr. Bailen** (Philippines) said that the United Nations system of administration of justice was an integral part of an efficient, effective and fair human resource management system. Since the introduction of the new system in 2009, it had been possible to evaluate and further clarify policies, procedures and interpretation in the light of increasing experience and jurisprudence, with a view to taking a preventive approach to disputes. In that regard, his delegation supported the efforts of the Management Evaluation Unit to foster good management practices to address the underlying factors that gave rise to disputes. It was

to be hoped that the lessons learned from the independent assessment of the justice system at the United Nations would facilitate decision-making and the disposition of cases in both the formal and informal systems, in order to achieve efficiency, cost-effectiveness, fairness and accountability, without sacrificing due process.

66. His delegation was pleased that, as suggested by the Committee, the Secretary-General had proposed the harmonization of the privileges and immunities of the judges of the Dispute Tribunal and the Appeals Tribunal, in accordance with section 18 of the General Convention on Privileges and Immunities of the United Nations. The judges of both Tribunals should also possess comparable qualifications. While it was important to attract a wider range of candidates in order to broaden the professional expertise of Appeals Tribunal judges, their practical judicial experience should be given more weight than their academic expertise.

67. The application of the mechanism to address complaints against judges should not be limited to the performance of their official duties. Judges were naturally held to a much higher standard of conduct than other individuals, both inside and outside the court; they must be of high moral character and must at all times act honourably and in accordance with the values and principles set out in the code of conduct, whether or not they were performing official duties. Not only must they be beyond reproach; they must also be perceived to be beyond reproach. However, that position was not inconsistent with the general principle that complaints against certain judges in a pending case should not be dealt with until the case was disposed of, provided that the alleged judicial misconduct did not compromise the integrity of the case or risk a miscarriage of justice.

68. His delegation agreed that all legal representatives should be subject to the same standards of professional conduct. It looked forward to the Secretary-General's submission of a proposed single code of conduct that would apply to both external legal representatives and United Nations staff members who were acting as legal representatives, while recognizing and respecting the differences between them. Furthermore, his delegation drew attention to cases brought by staff members in relation to disability, accessibility, reasonable accommodation and assistive technology and would welcome updates regarding the

establishment of a framework to create an environment as mandated by the Convention on the Rights of Persons with Disabilities. Lastly, his delegation looked forward to the promulgation of improved terms of reference for the Office of the United Nations Ombudsman and Mediation Services, particularly in relation to the required professional experience and desired specialization in the distribution of work among staff across the three areas of conflict resolution, systemic issues and conflict competence.

**Agenda item 171: Observer status for the International Civil Defence Organization in the General Assembly** (*continued*) A/70/191; A/C.6/70/L.6)

*Draft resolution A/C.6/70/L.6: Observer status for the International Civil Defence Organization in the General Assembly*

69. *Draft resolution A/C.6/70/L.6 was adopted.*

**Agenda item 172: Observer status for the Indian Ocean Rim Association in the General Assembly** (*continued*) (A/70/192; A/C.6/70/L.8)

*Draft resolution A/C.6/70/L.8: Observer status for the Indian Ocean Rim Association in the General Assembly*

70. **Ms. Bird** (Australia) said that Mauritius, Seychelles and the United States of America had become sponsors.

71. *Draft resolution A/C.6/70/L.8 was adopted.*

*The meeting rose at 12.30 p.m.*